

### Pleas in law and main arguments

In support of the action, the applicant relies on seven pleas in law.

1. First plea in law, alleging manifest error in the assessment of the facts on which the contested restrictions are based, in so far as those restrictions were imposed on the applicant without any current and genuine factual or evidential basis.
2. Second plea in law, alleging failure to state reasons, in so far as the contested measures lack proper reasoning in respect of the applicant, which prevents him from putting forward a proper defence.
3. Third plea in law, alleging infringement of the right to freedom of expression, in so far as the applicant is sanctioned on the basis of certain observations which are covered by that fundamental right.
4. Fourth plea in law, alleging infringement of the right to effective judicial protection as regards the statement of reasons for the contested measures, lack of genuine evidence for the reasons alleged and infringement of the rights of freedom of expression, defence and property, in so far as the requirement to adduce current and genuine evidence and the requirement to state reasons have not been complied with, which affects the other rights referred to above.
5. Fifth plea in law, alleging infringement of the right to property, in conjunction with the principle of proportionality, in so far as that right has been unjustly restricted and, moreover, in a disproportionate manner.
6. Sixth plea in law, alleging infringement of the principle of equal treatment, in so far as the comparative position of the applicant has been adversely affected without there being any justification.
7. Seventh plea in law, alleging misuse of powers, in so far as there is objective, precise and consistent evidence to show that in imposing and extending the restrictive measures different objectives were intended to those stated by the Council.

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(<sup>1</sup>) OJ 2014 L 78, p. 6; as amended by Council Decision (CFSP) 2022/265 of 23 February 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 42I, p. 98).

(<sup>2</sup>) OJ 2014 L 78, p. 6; as amended by Council Implementing Regulation (EU) 2022/260 of 23 February 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 241, p. 3).

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### Action brought on 27 May 2022 — PH and Others v ECB

(Case T-323/22)

(2022/C 318/56)

*Language of the case: English*

### Parties

*Applicants:* PH, PI, PJ, PK (represented by: D. Hillemann, C. Fischer and T. Ehls, lawyers)

*Defendant:* European Central Bank (ECB)

### Form of order sought

The applicants claim that the Court should:

- annul *ex tunc* Decision ECB-SSM-2022-EN-4 QLF-2020-0037 of the ECB of 22 March 2022 on the objection to the acquisition of qualifying holdings and the exceeding of 50 % of the capital and voting rights, notified on the same date;
- order the ECB to pay the costs.

**Pleas in law and main arguments**

In support of the action, the applicants rely on eleven pleas in law.

1. First plea in law, alleging incorrect application of section 2c paragraph 1b no. 1 of the Kreditwesengesetz (KWG) <sup>(1)</sup> with regard to 'reliability'.
  - This plea is submitted with regard to the disregard of evidence submitted, the use of inadmissible assessment criteria and misjudgment of the facts.
2. Second plea in law, alleging legally incorrect application of section 2c paragraph 1b no. 4 KWG with regard to 'professional competence'.
  - This plea is submitted with regard to taking inappropriate circumstances as a basis and not considering the experience of the first applicant.
3. Third plea in law, alleging legally incorrect application of section 2c paragraph 1b no. 6 KWG with regard to 'financial soundness'.
  - This plea is submitted with regard to requirements that find no support in the law and incorrect calculation of the capital requirements by the defendant.
4. Fourth plea in law, alleging legally incorrect application of section 2c paragraph 1b no. 2 KWG with regard to 'compliance with prudential requirements'.
  - This plea is submitted with regard to the definition of a strategy, procedures for determining and ensuring risk-bearing capacity, establishment of an internal control system, staffing and future outsourcing of activities.
5. Fifth plea in law, alleging legally incorrect application of section 2c paragraph 1b no. 5 KWG with regard to suspicion of money laundering and terrorist financing.
  - This plea is submitted with regard to lack of consideration of measures taken/planned, evidence provided and failure to recognise missing indications of suspicion.
6. Sixth plea in law, alleging infringement of Article 19 of and recital 75 in the preamble to Council Regulation (EU) No 1024/2013 of 15 October 2013, <sup>(2)</sup> misuse of powers and error of assessment as regards the existence of a ground for refusing permission to acquire the target bank.
  - This plea is submitted with regard to the scope and quality and timing of evidence submitted and the question of the risk affinity of the first applicant.
7. Seventh plea in law, alleging non-consideration of the relevant facts and errors of assessment.
  - This plea is submitted with regard to non-consideration of evidence, declarations and information provided.
8. Eighth plea in law, alleging infringement of the principle of proportionality.
  - This plea is submitted with regard to lack of necessity to prohibit the acquisition and disregarding milder measures.
9. Ninth plea in law, alleging violation of the duties of care and impartiality.
  - This plea is submitted with regard to non-consideration of the proven successful business activity of the first applicant and consideration of circumstances not relevant to the appealed decision.
10. Tenth plea in law, alleging infringements of the Charter of Fundamental Rights of the EU.
  - This plea is submitted with regard to the violation of the freedom of occupation in Article 15 of the Charter of Fundamental Rights and the freedom of competition and freedom of economic activity in Article 16 thereof.

11. Eleventh plea in law, alleging infringement of the obligation to state reasons.

— This final plea is submitted with regard to the integrity and financial soundness of the first three applicants.

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<sup>(1)</sup> *Gesetz über das Kreditwesen*: the references to this German legislation are to be found in the application.

<sup>(2)</sup> Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ 2013 L 287, p. 83).

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**Action brought on 1 July 2022 — QF v Council**

**(Case T-386/22)**

(2022/C 318/57)

*Language of the case: French*

**Parties**

*Applicant*: QF (represented by: T. Marembert and A. Bass, lawyers)

*Defendant*: Council of the European Union

**Form of order sought**

The applicant claims that the Court should:

- annul Council Decision (CFSP) 2022/582 <sup>(1)</sup> of 8 April 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, in so far as the applicant is concerned;
- annul Council Implementing Regulation (EU) 2022/581 <sup>(2)</sup> of 8 April 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, in so far as the applicant is concerned;
- order the Council to pay the costs.

**Pleas in law and main arguments**

In support of the action, the applicant relies on a single plea in law, alleging a manifest error of assessment. The applicant submits, first, that none of the Council's items of evidence meets the requirements of the European case-law in terms of the standard and quality of the evidence and, second, that none of the assertions of the Council's statement of reasons is established. Lastly, the applicant puts forward, in support of her plea, elements of a financial nature, which make it possible to establish that the Council's reasoning is incorrect.

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<sup>(1)</sup> Council Decision (CFSP) 2022/582 of 8 April 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 110, p. 55).

<sup>(2)</sup> Council Implementing Regulation (EU) 2022/581 of 8 April 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 110, p. 3).

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**Action brought on 5 July 2022 — adp Merkur v EUIPO — psmtec (SEVEN 7)**

**(Case T-408/22)**

(2022/C 318/58)

*Language in which the application was lodged: German*

**Parties**

*Applicant*: adp Merkur GmbH (Espelkamp, Germany) (represented by: K. Mandel, lawyer)