Reports of Cases

JUDGMENT OF THE GENERAL COURT (Ninth Chamber, sitting with five Judges)

2 September 2026*

(Environment – Regulation (EU) 2018/842 – Annual greenhouse gas emission reductions – Review of annual greenhouse gas emission allocations of the Member States for the period from 2023 to 2030 – Implementing Decision (EU) 2023/1319 – Refusal of the request for internal review – Article 10(1) of Regulation (EC) No 1367/2006 – Aarhus Convention – Grounds for review of Regulations (EU) 2021/1119 and (EU) 2023/857 setting out the European Union's greenhouse gas emission reduction targets for 2030 – Implementing power of the Commission – Article 291(2) TFEU – Grounds for review directed against an impact assessment – Legislative proposal)

In Case T-120/24,

Global Legal Action Network, established in Galway (Ireland),

Climate Action Network Europe (CAN-Europe), established in Brussels (Belgium),

represented by H. Leith, Barrister, A. Kelly-Desmond and R. Wall, Solicitors,

applicants,

v

European Commission, represented by D. Milanowska, G. Wils and B. De Meester, acting as Agents,

defendant,

THE GENERAL COURT (Ninth Chamber, sitting with five Judges),

composed, at the time of the deliberations, of L. Truchot, President (Rapporteur), H. Kanninen, P. Nihoul, M. Sampol Pucurull and T. Perišin, Judges,

Registrar: M. Zwozdziak-Carbonne, Administrator,

having regard to the written part of the procedure,

further to the hearing on 24 September 2025,

gives the following

* Language of the case: English.

Judgment

1 By their action under Article 263 TFEU, the applicants, Global Legal Action Network and Climate Action Network Europe (CAN-Europe), seek the annulment of Decision Ares(2023)8595389 of the European Commission of 14 December 2023, by which the Commission refused their request for an internal review of Commission Implementing Decision (EU) 2023/1319 of 28 June 2023 amending Implementing Decision (EU) 2020/2126 to revise Member States' annual emission allocations for the period from 2023 to 2030 (OJ 2023 L 163, p. 9) ('the contested decision').

I. Legal framework

A. The United Nations Framework Convention on Climate Change and the first target of reducing greenhouse gas emissions by 40% by 2030, compared to 1990 levels

2 The United Nations Framework Convention on Climate Change (OJ 1994 L 33, p. 13; 'the UNFCCC') was adopted in New York (United States) on 9 May 1992, with the objective of stabilising greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. On 11 December 1997, the parties to that framework convention adopted the Kyoto Protocol to the UNFCCC (OJ 2002 L 130, p. 4).

3 Pursuant to the UNFCCC and the Kyoto Protocol thereto, the European Council, in its conclusions of 23 and 24 October 2014, approved the framework for EU climate and energy policies for 2030. That framework set a binding EU greenhouse gas emission reduction target of at least 40% by 2030 compared to 1990 levels.

B. The Paris Agreement

4 At the conclusion of their 21st conference, which took place in Paris (France) from 30 November to 12 December 2015, the parties to the UNFCCC adopted the Paris Agreement (OJ 2016 L 282, p. 4) in order to strengthen the global response to climate change.

5 In accordance with Article 2(1)(a) thereof, the Paris Agreement aims to strengthen the global response to the threat of climate change, including by holding the increase in the global average temperature to well below 2 °C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5 °C above pre-industrial levels.

6 Moreover, Article 3 of the Paris Agreement provides that:

'As nationally determined contributions to the global response to climate change, all Parties are to undertake and communicate ambitious efforts as defined in Articles 4, 7, 9, 10, 11 and 13 with the view to achieving the purpose of this Agreement as set out in Article 2. The efforts of all Parties will represent a progression over time, while recognising the need to support developing country Parties for the effective implementation of this Agreement.'

7 The Paris Agreement was signed by the European Union on 22 April 2016, in accordance with Council Decision (EU) 2016/590 of 11 April 2016 on the signing, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on

Climate Change (OJ 2016 L 103, p. 1), and was then approved in accordance with Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ 2016 L 282, p. 1). It entered into force on 4 November 2016.

C. Regulation (EU) 2018/842, the first target of reducing greenhouse gas emissions by 30% by 2030, compared to 2005 levels, and Implementing Decision (EU) 2020/2126

8 On 30 May 2018, the European Parliament and the Council of the European Union adopted Regulation (EU) 2018/842 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 (OJ 2018 L 156, p. 26).

9 In accordance with Article 1 thereof, and in accordance with the objective referred to in paragraph 3 above, Regulation 2018/842 lays down obligations on Member States with respect to their minimum contributions for the period from 2021 to 2030 with a view to fulfilling the European Union’s target of reducing its greenhouse gas emissions by 30% below 2005 levels in 2030 in the sectors listed in Article 2 of that regulation and to contributing to achieving the objectives of the Paris Agreement. That regulation also laid down rules on determining annual greenhouse gas emission allocations (‘annual emission allocations’) and for the evaluation of Member States’ progress towards meeting their minimum contributions.

10 In that context, Article 4(3) of Regulation 2018/842 provides that the Commission is to adopt implementing acts setting out the annual emission allocations for all Member States for the years from 2021 to 2030, in terms of tonnes of CO_2 equivalent.

11 Therefore, on 16 December 2020, the Commission adopted Implementing Decision (EU) 2020/2126 on setting out the annual emission allocations of the Member States for the period from 2021 to 2030 pursuant to Regulation 2018/842 (OJ 2020 L 426, p. 58).

D. The communication and impact assessment from the Commission of 17 September 2020, the European Climate Law and the second target of reducing greenhouse gas emissions by 55% by 2030, compared to 1990 levels

12 On 17 September 2020, the Commission adopted Communication COM(2020) 562 final to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, entitled ‘Stepping up Europe’s 2030 climate ambition – Investing in a climate-neutral future for the benefit of our people’ (‘the communication of 17 September 2020’).

13 By the communication of 17 September 2020 and in accordance with its working document – Impact Assessment SWD(2020) 176 final of 17 September 2020 accompanying that communication (‘the impact assessment of 17 September 2020’), the Commission stated that the policy and regulatory framework then in force did not allow the European Union to meet its commitments under the Paris Agreement and proposed to amend its greenhouse gas emission reduction pathway to achieve climate neutrality by 2050 and to reduce its net greenhouse gas emissions, across all sectors of the economy, by 55% by 2030, compared to 1990 levels.

14 On 30 June 2021, the Parliament and the Council adopted Regulation (EU) 2021/1119 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (OJ 2021 L 243, p. 1; 'the European Climate Law').

15 In Article 1 thereof, the European Climate Law sets out, first, a binding objective of climate neutrality in the European Union by 2050 in pursuit of the long-term temperature goal set out in point (a) of Article 2(1) of the Paris Agreement and, secondly, a binding EU target of a net domestic reduction in greenhouse gas emissions for 2030.

16 Thus, in accordance with the Commission's proposal set out in the communication of 17 September 2020, Article 4 of the European Climate Law, on the European Union's intermediate climate targets, in paragraph 1 thereof, provides, with the aim of reaching the climate-neutrality objective by 2050, a new binding EU 2030 climate target consisting in a domestic reduction of net greenhouse gas emissions by at least 55% compared to 1990 levels by 2030 ('the 2030/1990 second target').

E. Regulation (EU) 2023/857, the second target of reducing greenhouse gas emissions by 40% by 2030, compared to 2005 levels, and Implementing Decision 2023/1319

17 On 19 April 2023, the Parliament and the Council adopted Regulation (EU) 2023/857 amending Regulation 2018/842 and Regulation (EU) 2018/1999 (OJ 2023 L 111, p. 1).

18 In accordance with the 2030/1990 second target, Article 1 of Regulation 2023/857 amended Article 1 of Regulation 2018/842 in order to include the European Union's new target of reducing its greenhouse gas emissions by 40% below 2005 levels in 2030 in the sectors listed in Article 2 of that regulation ('the 2030/2005 second target').

19 Pursuant to Regulation 2018/842, as amended by Regulation 2023/857, the Commission adopted Implementing Decision 2023/1319 on 28 June 2023.

20 Article 1 of Implementing Decision 2023/1319 replaced Annex II to Implementing Decision 2020/2126 with new provisions that, first, repeat the Member States' annual emission allocations for the years 2021 and 2022 previously defined by Implementing Decision 2020/2126 and, secondly, set for all Member States new annual emission allocations in tonnes of CO_2 equivalent for the years 2023 to 2025.

II. Background to the dispute

21 On 23 August 2023, the applicants submitted to the Commission a request for an internal review of Implementing Decision 2023/1319, in accordance with Article 10(1) of Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ 2006 L 264, p. 13), as amended by Regulation (EU) 2021/1767 of the European Parliament and of the Council of 6 October 2021 (OJ 2021 L 356, p. 1) ('the Aarhus Regulation'). In particular, in sections IV and V of that request, the applicants relied on procedural and substantive failures affecting, in their view, the 2030/1990 second target, set by the European Climate Law and resulting from the impact assessment of 17 September 2020, and Implementing Decision 2023/1319.

22 By the contested decision, dated 14 December 2023, the Commission refused the request for internal review referred to in paragraph 21 above as inadmissible on the ground that the empowerment provided for in Article 4(3) of Regulation 2018/842, on the basis of which it had adopted Implementing Decision 2023/1319, had a mandatory character. Thus, the Commission stated that it had a legal obligation to define annual emission allocations in order to enable effective implementation of that regulation, without having any political discretion or discretion as regards policy. In addition, the Commission also considered inadmissible the grounds of section IV of the request for internal review by which the applicants criticised the impact assessment of 17 September 2020. In the alternative, the Commission stated that none of the grounds for internal review put forward by the applicants called into question the legality of Implementing Decision 2023/1319, with the result that it also refused their request as unfounded.

III. Forms of order sought

23 The applicants claim that the Court should:

– annul the contested decision;

– order the Commission to pay the costs of the proceedings.

24 The Commission contends that the Court should:

– dismiss the action;

– order the applicants to pay the costs.

IV. Law

25 In support of their action, the applicants rely, in essence, on two pleas in law, alleging, first, errors of law in respect of Article 9(2) and (3) of the Convention on access to information, public participation in decision-making and access to justice in environmental matters (OJ 2005 L 124, p. 1; 'the Aarhus Convention') and of Article 2(1)(f) and (g) and Article 10 of the Aarhus Regulation and an error of assessment in so far as the Commission rejected as inadmissible the grounds of section IV of their request for internal review and, secondly, errors of law or manifest errors of assessment in so far as the Commission refused that request as unfounded.

A. The first plea, alleging errors of law in respect of Article 9(2) and (3) of the Aarhus Convention and of Article 2(1)(f) and (g) and Article 10 of the Aarhus Regulation and an error of assessment in so far as the Commission rejected as inadmissible the grounds of section IV of the request for internal review

26 In support of the first plea, the applicants rely, in essence, on three parts, alleging, first, infringement of Article 2(1)(f) and (g) and Article 10 of the Aarhus Regulation, secondly, infringement of Article 9(2) and (3) of the Aarhus Convention and, thirdly, an error of assessment vitiating the analysis of the grounds set out in the request for internal review.

27 The Commission contends that the line of argument put forward by the applicants is unfounded and, moreover, that it is inadmissible in part as regards the first and third parts.

28 It is worth recalling the grounds of the contested decision relating to section IV of the request for internal review before examining the third part of the present plea, followed by the second part and, lastly, the first part.

1. The grounds of the contested decision relating to section IV of the request for internal review

29 As a preliminary point, it should be noted that the contested decision consists of a letter from the Commission and an annex entitled 'Assessment of the request for internal review of Commission Implementing (EU) Decision 2023/1319 of 28 June 2023 amending Implementing Decision (EU) 2020/2126 to revise Member States' annual emission allocations for the period from 2023 to 2030' ('the contested assessment').

30 In the first place, in section 3.1 of the contested assessment, containing preliminary remarks relating to the inadmissibility of the applicants' claims regarding the impact assessment of 17 September 2020, the Commission considered that the grounds set out in section IV of the request for internal review, put forward against that impact assessment, were inadmissible on three grounds. First, it noted that, in so far as the 2030/1990 second target set by the European Climate Law stemmed from the findings of that impact assessment, there was a substantive link between Implementing Decision 2023/1319 and that impact assessment, which was part of a legislative proposal, with the result that the applicants were not justified in claiming that the alleged inadequacy of the greenhouse gas emission reduction targets referred to in that impact assessment constituted a failure independent from the inadequacy of the targets taken into account in Implementing Decision 2023/1319. Secondly, it took the view that the applicants had not relied on failures specific to Implementing Decision 2023/1319, read in the light of Regulation 2018/842, which, in its view, was the relevant environmental law for the assessment of the legality of that decision, in accordance with Article 2(1)(f) of the Aarhus Regulation. Thirdly, the impact assessment of 17 September 2020 constituted, according to the Commission, a staff working document with no binding legal effect, with the result that it did not qualify as an administrative act within the meaning of Article 2(1)(g) of that regulation and, even if the contrary were to be assumed, the applicants would be precluded from challenging it in view of the eight-week time limit laid down in Article 10(1) of that regulation.

31 In the second place, it should be noted that, in section 3.2 of the contested assessment, relating to the procedural and substantive failures put forward by the applicants against Implementing Decision 2023/1319 taken in isolation, the Commission responded to paragraphs 94 to 96 of their request for internal review to the effect that the empowerment provided for in Article 4(3) of Regulation 2018/842, which constitutes the legal basis of that decision, had a mandatory character and did not authorise that institution to make any political or policy choices when defining annual emission allocations.

32 The Commission also stated that the level of ambition as regards the European Union's greenhouse gas emission reduction target by 2030 in the sectors governed by Regulation 2018/842 and, consequently, the level of Member States' contributions to the achievement of that target had been determined by the co-legislators in that regulation, using a calculation method based on linear trajectories.

33 The Commission concluded that defining Member States' annual emission allowances amounted to an arithmetical operation that it was required to carry out on the basis of inventory data submitted by Member States, the result of which was then formalised in an implementing decision adopted following a comitology procedure.

34 At the end of that reasoning, the Commission concluded that the empowerment provided for in Article 4(3) of Regulation 2018/842 did not grant it any power to review the 2030/1990 second target laid down in Article 4(1) of the European Climate Law and that such a review would go beyond its implementing power under Article 291 TFEU.

35 Lastly, in section 3.5 of the contested assessment, which constitutes its overall conclusion, the Commission recalled that the empowerment provided for in Article 4(3) of Regulation 2018/842, on the basis of which it adopted Implementing Decision 2023/1319, was mandatory for the definition of annual emission allocations and did not authorise it to make any political or policy choices when implementing that regulation.

36 Thus, it was for the sake of completeness that, in section 3.4 of the contested assessment, relating to the procedural and substantive failures put forward by the applicants in section IV of their request for internal review against the 2030/1990 second target, the Commission rejected that line of argument as unfounded. In the preliminary remarks introducing that section of the contested assessment, the Commission, after referring to the grounds of inadmissibility set out in section 3.1, stated that it considered it important to take a position on the respective claims raised by the applicants, given the fundamental role of the 2030/1990 second target for the European Union's climate policies and legal framework, and the European Union's contribution to global efforts to fight climate change.

37 It must be noted that the arguments put forward by the applicants in support of the first plea are intended solely to challenge the grounds for inadmissibility set out in paragraphs 30 to 35 above.

2. The third part, alleging an error of assessment vitiating the analysis of the grounds of the request for internal review

38 The applicants state that, contrary to the Commission's claim, they did not seek to challenge the 2030/1990 second target, Regulation 2018/842 or the impact assessment of 17 September 2020. They merely maintained, however, that a detailed consideration of the legal framework composed of those elements was essential in order to justify the request for an internal review and to explain why Implementing Decision 2023/1319 contravened environmental law.

39 Thus, the applicants claim that their request for internal review was directed against Implementing Decision 2023/1319, with the result that the conclusion by which the Commission refused that request as inadmissible is based on a manifestly incorrect interpretation of their arguments.

40 The Commission states that the arguments put forward by the applicants in support of the third part are unfounded and that, in any event, they are new and therefore inadmissible under Article 84 of the Rules of Procedure of the General Court.

41 Before examining the merits of the present part of the plea, it is necessary to clarify the scope of the judicial review that it is for the Court to carry out where, as in the present case, it has before it an argument that the EU institution, body, office or agency to which a request for internal review has been made has erred in its interpretation or distorted the grounds of that request.

(a) Scope of judicial review

42 As a preliminary point, it should be recalled that Article 10(1) of the Aarhus Regulation confers on any non-governmental organisation which meets the criteria set out in Article 11 of that regulation the right to make a request, to an institution that has adopted an administrative act, for internal review of that act on the grounds that it contravenes environmental law (see, to that effect, judgment of 12 September 2019, *TestBioTech and Others* v *Commission*, C-82/17 P, EU:C:2019:719, paragraph 37).

43 To that end, in order to state in the manner required the grounds for conducting the internal review under environmental law, the party requesting such a review is required to put forward the facts or legal arguments of sufficient substance to give rise to serious doubts as to the assessment made by the institution concerned in the act in respect of which the review is sought (see, to that effect, judgments of 12 September 2019, *TestBioTech and Others* v *Commission*, C-82/17 P, EU:C:2019:719, paragraph 69, and of 18 October 2023, *TestBioTech* v *Commission*, T-605/21, not published, EU:T:2023:648, paragraph 15 and the case-law cited).

44 A request for internal review of an administrative act is thus intended to establish that, as alleged, that act is unlawful or that it is not well founded. The party making the request may then, in accordance with Article 12 of the Aarhus Regulation, read in conjunction with Article 10 thereof, bring the matter before the Courts of the European Union by instituting proceedings – on grounds of lack of competence, infringement of an essential procedural requirement, infringement of the Treaties or of any rule of law relating to their application, or misuse of powers – against the decision refusing the request for internal review as unfounded (judgment of 12 September 2019, *TestBioTech and Others* v *Commission*, C-82/17 P, EU:C:2019:719, paragraph 38; see also judgment of 18 October 2023, *TestBioTech* v *Commission*, T-605/21, not published, EU:T:2023:648, paragraph 17 and the case-law cited).

45 In that context, the scope of the judicial review carried out by the Courts of the European Union in their examination of an action for annulment brought pursuant to Article 12 of the Aarhus Regulation against a decision concerning a request for internal review based on Article 10 of that regulation does not differ from the scope of the judicial review which the General Court carries out on the merits of the grounds of decisions directly challenged on the basis of Article 263(2) and (4) TFEU, where such decisions are based on complex technical and scientific assessments (see judgment of 25 June 2025, *ClientEarth* v *Council*, T-648/22, not published, EU:T:2025:631, paragraph 105 and the case-law cited; see also, to that effect, judgment of 15 December 2016, *TestBioTech and Others* v *Commission*, T-177/13, not published, EU:T:2016:736, paragraph 81).

46 In that regard, it is clear from settled case-law that where an EU institution is called upon to make complex assessments, it enjoys a wide measure of discretion, the exercise of which is subject to a judicial review restricted to verifying that the measure in question is not vitiated by a manifest error or a misuse of powers and that the competent authority did not clearly exceed the bounds of its discretion (see judgment of 25 June 2025, *ClientEarth* v *Council*, T-648/22, not published,

EU:T:2025:631, paragraph 106 and the case-law cited; see also, to that effect, judgment of 29 April 2004, *Italy* v *Commission*, C-372/97, EU:C:2004:234, paragraph 83 and the case-law cited).

47 However, it should be recalled that, where the EU institutions have a broad discretion, respect for the rights guaranteed by the EU legal order in administrative procedures is of even more fundamental importance. Those guarantees include, in particular, the duty of the competent institution to examine, with care and diligence, all the relevant aspects of the individual case on which its assessment is based (see, to that effect, judgments of 15 December 2016, *TestBioTech and Others* v *Commission*, T-177/13, not published, EU:T:2016:736, paragraph 80 and the case-law cited, and of 18 October 2023, *TestBioTech* v *Commission*, T-606/21, not published, EU:T:2023:649, paragraph 22 and the case-law cited).

48 The duty to act with diligence referred to in paragraph 47 above is inherent in the principle of sound administration and applies generally to the actions of the EU administration in exercising its discretion (see, to that effect, judgments of 22 November 2017, *Commission* v *Bilbaína de Alquitranes and Others*, C-691/15 P, EU:C:2017:882, paragraph 35 and the case-law cited, and of 16 June 2022, *SGL Carbon and Others* v *Commission*, C-65/21 P and C-73/21 P to C-75/21 P, EU:C:2022:470, paragraph 31 and the case-law cited).

49 In particular, in accordance with the duty to act with diligence, the institution to which a request for internal review has been made is required to examine carefully all the relevant aspects of the individual case, in particular the grounds for review put forward by the author of that request, which presupposes that the institution has a correct understanding of those grounds.

50 Thus, since the correct understanding of the grounds of the request for internal review determines the careful and diligent examination of their merits and, therefore, compliance with the rights conferred by the Aarhus Regulation and the principle of sound administration, it must be held, in order to ensure that those rights and that principle are fully effective, that, where the Court is seised, as in the present case, of an argument alleging a manifestly incorrect interpretation or distortion of the grounds supporting that request, it is required to conduct a full review of whether the contested decision demonstrates a correct understanding, on the part of the institution concerned, of those grounds.

51 Lastly, it should be noted that the full review thus confined to that matter does not affect the application of the case-law cited in paragraph 46 above, relating to the review restricted to manifest errors of assessment when the Courts of the European Union examine the complex assessments that the institution concerned may make on that occasion.

52 It is in the light of those considerations that it is necessary, by examining, first, the grounds of the contested decision and, secondly, the request for internal review, and, in particular, section IV thereof, to rule on the merits of the present part of the plea.

(b) Merits of the third part of the first plea

53 It is necessary to examine, first, the arguments put forward by the applicants in support of their request for internal review and, secondly, the summary of those arguments as set out in the contested decision and the contested assessment.

(1) The arguments put forward by the applicants in support of their request for internal review

54 It should be noted that section IV of the request for internal review, relating to procedural and substantive failures associated with the 2030/1990 second target, consists, first, of a first subsection seeking to demonstrate that that target is based on a manifestly inadequate assessment and, secondly, of a second subsection seeking to demonstrate that that target is itself manifestly inadequate.

(i) The first subsection of section IV of the request for internal review

55 The first subsection of section IV of the request for internal review consists of an introduction (paragraphs 65 to 70 of the request for internal review) and three parts. The first of those parts relates to the failure to conduct an adequate assessment of the greenhouse gas emission reductions required globally by 2030 (paragraphs 71 to 73 of the request for internal review); the second concerns the failure to conduct an adequate assessment of the European Union's fair share of the global greenhouse gas emission reductions required by 2030 (paragraphs 75 to 77) and the third concerns the failure to conduct an adequate assessment of the greenhouse gas emission reductions that are feasible for EU Member States to achieve by 2030 (paragraphs 78 to 80).

– *The introduction to the first subsection of section IV of the request for internal review*

56 In the introduction to the first subsection of section IV of the request for internal review, the applicants recalled the origin of the 2030/1990 second target, namely (i) the document entitled 'A Union that strives for more – My agenda for Europe. Political Guidelines for the Next European Commission 2019-2024', which Ms Ursula von der Leyen had submitted on 16 July 2019 as a candidate for President of the Commission, (ii) Communication COM(2019) 640 final from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions of 11 December 2019, entitled 'The European Green Deal' and (iii) the impact assessment of 17 September 2020.

57 The applicants then argued that the 2030/1990 second target had been pre-determined by Ms von der Leyen's political guidelines for the Commission's mandate for the period from 2019 to 2024 and the communication on 'The European Green Deal', without any discussion of or explanation for the option of pursuing greenhouse gas emission reductions of more than 55% by 2030 compared to 1990 levels.

58 Furthermore, the applicants also claimed that the impact assessment of 17 September 2020 did not refer to fundamental rights or the impacts of climate change and did not assess the impact of the 2030/1990 second target on those factors.

– *The first part of the first subsection of section IV of the request for internal review*

59 In the first part, referred to in paragraph 55 above, relating to the failure to conduct an adequate assessment of the greenhouse gas emission reductions required globally by 2030, the applicants maintained that the 2030/1990 second target did not result from a proper assessment of the greenhouse gas emission reductions required globally to comply with the target of limiting the increase in the global temperature to 1.5 °C due to, on the one hand, the failure to consider, in the impact assessment of 17 September 2020, the risks associated with carbon dioxide removal

technologies and, on the other hand, the failure to consider the greenhouse gas emission reductions required to compensate for the uncertainty inherent in the pathway chosen as regards its effectiveness in meeting that target.

– *The second part of the first subsection of section IV of the request for internal review*

60 In the second part, referred to in paragraph 55 above, relating to the failure to conduct an adequate assessment of the European Union's fair share of the global greenhouse gas emission reductions required by 2030, the applicants criticised the fact that, in order to define the 2030/1990 second target, the impact assessment of 17 September 2020 had relied on 'cost-efficient' scenarios that had not taken into account considerations related to equity or the possibility that Member States may contribute to the reduction of greenhouse gas emissions beyond the limits of emission reductions at national level by funding emission reductions in other countries.

– *The third part of the first subsection of section IV of the request for internal review*

61 In the third part, referred to in paragraph 55 above, relating to the failure to conduct an adequate assessment of the greenhouse gas emission reductions that are feasible for the Member States of the European Union to achieve by 2030, the applicants criticised the Commission for not having conducted, in the impact assessment of 17 September 2020, an assessment of whether greater domestic emission reductions than those envisaged in accordance with the 2030/1990 second target were achievable. They also argued that the reasons that had led the Commission to rule out the option of a greenhouse gas emission reduction target of higher than 55% by 2030 compared with 1990 levels were inadequate in the light of the requirements resulting from Article 191(3) TFEU and the precautionary principle.

(ii) The second subsection of section IV of the request for internal review

62 The second subsection of section IV of the request for internal review itself comprises two parts. The first of those parts seeks to demonstrate that the 2030/1990 second target was not intended to implement the greatest possible greenhouse gas emission reduction pathway, while the second seeks to establish that the 2030/1990 second target was manifestly inadequate in the light of the obligation incumbent on the European Union to contribute, in accordance with its fair share, to combating global warming.

– *The first part of the second subsection of section IV of the request for internal review*

63 In the first part, referred to in paragraph 62 above, relating to the lack of ambition of the 2030/1990 second target, the applicants claimed that the European Union should aim at a reduction of greenhouse gas emissions for 2030 that corresponds to a decrease of 60%, or even 65%, compared to 1990 emission levels.

– *The second part of the second subsection of section IV of the request for internal review*

64 In the second part, referred to in paragraph 62 above, relating to the European Union's fair contribution to combating global warming, the applicants sought to demonstrate that the 2030/1990 second target was inadequate to meet the obligation incumbent on the European Union to reduce greenhouse gas emissions in accordance with its fair share.

65 Thus, it follows from the summary of section IV of the request for internal review set out in paragraphs 54 to 64 above that the grounds set out in that paragraph expressly criticise the 2030/1990 second target and the impact assessment of 17 September 2020, which is the basis for that target. In addition, those grounds implicitly criticise the 2030/2005 second target, since, as is apparent from paragraph 18 above, that target was established by the EU legislature with a view to achieving the 2030/1990 second target.

66 In particular, it is apparent from the grounds of section IV of the request for internal review summarised in paragraphs 54 to 64 above that the applicants submitted that the 2030/1990 second target, resulting from the impact assessment of 17 September 2020, was inadequate in the light of the requirements of the Paris Agreement, in particular Article 2(1)(a) thereof, relating to the objective of limiting the increase in the global average temperature to 1.5 °C above pre-industrial levels, and the obligations arising from Article 191 TFEU and the precautionary principle.

(2) Summary of the applicants' arguments as set out in the contested decision

67 It is necessary to examine the Commission's summary of the applicants' arguments in the contested decision as set out, first, in the letter forwarding the contested assessment and, secondly, in that assessment itself.

(i) The Commission's summary of the applicants' arguments in the letter forwarding the contested assessment

68 In the second paragraph of the letter referred to in paragraph 29 above, the Commission stated that the request for internal review submitted by the applicants was based on the alleged procedural and substantive failures of the 2030/1990 second target and the impact assessment of 17 September 2020. It noted that, in essence, the applicants claimed that procedural and substantive failures vitiated that impact assessment, which was the basis for the proposal, set out in the communication of 17 September 2020, to reduce EU greenhouse gas emissions by at least 55% by 2030 compared to 1990, including emissions and removals.

69 In addition, according to the Commission, the applicants had argued that, although the alleged contraventions attributable to Implementing Decision 2023/1319 were being made by a reference to the contraventions attributable to the 2030/1990 second target, the former are distinguishable from the latter, because they reflected a level of climate change mitigation ambition that was manifestly incompatible with the objective of holding global warming to the long-term temperature goal of 1.5 °C.

(ii) The Commission's summary of the applicants' arguments in the contested assessment

70 It should be noted that the contested assessment consists of three parts, relating, first, to the assessment of the admissibility of the request for internal review submitted by the applicants, secondly, to the EU legal framework relating to binding greenhouse gas emission reductions and, thirdly, to the assessment of the grounds for that request.

71 In particular, in section 3.1 of the contested assessment, containing preliminary remarks relating to the inadmissibility of claims regarding the impact assessment of 17 September 2020, the Commission stated that, in essence, and in particular in section IV of their request for internal

review, the applicants requested that review of Implementing Decision 2023/1319 due to alleged procedural and substantive failures affecting the 2030/1990 second target, which had been incorporated into the EU legal order by Article 4(1) of the European Climate Law.

(3) Conclusion

72 It is apparent from paragraphs 53 to 71 above, in particular from the grounds of the contested decision summarised in paragraphs 68 to 71 above, that the Commission did not make an error of assessment in finding that the request for internal review submitted by the applicants was based on alleged procedural and substantive failures affecting the 2030/1990 second target and the impact assessment of 17 September 2020, and that the alleged contraventions, attributed to Implementing Decision 2023/1319, were based on the infringements attributed to the 2030/1990 second target.

73 Consequently, the applicants incorrectly maintain that the Commission distorted the grounds of their request for internal review, with the result that the present part, alleging an error of assessment affecting the understanding of those grounds, must be rejected as unfounded, without there being any need to rule on the plea of inadmissibility raised by the Commission (see judgment of 21 June 2023, *UG* v *Commission*, T-571/17 RENV, EU:T:2023:351, paragraph 72 (not published) and the case-law cited).

3. The second part, alleging infringement of Article 9(2) and (3) of the Aarhus Convention

74 The applicants submit that the Commission's argument that, in calculating the annual emission allocations, it had no power or discretion under Regulation 2018/842 was not such as to lead the refusal of their request for internal review as inadmissible, in view of the requirements arising from Article 9(2) and (3) of the Aarhus Convention.

75 According to settled case-law, the provisions of an international agreement to which the European Union is a party can be relied on in support of an action for annulment of an act of secondary EU legislation or an exception based on the illegality of such an act only where, first, the nature and the broad logic of that agreement do not preclude it and, secondly, those provisions appear, as regards their content, to be unconditional and sufficiently precise (see judgments of 28 July 2016, *Ordre des barreaux francophones et germanophone and Others*, C-543/14, EU:C:2016:605, paragraph 49 and the case-law cited, and of 28 November 2024, *Hengshi Egypt Fiberglass Fabrics and Jushi Egypt for Fiberglass Industry* v *Commission*, C-269/23 P and C-272/23 P, EU:C:2024:984, paragraph 56 and the case-law cited).

76 In that regard, under Article 9(2) and (3) of the Aarhus Convention:

'2. Each Party shall, within the framework of its national legislation, ensure that members of the public concerned

(a) having a sufficient interest or, alternatively,

(b) maintaining impairment of a right, where the administrative procedural law of a Party requires this as a precondition, have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of Article 6 and, where so provided for under national law and without prejudice to paragraph 3 below, of other relevant provisions of this Convention.

What constitutes a sufficient interest and impairment of a right shall be determined in accordance with the requirements of national law and consistently with the objective of giving the public concerned wide access to justice within the scope of this Convention. To this end, the interest of any non-governmental organisation meeting the requirements referred to in Article 2(5), shall be deemed sufficient for the purpose of subparagraph (a) above. Such organisations shall also be deemed to have rights capable of being impaired for the purpose of subparagraph (b) above.

The provisions of this paragraph 2 shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.

3. In addition and without prejudice to the review procedures referred to in paragraphs 1 and 2 above, each Party shall ensure that, where they meet the criteria, if any, laid down in its national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment.'

77 It has previously been held that, first, with regard to Article 9(3) of the Aarhus Convention, since only 'members of the public who meet the criteria, if any, laid down [by] national law' are entitled to exercise the rights provided for in that provision, it is subject, in its implementation or effects, to the adoption of a subsequent measure (see judgment of 28 July 2016, *Ordre des barreaux francophones et germanophone and Others*, C-543/14, EU:C:2016:605, paragraph 51 and the case-law cited).

78 Secondly, Article 9(2) of the Aarhus Convention also refers to criteria laid down by national law. According to the terms of that provision, the procedures to which it applies must be established 'within the framework of [the] national legislation' of the parties to that convention, with the national legislature, in particular, having to decide whether it intends to provide the possibility of access to a review procedure 'before a court of law and/or another independent and impartial body established by law'. In addition, it follows from that provision that the determination of 'what constitutes a sufficient interest and impairment of a right' is also a matter for national law (see, to that effect, judgment of 28 July 2016, *Ordre des barreaux francophones et germanophone and Others*, C-543/14, EU:C:2016:605, paragraph 52 and the case-law cited).

79 It follows that Article 9(2) and (3) of the Aarhus Convention does not fulfil the conditions to be fulfilled to enable it to be relied on in support of an action for annulment of an act of secondary EU legislation (see, to that effect, judgment of 28 July 2016, *Ordre des barreaux francophones et germanophone and Others*, C-543/14, EU:C:2016:605, paragraph 53 and the case-law cited).

80 Consequently, the applicants cannot usefully rely on an infringement of Article 9(2) and (3) of the Aarhus Convention and the second part of the plea must be rejected as ineffective.

4. The first part, alleging infringement of Article 2(1)(f) and (g) and Article 10 of the Aarhus Regulation

81 In support of the first part, the applicants submit, in essence, that the rejection of the grounds set out in section IV of their request for internal review as inadmissible is vitiated by errors of law in respect of Article 2(1)(f) and (g) and Article 10 of the Aarhus Regulation.

82 The first part consists of three complaints.

83 In support of the first complaint, the applicants claim that the Commission infringed Article 10(1) of the Aarhus Regulation by refusing as inadmissible their request for internal review on the ground that the empowerment provided for in Article 4(3) of Regulation 2018/842, which constitutes the legal basis of Implementing Decision 2023/1319, had, according to the Commission, a mandatory character and did not authorise it to make any political or policy choices when defining annual emission allocations. According to the applicants, the Aarhus Regulation required the Commission to examine the compatibility of the 2030/1990 second target with a number of norms of environmental law to which that target was subject.

84 In support of the second complaint, the applicants allege that the Commission erred in law, in particular in respect of Article 2(1)(f) of the Aarhus Regulation, in that it limited the applicable environmental law to Regulation 2018/842 only. In so doing, the Commission disregarded the relevant case-law, in particular the judgments of 6 July 2023, *EIB and Commission* v *ClientEarth* (C-212/21 P and C-223/21 P, EU:C:2023:546), and of 14 March 2018, *TestBioTech* v *Commission* (T-33/16, EU:T:2018:135).

85 In support of the third complaint, the applicants state that the annual emission allocations set out in Implementing Decision 2023/1319 permit significant greenhouse gas emissions, without being accompanied by any impact assessment or any assessment capable of establishing that those allocations are adequate. In that regard, they submit that the Commission was required to examine their arguments directed against the impact assessment of 17 September 2020, in accordance with Article 2(1)(g) and Article 10 of the Aarhus Regulation, since that analysis formed an integral part of the legal framework from which Implementing Decision 2023/1319 followed.

86 The Commission contends that the applicants' line of argument is unfounded and that, in addition, the third complaint is inadmissible in the light of the requirements arising from Article 10(1) of the Aarhus Regulation, since it was not raised by the applicants in their request for internal review.

87 It is appropriate to examine the first complaint and then, together, the second and third complaints.

(a) First complaint in the first part of the plea

88 It should be recalled that, under Article 10(1) of the Aarhus Regulation:

'Any non-governmental organisation or other members of the public that meet the criteria set out in Article 11 shall be entitled to make a request for internal review to the Union institution or body that adopted the administrative act or, in the case of an alleged administrative omission, should have adopted such an act, on the grounds that such an act or omission contravenes environmental law within the meaning of point (f) of Article 2(1).

Such requests shall be made in writing and within a time limit not exceeding eight weeks after the administrative act was adopted, notified or published, whichever is the latest, or, in the case of an alleged administrative omission, eight weeks after the date when the administrative act was required. The request shall state the grounds for the review.'

89 In addition, under Article 2(1)(f) of the Aarhus Regulation, 'environmental law', for the purposes of that regulation, means EU legislation which, irrespective of its legal basis, contributes to the pursuit of the objectives of EU policy on the environment as set out in the TFEU: preserving, protecting and improving the quality of the environment, protecting human health, the prudent and rational utilisation of natural resources, and promoting measures at international level to deal with regional or worldwide environmental problems.

90 Lastly, Article 2(1)(g) of the Aarhus Regulation defines 'administrative act' for the purposes of that regulation as any non-legislative act adopted by an EU institution or body, which has legal and external effects and contains provisions that may contravene environmental law within the meaning of point (f) of Article 2(1) of that regulation.

91 In the present case, it is apparent from paragraphs 66 and 72 above that, by the grounds set out in section IV of their request for internal review, the applicants claimed that the 2030/1990 second target and the 2030/2005 second target were inadequate in the light, in particular, of the requirements of the Paris Agreement, in particular Article 2(1)(a) thereof, relating to the objective of limiting the increase of the global average temperature to 1.5 °C above pre-industrial levels, and the obligations arising from Article 191 TFEU and the precautionary principle.

92 Furthermore, it is apparent from section 3.5 of the contested assessment, which constitutes its overall conclusion, that the Commission refused the applicants' request for internal review on the principal ground that the empowerment provided for in Article 4(3) of Regulation 2018/842, on the basis of which that institution adopted Implementing Decision 2023/1319, had a mandatory character for the definition of annual emission allocations and did not authorise it to make any political or policy choices when implementing that regulation, with the result that the grounds put forward by the applicants in support of their request were inadmissible.

93 In the first place, it should be noted that, as is apparent from its citations and recitals, Implementing Decision 2023/1319, which is the subject of the applicants' request for internal review, was adopted on the basis of Article 4(3) of Regulation 2018/842, as amended by Regulation 2023/857.

94 In that regard, it is apparent from Article 1 of Regulation 2018/842, as amended by Regulation 2023/857, that that legislation lays down obligations on Member States with respect to their minimum contributions for the period from 2021 to 2030 to fulfilling the 2030/2005 second target, and thereby contributes to achieving the objectives of the European Climate Law.

95 In particular, it follows from recital 13 of Regulation 2023/857 that the 2030/2005 second target, which concerns the economic sectors listed in Article 2 of Regulation 2018/842, was set with a view to achieving the 2030/1990 second target set by the European Climate Law.

96 Furthermore, Article 4(3) of Regulation 2018/842, as amended by Regulation 2023/857, provides that the Commission is to adopt implementing acts setting out the annual emission allocations for each Member State for the years from 2021 to 2030 in tonnes of CO_2 equivalent in accordance with the linear trajectories set out in paragraph 2 of that article, so as to achieve the 2030/2005 second target.

97 As is apparent from recital 19 of Regulation 2018/842, that power conferred on the Commission is intended to ensure uniform conditions for the implementation of the provisions of that regulation concerning the setting out of annual emission allocations for Member States.

98 Consequently, Decision 2023/1319 constitutes an act implementing Regulation 2018/842 and is therefore governed by Article 291 TFEU.

99 In the second place, it should be borne in mind that, under Article 291(2) TFEU:

‘Where uniform conditions for implementing legally binding Union acts are needed, those acts shall confer implementing powers on the Commission, or, in duly justified specific cases and in the cases provided for in Articles 24 and 26 of the Treaty on European Union, on the Council.’

100 Furthermore, Article 13(2) TEU provides that:

‘Each institution shall act within the limits of the powers conferred on it in the Treaties, and in conformity with the procedures, conditions and objectives set out in them. The institutions shall practice mutual sincere cooperation.’

101 Thus, the principles of institutional balance, of sincere cooperation and of the conferral of powers, as laid down in Article 13(2) TEU, require that each institution act within the limits of the powers conferred on it in the Treaties, and in conformity with the procedures, conditions and objectives set out therein, and thus exercise its powers with due regard for the powers of the other institutions (see, to that effect, judgments of 3 December 2020, *Changmao Biochemical Engineering* v *Distillerie Bonollo and Others*, C-461/18 P, EU:C:2020:979, paragraph 102 and the case-law cited, and of 3 September 2024, *Illumina and Grail* v *Commission*, C-611/22 P and C-625/22 P, EU:C:2024:677, paragraph 215 and the case-law cited).

102 In that context, it should be recalled that the adoption of the essential rules of a matter is reserved to the EU legislature. It follows that the provisions laying down the essential elements of basic legislation, the adoption of which requires political choices falling within the responsibilities of that legislature, cannot appear in implementing acts (see judgment of 28 February 2023, *Fenix International*, C-695/20, EU:C:2023:127, paragraph 41 and the case-law cited).

103 Furthermore, where an implementing power is conferred on the Commission, it is called upon to provide further detail in relation to the content of the legislative act in question, in order to ensure that it is implemented under uniform conditions in all the Member States. Accordingly, the provisions of an implementing act adopted by the Commission must, first, comply with the essential general aims pursued by the legislative act which those provisions are expected to clarify, and secondly, be necessary or appropriate for the uniform implementation of that act without supplementing or amending it, even as to its non-essential elements (see judgment of 28 February 2023, *Fenix International*, C-695/20, EU:C:2023:127, paragraph 44 and the case-law cited).

104 It follows from all those considerations that the implementing power conferred on the Commission under Article 291(2) TFEU entails, in essence, the power to adopt measures which are necessary or appropriate for the uniform implementation of the provisions of the legislative act on the basis of which they are adopted and which merely specify the content of that act, in compliance with the essential general aims pursued by that act, without amending or supplementing it, in its essential or non-essential elements (see judgment of 28 February 2023, *Fenix International*, C-695/20, EU:C:2023:127, paragraph 49 and the case-law cited).

105 In the third place, both the 2030/2005 second target and the 2030/1990 second target were introduced into the EU legal order by acts adopted in accordance with the ordinary legislative procedure, namely Regulation 2023/857 and the European Climate Law, and which therefore constitute legislative acts within the meaning of Article 289(1) and (3) TFEU.

106 Consequently, it must be held that, when adopting an implementing act such as Implementing Decision 2023/1319, the Commission was not authorised, in accordance with the case-law principles set out in paragraphs 102 to 104 above, to set the annual emission allocations of the Member States for the period from 2023 to 2030 on the basis of EU greenhouse gas emission reduction targets that were different from the 2030/1990 second target and the 2030/2005 second target.

107 The Commission was required to adopt measures specifying the conditions for implementing the 2030/1990 second target and the 2030/2005 second target, without being able to derogate from those targets. If, when adopting Implementing Decision 2023/1319, the Commission had relied on EU greenhouse gas emission reduction targets distinct from the 2030/1990 second target and the 2030/2005 second target, on the ground that it considered those targets to be inadequate in the light of requirements arising from rules of primary or international law, it would have exceeded its implementing power and would have encroached upon the competence of the EU legislature. In so doing, it would have infringed Article 291 TFEU and, consequently, would have failed to comply with the principles of institutional balance, of sincere cooperation and of the conferral of powers, as laid down in Article 13(2) TEU.

108 In the fourth place, it is necessary to examine whether, following a request for internal review directed against an administrative act adopted by the Commission in the exercise of its implementing power, such as Implementing Decision 2023/1319, Article 10 of the Aarhus Regulation authorises that institution to grant that request on the ground that the basic legislation pursuant to which that administrative act is adopted is contrary to rules of environmental law stemming from primary EU law or international law.

109 In that regard, it must be noted that, in accordance with the wording of Article 10(1) of the Aarhus Regulation, a request for internal review of an administrative act on the grounds that it may contravene environmental law must be submitted ‘to the Union institution or body that adopted the administrative act’ and that, therefore, was competent to do so.

110 It follows that the request for internal review of an administrative act is intended to establish that that act is unlawful or that it is not well founded by the institution that adopted it and that, consequently, has the power to amend it should that act be contrary to environmental law (see, to that effect, judgment of 12 September 2019, *TestBioTech and Others* v *Commission*, C-82/17 P, EU:C:2019:719, paragraphs 37 and 38).

111 As is apparent from the case-law principles set out in paragraphs 102 to 104 above, the Commission is not authorised, under its implementing power, to amend the basic legislation of an administrative act of which it is the author, such as Implementing Decision 2023/1319, where that basic legislation falls, as in the present case, within the competence of other institutions and is subject to a different adoption procedure from that provided for in Article 291 TFEU.

112 Similarly, it cannot be held that Article 10(1) of the Aarhus Regulation authorises the Commission, when it receives a request for internal review of an administrative act that it has adopted on the basis of its implementing power, in accordance with Article 291 TFEU, to examine the merits of grounds relating to the basic legislation of that administrative act, since it is not empowered to adopt that basic legislation under its implementing power.

113 If it were otherwise, the Commission could, when examining a request for internal review, call into question the basic legislation that was adopted by other EU institutions and that it is required to apply by virtue of its implementing power, which would run counter not only to the principles of institutional balance, of sincere cooperation and of the conferral of powers, but also to the principle of legal certainty, which requires, inter alia, that the application of rules of law be foreseeable for those subject to the law (see, to that effect, judgment of 16 February 2022, *Hungary* v *Parliament and Council*, C-156/21, EU:C:2022:97, paragraph 223 and the case-law cited).

114 In the fifth place, the finding set out in paragraph 112 above is all the more compelling in the present case since the 2030/1990 second target and the 2030/2005 second target are set by provisions of a legislative nature, as the Commission stated in the contested assessment.

115 In that regard, it should be noted that the 2030/1990 second target is set by Article 4(1) of the European Climate Law, relating to the European Union’s intermediate climate targets, whereas the 2030/2005 second target is set by Article 1 of Regulation 2018/842, in the version resulting from Regulation 2023/857.

116 In addition, the European Climate Law and Regulations 2018/842 and 2023/857 were adopted by the Parliament and the Council in accordance with the ordinary legislative procedure, as defined in Article 289(1) TFEU, with the result that the 2030/1990 second target and the 2030/2005 second target are provided for by acts of a legislative nature, both within the meaning of Article 289(1) and (3) TFEU and within the meaning of the Aarhus Convention and the Aarhus Regulation.

117 Legislative acts of the EU institutions within the meaning of Article 289(3) TFEU fall within the exercise of the legislative powers provided for in the final subparagraph of Article 2(2) of the Aarhus Convention and Article 2(1)(c) of the Aarhus Regulation (see, to that effect, order of 15 September 2022, *CNMSE and Others* v *Parliament and Council*, C-749/21 P, not published, EU:C:2022:699, paragraphs 24 to 26 and the case-law cited).

118 First, it must be borne in mind that Article 10 of the Aarhus Regulation must be read in conjunction with Article 2(1)(c) thereof. Under the latter provision, the concept of ‘Union institutions and bodies’, to which that regulation applies, in accordance with Article 1(1) thereof, covers ‘any public institution, body, office or agency established by, or on the basis of, the Treaty except when acting in a judicial or legislative capacity’ (see, to that effect, judgment of 6 July 2023, *EIB and Commission* v *ClientEarth*, C-212/21 P and C-223/21 P, EU:C:2023:546, paragraph 71).

119 Thus, activities of the EU institutions are excluded from the scope of the Aarhus Regulation when those institutions exercise legislative powers (see, to that effect, order of 15 September 2022, *CNMSE and Others* v *Parliament and Council*, C-749/21 P, not published, EU:C:2022:699, paragraph 25 and the case-law cited, and judgment of 6 July 2023, *EIB and Commission* v *ClientEarth*, C-212/21 P and C-223/21 P, EU:C:2023:546, paragraph 72).

120 In particular, a legislative act within the meaning of Article 289(3) TFEU cannot be the subject of a request for internal review, since, in accordance with the combined provisions of Article 2(1)(g) and Article 10(1) of the Aarhus Regulation, such a review may concern only an 'administrative act' defined, by the first of those provisions, as any non-legislative act adopted by an EU institution or body, which has legal and external effects and contains provisions that may contravene environmental law within the meaning of Article 2(1)(f) of that regulation (see, to that effect, order of 15 September 2022, *CNMSE and Others* v *Parliament and Council*, C-749/21 P, not published, EU:C:2022:699, paragraph 26).

121 Secondly, it should be recalled that the Aarhus Regulation is intended to implement, as regards the institutions of the European Union, the provisions of Article 9(3) of the Aarhus Convention (see judgment of 6 July 2023, *EIB and Commission* v *ClientEarth*, C-212/21 P and C-223/21 P, EU:C:2023:546, paragraph 67 and the case-law cited).

122 In that regard, although, as is apparent from the examination of the second part of the present plea, Article 9(3) of the Aarhus Convention cannot be relied on in order to assess the legality of a provision or act of EU law, such a finding does not preclude the provisions of the Aarhus Regulation from being interpreted, so far as possible, in a manner that is consistent with that convention (see judgment of 6 July 2023, *EIB and Commission* v *ClientEarth*, C-212/21 P and C-223/21 P, EU:C:2023:546, paragraph 68 and the case-law cited).

123 First, EU legislation must, so far as possible, be interpreted in a manner that is consistent with international law, in particular where its provisions are intended to give effect to an international agreement concluded by the European Union (see judgment of 6 July 2023, *EIB and Commission* v *ClientEarth*, C-212/21 P and C-223/21 P, EU:C:2023:546, paragraph 66 and the case-law cited).

124 Secondly, the effects, within the EU legal order, of provisions of agreements concluded by the European Union with non-member States, such as the Aarhus Convention, may not be determined without taking account of the international origin of the provisions of those conventions (see, to that effect, judgment of 13 January 2015, *Council and Others* v *Vereniging Milieudefensie and Stichting Stop Luchtverontreiniging Utrecht*, C-401/12 P to C-403/12 P, EU:C:2015:4, paragraph 53 and the case-law cited).

125 Consequently, an interpretation of the Aarhus Regulation that is consistent with the Aarhus Convention is an essential means of ensuring, in accordance with the intention of the EU legislature as expressed in recital 3 of that regulation, that provisions of EU law remain consistent with those of that convention (see judgment of 6 July 2023, *EIB and Commission* v *ClientEarth*, C-212/21 P and C-223/21 P, EU:C:2023:546, paragraph 69 and the case-law cited).

126 According to settled case-law, acts of the EU institutions adopted in a legislative capacity are excluded from the scope of the Aarhus Convention. Article 9(3) of that convention refers to acts of public authorities, the definition of which in Article 2(2) of that convention does not include bodies or institutions acting in a legislative capacity (see, to that effect, order of

15 September 2022, *CNMSE and Others* v *Parliament and Council*, C-749/21 P, not published, EU:C:2022:699, paragraph 24 and the case-law cited, and judgment of 6 July 2023, *EIB and Commission* v *ClientEarth*, C-212/21 P and C-223/21 P, EU:C:2023:546, paragraph 70).

127 Furthermore, in view of the exclusion of acts of a legislative nature from the scope of the Aarhus Convention and of the Aarhus Regulation, the application of the principles set out in paragraphs 118 to 120 and 126 above cannot be precluded on the sole ground that, in the present case, the applicants did not directly request from the Council and the Parliament the internal review of the 2030/1990 second target and the 2030/2005 second target, but that, in the context of a request for internal review formally directed against Implementing Decision 2023/1319, the applicants claimed that those targets were inadequate and, therefore, that they were contrary to certain environmental standards.

128 The fact that the applicants sent their request for internal review to the Commission, formally referring to a non-legislative act such as Implementing Decision 2023/1319, has no bearing on the content of the grounds of that request, which, as is apparent from the examination of the third part, is in reality directed against the legislative provisions of the European Climate Law setting the 2030/1990 second target and, consequently, the legislative provisions setting the 2030/2005 second target.

129 In those circumstances, it cannot be held that the Commission erred in law in respect of Article 10 of the Aarhus Regulation by rejecting as inadmissible, in the contested decision, the grounds of the request for internal review put forward by the applicants against the 2030/1990 second target and the 2030/2005 second target on account of the fact that they are defined by provisions of a legislative nature that Implementing Decision 2023/1319 was intended to implement, without the Commission being able to amend or supplement them, in their essential and non-essential elements, having regard to the limits imposed on any implementing power under Article 291(2) TFEU.

130 Thirdly, it is necessary to examine the possible impact of Article 277 TFEU on the outcome of the dispute. Although, in their written pleadings before the Court, the applicants disputed that they had raised a plea of illegality for the purposes of that provision, they nevertheless, in response to a question put by the Court at the hearing, stated that they implicitly relied on it in support of their arguments. Furthermore, the Commission maintained that, in the context of the second plea, the applicants were seeking an assessment by the Court of the compliance of the 2030/1990 second target and the 2030/2005 second target with certain standards of environmental law falling within the scope of primary EU law or international law.

131 In that regard, Article 277 TFEU provides:

‘Notwithstanding the expiry of the period laid down in Article 263, sixth paragraph, any party may, in proceedings in which an act of general application adopted by an institution, body, office or agency of the Union is at issue, plead the grounds specified in Article 263, second paragraph, in order to invoke before the Court of Justice of the European Union the inapplicability of that act.’

132 Thus, according to settled case-law, Article 277 TFEU gives expression to a general principle conferring upon any party to proceedings the right to challenge incidentally, with a view to obtaining the annulment of a decision addressed to that party, the validity of acts of general application which form the legal basis of that decision or that have a direct legal connection with it (see, to that effect, judgment of 16 March 2023, *Commission* v *Calhau Correia de Paiva*, C-511/21 P, EU:C:2023:208, paragraphs 44 and 46 and the case-law cited).

133 First, even if the applicants intended to rely, implicitly, on Article 277 TFEU in the body of their request for internal review, it should be observed that, according to the express wording of that provision, it is only in the context of proceedings before the Courts of the European Union that it is possible to plead the illegality of an act of general application which forms the legal basis of a contested provision.

134 When assessing a request for internal review lodged in accordance with Article 10(1) of the Aarhus Regulation, the institution to which the request is made, which in no way exercises the judicial powers specifically conferred on the Courts of the European Union by primary law, is bound by the principle that, as the European Union is founded on the rule of law, the acts of the institutions enjoy a presumption of lawfulness. Thus, in the present case, since the European Climate Law and Regulations 2018/842 and 2023/857 had entered into force, the Commission was required to respect them and implement them, in accordance with the principles of the conferral of powers, of institutional balance, of sincere cooperation and of legal certainty (see, to that effect and by analogy, judgment of 27 March 2019, *Commission* v *Germany*, C-620/16, EU:C:2019:256, paragraph 85 and the case-law cited).

135 In those circumstances, since the Commission was legally required to apply, by virtue of its implementing power, the European Climate Law and Regulations 2018/842 and 2023/857 and could not, consequently, take any action on the grounds of the applicants' request for internal review directed against those provisions, it cannot be regarded as having erred in law in rejecting those grounds as inadmissible.

136 Secondly, it should be noted that, on the one hand, in support of the first plea relied on before the Court, the applicants have not demonstrated, or even claimed, that the interpretation of Article 10(1) of the Aarhus Regulation, which constitutes the legal basis of the contested decision, is contrary to a rule of primary EU law, in particular Article 277 TFEU or the right to an effective judicial remedy, provided for in Article 47 of the Charter of Fundamental Rights of the European Union ('the Charter'), in so far as, by that decision, the Commission rejected as inadmissible the grounds put forward in their request for internal review against the legislative provisions setting the 2030/1990 second target and the 2030/2005 second target. Thus, the applicants have not raised before the Court a plea of illegality for the purposes of Article 277 TFEU capable of leading to the annulment of the contested decision in so far as it refused their request for internal review as inadmissible. On the other hand, even if the line of argument relied on by the applicants in support of the second plea could be regarded as a plea of illegality for the purposes of Article 277 TFEU, suffice it to note that that line of argument is not directed against the grounds of the contested decision by which the Commission refused that request for internal review as inadmissible. In those circumstances, the applicants' reliance on Article 277 TFEU in support of their arguments is ineffective and must be rejected.

137 It follows that, by rejecting the grounds of section IV of the request for internal review relating to the 2030/1990 second target and the 2030/2005 second target as inadmissible, the Commission did not infringe Article 10(1) of the Aarhus Regulation and, therefore, the first complaint of the first part must be rejected as unfounded.

(b) The second and third complaints of the first part

138 At the outset, it must be borne in mind that, in section 3.1 of the contested assessment, containing preliminary remarks relating to the inadmissibility of claims regarding the impact assessment of 17 September 2020, the Commission considered that the grounds of section IV of the request for

internal review put forward against that impact assessment were inadmissible on three grounds. First, the Commission noted that, in so far as the 2030/1990 second target set by the European Climate Law stemmed from the findings of that impact assessment, there was a substantive link between Implementing Decision 2023/1319 and that impact assessment, which was part of a legislative proposal, with the result that the applicants were not justified in claiming that the alleged inadequacy of the greenhouse gas emission reduction targets referred to in that impact assessment constituted a failure independent from the inadequacy of the targets taken into account in Implementing Decision 2023/1319. Secondly, the Commission took the view that the applicants had not relied on failures specific to Implementing Decision 2023/1319, read in the light of Regulation 2018/842, which, in its view, was the relevant environmental law for the assessment of the legality of that decision, in accordance with Article 2(1)(f) of the Aarhus Regulation. Thirdly, the impact assessment of 17 September 2020 constituted, according to the Commission, a staff working document with no binding legal effect, with the result that it did not qualify as an administrative act within the meaning of Article 2(1)(g) of that regulation and, even if the contrary were to be assumed, the applicants would be precluded from challenging it in view of the eight-week time limit laid down in Article 10(1) of that regulation.

139 In support of the second complaint, the applicants allege that the Commission erred in law in respect of Article 2(1)(f) of the Aarhus Regulation when rejecting as inadmissible the grounds of section IV of their request for internal review directed against the impact assessment of 17 September 2020, in that it limited the environmental law applicable in the present case to Regulation 2018/842 alone.

140 Next, in support of the third complaint, the applicants criticise the third ground of inadmissibility referred to in paragraph 138 above and complain, in essence, that the Commission rejected the grounds of their request for internal review directed against the impact assessment of 17 September 2020 even though, in their view, the annual emission allocations set by Implementing Decision 2023/1319 permit significant greenhouse gas emissions, without being accompanied by an impact assessment or analysis capable of establishing that those allocations are adequate.

141 In particular, the applicants submit that the Commission was required to examine their arguments directed against the impact assessment of 17 September 2020, in accordance with Article 10 of the Aarhus Regulation, since it formed an integral part of the legal framework from which Implementing Decision 2023/1319 followed.

142 In the first place, as regards the third complaint, it should be recalled that, under Article 10(1) of the Aarhus Regulation, any non-governmental organisation that meets the criteria set out in Article 11 thereof may make a request, in writing and stating its grounds, for internal review of an administrative act from the institution that adopted it under environmental law. Article 2(1)(g) of that regulation defines 'administrative act' in that regard as any non-legislative act adopted by an EU institution or body, which has legal and external effects and contains provisions that may contravene environmental law within the meaning of Article 2(1)(f) thereof.

143 Thus, first, it should be noted that neither the wording of Article 2(1)(g) of the Aarhus Regulation, which defines the administrative act in respect of which internal review is requested, nor other provisions of that regulation preclude the applicant for internal review from relying, in support of its request, incidentally on the illegality of an act that has no legal and external effect on which the administrative act referred to in that request is based, provided that (i) that prior act was not adopted in a legislative capacity, in accordance with the principles recalled in paragraphs 119

and 126 above, and (ii) the illegality thus relied on makes it possible to establish that the administrative act in respect of which internal review is requested contravenes environmental law within the meaning of Article 2(1)(f) of that regulation.

144 Secondly, it follows from settled case-law that, while measures of a purely preparatory character may not themselves be the subject of an action for annulment, any legal defects therein may be relied upon in an action directed against the definitive act for which they represent a preparatory step (see judgments of 22 April 2021, *thyssenkrupp Electrical Steel and thyssenkrupp Electrical Steel Ugo* v *Commission*, C-572/18 P, EU:C:2021:317, paragraph 50 and the case-law cited, and of 11 December 2024, *FFPE Council section* v *Council*, T-179/23, EU:T:2024:897, paragraph 43 and the case-law cited).

145 However, it does not follow from any provision of the Aarhus Regulation, read in the light of the Aarhus Convention, that the system of internal review provided for by those instruments precludes the application of the case-law referred to in paragraph 144 above.

146 Consequently, by rejecting as inadmissible the grounds of the applicants' request for internal review directed against the impact assessment of 17 September 2020 on the ground that it was an act devoid of legal and external effects within the meaning of Article 2(1)(g) of the Aarhus Regulation, the Commission infringed that provision and Article 10 of that regulation and vitiated the contested decision with an error of law.

147 In the second place, as regards the second complaint, it should be recalled that the concept of 'environmental law' is defined in Article 2(1)(f) of the Aarhus Regulation as covering 'Union legislation which, irrespective of its legal basis, contributes to the pursuit of the objectives of Union policy on the environment as set out in [the] TFEU: preserving, protecting and improving the quality of the environment, protecting human health, the prudent and rational utilisation of natural resources, and promoting measures at international level to deal with regional or worldwide environmental problems'. As is apparent from recital 10 of that regulation, the reference to those objectives is justified in so far as 'environmental law is constantly evolving'.

148 It thus follows from the very wording of Article 2(1)(f) of the Aarhus Regulation, read in conjunction with recital 10 of that regulation, that the EU legislature intended to give the concept of 'environmental law' a broad scope (see, to that effect, judgment of 6 July 2023, *EIB and Commission* v *ClientEarth*, C-212/21 P and C-223/21 P, EU:C:2023:546, paragraph 84).

149 In that context, the Court of Justice has held that the concept of 'environmental law', interpreted broadly, covers any EU act which, irrespective of its legal basis, contributes to the achievement of the objectives of that policy, as set out in Article 191(1) TFEU. The fact that, according to the very wording of Article 2(1)(f) of the Aarhus Regulation, the legal basis on which an act is adopted is not a relevant criterion for the purposes of its classification as 'environmental law' permits the inference that the procedure for the adoption of that act, which determines, in accordance with Article 289 TFEU, whether or not it is legislative in nature, is not a relevant criterion either for the purposes of that classification (see judgment of 6 July 2023, *EIB and Commission* v *ClientEarth*, C-212/21 P and C-223/21 P, EU:C:2023:546, paragraph 87 and the case-law cited).

150 However, care must be taken to ensure that the interpretation of the concept of 'environmental law', within the meaning of Article 2(1)(f) of the Aarhus Regulation, remains consistent with the principles set out in paragraphs 99 to 104 above, relating to the strict delimitation of the Commission's implementing powers under Article 291 TFEU and the principles of conferral of powers, of institutional balance, of sincere cooperation and of legal certainty.

151 Consequently, it must be held that, where the Commission receives a request for internal review of an implementing act governed by Article 291 TFEU, the author of that request is not entitled to rely on rules of environmental law that, if such a request were granted, would have the effect of derogating from the basic legislation of that implementing act, thereby altering that legislation by supplementing or amending it, including as to its non-essential elements.

152 In the present case, it is for the Court to examine whether the applicants could rely, in support of their request for internal review, on norms other than Regulation 2018/842 in order to demonstrate that Implementing Decision 2023/1319 is contrary to environmental law, in particular, to the objectives of the European Union's environmental policy, as defined in Article 191(1) TFEU.

153 In that regard, it should be noted that the third and fourth subparagraphs of Article 4(3) of Regulation 2018/842, as amended by Regulation 2023/857, require the Commission, in respect of the years from 2023 to 2030, to determine the annual greenhouse gas emission allocations of the Member States on the basis of national inventory data submitted by Member States pursuant to either Article 7 of Regulation (EU) No 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC (OJ 2013 L 165, p. 13) or Article 26 of Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation No 525/2013 (OJ 2018 L 328, p. 1).

154 In addition, Article 4(5) of Regulation 2018/842, as amended by Regulation 2023/857, provides that implementing acts adopted on the basis of that article are to be adopted in accordance with the examination procedure referred to in Article 14 of that regulation. According to the latter provision, 'the Commission shall be assisted by the Climate Change Committee established by Regulation … No 525/2013', 'that committee shall be a committee within the meaning of Regulation (EU) No 182/2011' and 'where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply'.

155 Thus, it is apparent from the principles recalled in paragraphs 147 to 149 above and from the provisions cited in paragraphs 153 and 154 above that it was open to the applicants to rely, in support of their request for internal review, on illegalities vitiating Implementing Decision 2023/1319 in the light of certain provisions of Regulations No 525/2013 and 2018/1999 and the provisions of Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ 2011 L 55, p. 13), applicable by reference to those regulations, in order to demonstrate that that decision is

contrary to environmental law, without that request being capable of leading the Commission, if it considered it justified, to derogate from the provisions of the European Climate Law and Regulations 2018/842 and 2023/857, which Implementing Decision 2023/1319 implements.

156 Consequently, it must be held that, by stating, in the contested decision, that Regulation 2018/842 constituted 'the environmental law' for the assessment of the legality of Implementing Decision 2023/1319, the Commission vitiated the contested decision with an error of law in respect of Article 2(1)(f) and Article 10 of the Aarhus Regulation.

157 In the third place, however, it should be borne in mind that, according to the case-law, where a number of grounds are stated, even if one or more of the grounds of the act the annulment of which is sought are vitiated by illegality, that defect cannot lead to the annulment of that act if one or more other grounds suffice to constitute lawful justification for that measure, irrespective of the grounds vitiated by illegality (see judgment of 21 June 2023, *UG* v *Commission*, T-571/17 RENV, EU:T:2023:351, paragraph 145 and the case-law cited; see also, to that effect, judgment of 18 July 2013, *Commission and Others* v *Kadi*, C-584/10 P, C-593/10 P and C-595/10 P, EU:C:2013:518, paragraph 130).

158 Such is the case here. It should be noted that, under the first ground of inadmissibility that the Commission raised against the applicants' arguments directed against the impact assessment of 17 September 2020 and which the applicants did not dispute before the Court, the Commission referred to the substantive link between that impact assessment, the European Climate Law and Implementing Decision 2023/1319.

159 In particular, the Commission stated, in the contested assessment, that the impact assessment of 17 September 2020 was part of a legislative proposal aimed at incorporating the 2030/1990 second target and the 2030/2005 second target into the EU legal order.

160 In that regard, it is true that when the Commission prepares impact assessment documents, it does not itself act in a legislative capacity. Where the impact assessment procedure takes place, as in the present case, upstream of the legislative procedure *sensu stricto*, that procedure does not formally begin until a legislative proposal is submitted by the Commission (see, to that effect, judgment of 4 September 2018, *ClientEarth* v *Commission*, C-57/16 P, EU:C:2018:660, paragraph 86).

161 However, it should be noted that, pursuant to Article 17(2) TEU, EU legislative acts may only be adopted on the basis of a Commission proposal, except where the Treaties provide otherwise. The power of initiative accorded to that institution by that provision includes, first, the power to decide whether or not to submit a proposal, except in the situations where that institution is obliged to submit such a proposal. Secondly, the Commission's power of initiative includes the power to determine the subject matter, objective and content of a potential proposal, bearing in mind that, under Article 293(1) TFEU, except in the cases referred to in that provision, where, pursuant to the Treaties, the Council acts on a proposal from the Commission, it may amend that proposal only by acting unanimously. In view of that power, the Commission is a key player in the legislative process (see, to that effect, judgment of 4 September 2018, *ClientEarth* v *Commission*, C-57/16 P, EU:C:2018:660, paragraphs 87 and 88 and the case-law cited).

162 Thus, in the present case, it is not disputed by the applicants that the impact assessment of 17 September 2020 was carried out with a view to the Commission's adoption of a legislative proposal that led to the European Climate Law and the amendment of Regulation 2018/842.

163 It is apparent from the communication of 17 September 2020, to which the impact assessment of the same day was annexed, that the Commission stated that it had thoroughly examined, in the context of that impact assessment, the effects of reducing greenhouse gas emissions from 50% to 55% by 2030, compared to 1990 levels, on the economy, society and environment of the European Union and carefully considered the mix of policy instruments available and how each sector of the economy could contribute to those targets, with the result that it considered that a balanced, realistic and prudent pathway to climate neutrality by 2050 required an emission reduction target of 55% by 2030. In addition, it stated in that communication that it was therefore considering the launch of revisions of the key legislative instruments, in particular Regulation 2018/842, to achieve that increased ambition.

164 Lastly, it follows from recital 26 of the European Climate Law that the 2030/1990 second target corresponds to the greenhouse gas emission reduction target for 2030 that had been proposed by the Commission in the impact assessment of 17 September 2020, which was considered to be exhaustive by the EU legislature.

165 Thus, since the impact assessment of 17 September 2020 was submitted by the Commission with a view to amending legislative norms in order to incorporate the 2030/1990 second target and the 2030/2005 second target into the EU legal order, that impact assessment corresponds to a legislative proposal and thus amounts to the Commission acting in a legislative capacity within the meaning of Article 2(1)(c) of the Aarhus Regulation.

166 Consequently, the Commission did not err in law in respect of the provisions of the Aarhus Regulation and the principles recalled in paragraphs 119 and 126 above in rejecting as inadmissible the applicants' claims directed against the impact assessment of 17 September 2020, on account of the substantive link that that impact assessment had with the European Climate Law and Regulation 2018/842, as amended by Regulation 2023/857.

167 Since the contested decision, in so far as it rejects as inadmissible the applicants' claims directed against the impact assessment of 17 September 2020, contains at least one ground that is free of illegality and capable of supporting the Commission's finding of inadmissibility, the errors of law identified in paragraphs 146 and 156 above, which affect the other grounds of the contested decision, have no bearing on its validity and cannot lead to its annulment.

168 It follows from the foregoing that the Commission did not err in law in respect of Article 10 of the Aarhus Regulation by rejecting as inadmissible the applicants' claims relating to the inadequacy of the impact assessment of 17 September 2020, which gave rise to the 2030/1990 second target and the 2030/2005 second target, with the result that the second and third complaints of the first part must also be rejected, as must, consequently, the first part of the first plea and that plea in its entirety.

B. The second plea, alleging errors of law or manifest errors of assessment in so far as, by the contested decision, the Commission refused the request for internal review as unfounded

169 The second plea in law comprises, in essence, the following four parts.

170 In support of the first part of the plea, the applicants allege errors of law with regard to the European Union's duty to base its greenhouse gas emission reduction policies on the level of global emission reductions that would be necessary to limit the average increase in global

temperatures to 1.5 °C above pre-industrial levels. In particular, they rely on Articles 2 to 4 of the Paris Agreement, the environmental harm prevention principle, Article 191 TFEU and Articles 2 to 4, 7, 17, 21 and 24 of the Charter.

171 In support of the second part of the plea, the applicants submit that the Commission vitiated the contested decision with errors of law or manifest errors of assessment by refusing to acknowledge the European Union's duty to set its 2030 emission targets at a level that accepts a fair share of the level of global emission reduction. In particular, they rely on Articles 2 and 4 of the Paris Agreement, the UNFCCC, the environmental harm prevention principle and the precautionary principle resulting from Article 191 TFEU.

172 In support of the third part of the plea, the applicants allege a manifest error of assessment in that the Commission rejected as unfounded the grounds of the request for internal review by which they argued, first, that the Commission was required to assess the possibility of achieving greater emission reductions than the 2030/1990 second target and, secondly, that the 2030/1990 second target was clearly inadequate, since it was feasible to achieve a greater level of emission reduction. In particular, they rely on Article 4 of the Paris Agreement, the environmental harm prevention principle and Article 191 TFEU.

173 In support of the fourth part of the plea, the applicants submit that the Commission also vitiated the contested decision with a manifest error of assessment by rejecting as unfounded the grounds of their request for internal review by which they argued that the impact assessment of 17 September 2020 failed to assess the impact of the 2030/1990 second target and of climate change on the fundamental rights guaranteed by Articles 2 to 4, 7, 17, 21 and 24 of the Charter.

174 The Commission contends that the second ground of appeal is inadmissible in so far as, by their arguments, the applicants seek to obtain an assessment of the compliance of the 2030/1990 second target and the 2030/2005 second target with certain norms of environmental law, which are legislative in nature and which the Commission is not entitled to call into question.

175 In that regard, it should be recalled that, in section V of their request for internal review, the applicants relied on 'procedural and substantive failures associated with [Implementing Decision 2023/1319]'.

176 Section V consists of three paragraphs, by which the applicants set out two grounds for review.

177 According to the applicants, first, since the 2030/1990 second target was the result of the impact assessment of 17 September 2020, the Commission should, in view of the inadequacy of that impact assessment, have conducted fresh assessments before adopting Implementing Decision 2023/1319.

178 Secondly, the applicants stated that, given that the annual emission allocations set out in Implementing Decision 2023/1319 had been defined on the basis of the 2030/1990 second target, which was manifestly inadequate, those allocations also had to be regarded as inadequate.

179 Thus, it is apparent from the grounds of section V of the request for internal review, which are summarised in paragraphs 175 to 178 above, that the procedural and substantive failures put forward by the applicants in that section do not constitute failures specific to Implementing

Decision 2023/1319 that are independent from the failures relied on, in section IV of that request, against the legislative provisions setting the 2030/1990 second target and the impact assessment of 17 September 2020.

180 Consequently, it must be held that all of the arguments formally put forward by the applicants against Implementing Decision 2023/1319 are in reality directed against the provisions governing the 2030/1990 second target, the 2030/2005 second target and the impact assessment of 17 September 2020.

181 First, it follows from the examination of the first plea that the Commission did not vitiate the contested decision with an error of law by rejecting as inadmissible the claims put forward by the applicants, in support of section IV of their request for internal review, against the 2030/1990 second target, the 2030/2005 second target and the impact assessment of 17 September 2020. Secondly, it follows from paragraph 36 above that it was for the sake of completeness that, in section 3.4 of the contested assessment, relating to the procedural and substantive failures put forward by the applicants in section IV of their request for internal review, the Commission rejected their arguments as unfounded.

182 In that context, it should be recalled that a plea directed against a ground included in a contested act for the sake of completeness is ineffective (see, to that effect, judgments of 12 September 2024, *D'Agostino and Dafin* v *ECB*, C-566/23 P, not published, EU:C:2024:743, paragraph 77 and the case-law cited, and of 26 July 2023, *Troy Chemical Company* v *Commission*, T-662/21, not published, EU:T:2023:442, paragraphs 93 to 96).

183 In such a situation, the Courts of the European Union may, inter alia, for reasons relating to the efficient administration of justice, refrain from examining the merits of such a plea (see, to that effect, judgment of 29 September 2022, *HIM* v *Commission*, C-500/21 P, not published, EU:C:2022:741, paragraph 73).

184 It follows from the foregoing, without there being any need to rule on the plea of inadmissibility raised by the Commission, that the second plea must be rejected as ineffective. Therefore, the action must be dismissed in its entirety.

V. Costs

185 Under Article 134(1) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Under Article 135(1) of those rules, however, if equity so requires, the Court may decide that an unsuccessful party is to pay only a proportion of the costs of the other party in addition to bearing his or her own costs, or even that he or she is not to be ordered to pay any costs.

186 In the present case, the applicants have been unsuccessful. However, it has been found that the Commission had vitiated certain grounds of the contested decision with errors of law, which may have prompted the applicants to bring the present action, with a view to having those illegalities established. In those circumstances, the Court considers that it is equitable to order the applicants to bear their own costs and to pay a third of the Commission's costs.

On those grounds,

THE GENERAL COURT (Ninth Chamber, sitting with five Judges)

hereby:

1. **Dismisses the action;**

2. **Orders Global Legal Action Network and Climate Action Network Europe (CAN-Europe), in addition to bearing their own costs, to pay one third of the costs incurred by the European Commission.**

Truchot Kanninen Nihoul

Sampol Pucurull Perišin

Delivered in open court in Luxembourg on 2 September 2026.

V. Di Bucci
Registrar

S. Papasavvas
President