

must be interpreted as requiring that the best interests of the child and the family life of that child be protected in proceedings leading to the adoption of a return decision in respect of a minor, and that it is not sufficient for that minor to be able to rely on those two protected interests in subsequent proceedings relating to the enforcement of that return decision in order to obtain a suspension of that enforcement, if appropriate.

(¹) OJ C 380, 3.10.2022.

Appeal brought on 8 May 2022 by Nigar Kirimova against the order of the General Court (Fourth Chamber, Extended Composition) delivered on 9 March 2022 in Case T-727/20, Kirimova v EUIPO

(Case C-306/22 P)

(2023/C 216/30)

Language of the case: English

Parties

Appellant: Nigar Kirimova (represented by: A. Parassina, avvocato, A. García López, abogado)

Other party to the proceedings: European Union Intellectual Property Office

By order of 21 April 2023, the Court of Justice held that the order of the General Court of the European Union of 9 March 2022, *Kirimova v EUIPO* (T-727/20), was set aside and Case T 727/20 was referred back to the General Court. The costs were reserved.

Appeal brought on 5 January 2023 by the European Union Intellectual Property Office against the judgment of the General Court (First Chamber) delivered on 26 October 2022 in Case T-298/20, KD v EUIPO

(Case C-5/23 P)

(2023/C 216/31)

Language of the case: English

Parties

Appellant: European Union Intellectual Property Office (represented by: G. Predonzani, K. Tóth, Agents)

Other party: KD

Form of order sought

The Appellant claims that the Court should:

- set aside the judgment under appeal (¹);
- dismiss the annulment action as inadmissible, or reject it as unfounded or, should the Court of Justice find itself unable to take a final decision, refer the case back to the General Court, and
- order the applicant to pay the costs of the appeal proceedings and of the proceedings before the General Court.

Pleas in law and main arguments

In support of its appeal, the EUIPO puts forward four grounds of appeal.

By its first ground of appeal, directed against paragraphs 23 to 31 of the judgment under appeal, the Office alleges an error of law in the interpretation of Article 43 of the Staff Regulations read in combination with Article 110 of the Staff Regulations.

By its second ground of appeal, directed against paragraphs 67, 72 to 76, 79 and 80 of the judgment under appeal, the Office puts forward errors of law as regards the legal nature of the Reporting Officer's Practical Dossier, the sanctioned infringement of the duty to state reasons and the consequences derived therefrom.

By its third ground of appeal, directed against paragraphs 93 and 96 to 103 of the judgment under appeal, the Office alleges a distortion of the facts and a wrongful appraisal of the evidence.

By its fourth ground of appeal, directed against paragraphs 121 to 129 of the judgment under appeal, the Office claims that the General Court erred in law in its interpretation of the duty of care and infringed its duty to provide a statement of reasons.

(¹) Judgment of the General Court of 26 October 2022, *KD v EUIPO* (T-298/20, EU:T:2022:671; the 'judgment under appeal').

Request for a preliminary ruling from the Nejvyšší správní soud (Czech Republic) lodged on 3 March 2023 — BG Technik cs, a.s. v Generální ředitelství cel

(Case C-129/23, BG Technik)

(2023/C 216/32)

Language of the case: Czech

Referring court

Nejvyšší správní soud

Parties to the main proceedings

Applicant: BG Technik cs, a.s.

Defendant: Generální ředitelství cel

Questions referred

1. Can an electric mobility vehicle whose maximum speed exceeds 10 km/hr, and which is equipped with a separate adjustable steering column, be classified under heading 8713 of the Combined Nomenclature, despite the Explanatory Notes to the Combined Nomenclature of 6 May 2011 (¹) and 4 March 2015? (²)
2. Does Commission Regulation (EC) No 718/2009 (³) apply — aside from the vehicles directly described therein — also to an electric mobility vehicle with the following characteristics:
 - Four wheels (the rear pair of wheels are anti-tip);
 - An adjustable and rotating seat with armrests,
 - A horizontal platform between the front and rear sections of the mobility vehicle;
 - An 800 W electric motor, enabling the attainment of a speed of up to 16 km/hr and a range of up to 45 km,
 - An electromagnetic brake on the rear wheels;
 - Closed handlebars mounted on a separate steering column that can be folded down and equipped with levers for speed selection?

(¹) Explanatory Notes to the Combined Nomenclature of the European Union (OJ 2011 C 137, p. 1).

(²) Explanatory Notes to the Combined Nomenclature of the European Union (OJ 2015 C 76, p. 1).

(³) Commission Regulation (EC) No 718/2009 of 4 August 2009 concerning the classification of certain goods in the Combined Nomenclature (OJ 2009 L 205, p. 7).