The exemption from network charges had been financed through the surcharge under Paragraph 19(2) of the German Stromnetzentgeltverordnung (StromNEV) (Regulation on electricity network charges). That was not an obligatory charge in accordance with the case-law of the Court of Justice, contrary to the finding of the General Court in paragraph 97 of the judgment under appeal, which could be an indication of the State nature of the resources within the meaning of Article 107 (1) TFEU.

In the appeal, the appellants principally dispute the application of EU law and claim that the General Court incorrectly assessed the national law having regard to the criteria of European State aid law (first ground of appeal). According to the appellants, in fact the exemptions from network charges rightly had not been granted by means of State resources as provided for in Article 107(1) TFEU.

The appellants claims that it follows from the case-law of the Court of Justice that State resources, in that sense, only exist where there is a sufficiently direct link with the State budget. The surcharge under Paragraph 19(2) of the StromNEV that is the subject of the proceedings does not, however, have a sufficiently direct link with the German State budget. That surcharge consequently remains a private and not a State resource, that is be paid between network operators and network users.

Moreover, the appellants also claim, in support of their appeal, that the General Court distorted the facts by misconstruing the meaning and scope of the national law (second ground of appeal).

Appeal brought on 17 December 2021 by Versobank AS against the judgment of the General Court (Ninth Chamber, Extended Composition) delivered on 6 October 2021 in Joined Cases T-351/18 and T-584/18, Ukrselhosprom PCF and Versobank v ECB

(Case C-803/21 P)

(2022/C 73/34)

Language of the case: English

Parties

Appellant: Versobank AS (represented by: O. Behrends, Rechtsanwalt)

Other parties to the proceedings: European Central Bank (ECB), European Commission, Ukrselhosprom PCF LLC

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal;

— declare void the decisions of the ECB on the revocation of the appellant's authorization dated 26 March 2018 (the 'First Contested Decision') and 17 July 2018 (the 'Second Contested Decision');

— to the extent that the Court of Justice of the European Union is not in a position to take a decision on the merits, refer joined cases T-351/18 and T-584/18 back to the General Court for it to determine the actions for annulment; and

— order the ECB to pay the appellant's costs and the costs of this appeal.

Pleas in law and main arguments

In support of the appeal, the appellant relies on six grounds of appeal.

First ground of appeal alleging that the General Court erred in law by erroneously assuming that there is no need to adjudicate in case T-351/18, erroneously failed to take into consideration that the purported effect *ex tunc* of the Second Contested Decision violated Article 263 TFEU and erroneously assumed that the appellant has no interest in the annulment of the First Contested Decision.

Second ground of appeal alleging that the General Court erred in law with respect to numerous infringements of essential procedural requirements.

Third ground of appeal alleging that the General Court erroneously failed to recognise that the ECB exceeded its competence by making determinations in the areas of payment services and other financial services, AML/CFT (Anti-money Laundering/Counter-terrorism Financing) matters and resolution matters.

Fourth ground of appeal alleging that the General Court erred in law by making findings on an issue which was precluded by a settlement in front of a national administrative court.

Fifth ground of appeal alleging that the General Court erroneously applied the SRMR ([1]) instead of national law as to failing or likely to fail assessments and no resolution decisions and misinterpreted their significance without ordering the disclosure of such decisions.

Sixth ground of appeal alleging that the General Court (1) failed to respect the limits of its own competence pursuant to Article 263 TFEU by making determinations governed by national law which fall within the exclusive competence of the competent national authorities and courts and went beyond a review of the ECB's decisions by making determinations and assessments which the ECB had not made, (2) based its decision on surprising findings on the basis of a belated submission of voluminous documents immediately prior to the hearing without giving the appellant an opportunity to comment, (3) failed to take into consideration the violation of the appellant's rights pursuant to Article 47 of the Charter prior to the commencement of the procedure and the continuing lack of an effective representation of the appellant during the proceedings and (4) erroneously refused to order the production of resolution decisions on a national level but nonetheless expressed detailed but erroneous views on the legal significance and legal bass of these decisions.

([1]) Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ 2014 L 225, p. 1).

Appeal brought on 22 December 2021 by European Union Copper Task Force against the judgment of the General Court (First Chamber) delivered on 13 October 2021 in Case T-153/19, European Union Copper Task Force v Commission

(Case C-828/21 P)

(2022/C 73/35)

Language of the case: English

Parties

Appellant: European Union Copper Task Force (represented by: I. Moreno-Tapia Rivas and C. Vila Gisbert, abogadas)

Other parties to the proceedings: European Commission, European Parliament, Council of the European Union

Form of order sought

The appellant claims that the Court should:

— annul the judgment under appeal;

— issue a judgment on the substance of the action for annulment or, subsidiary, refer the case back to the General Court for judgment;

— order the European Commission to pay the costs of the appeal proceedings.

Pleas in law and main arguments

In support of the appeal, the applicant relies on the following pleas in law.

The General Court erred in law in relation to the scope of its judicial review and has breached the appellant's right to an effective judicial protection.

The General Court infringed the principle of non-arbitrariness by failing to require a harmonized approach in the scope of application of PBT (persistence, bioaccumulation and toxicity) criteria.

The General Court infringed the precautionary principle and the principle of proportionality.

The General Court breached the rules of procedure by dismissing the appellant's request to appoint an expert.