

- order the European Parliament and the Council to pay the costs of the proceedings before the General Court.
- order the European Parliament and the Council to pay the costs of the present proceedings.
- grant the appellants any additional remedy that it considers appropriate in law.

Grounds of appeal and main arguments

1. By the first ground of appeal, the appellants submit that the effective judicial protection enshrined in Article 47 of the Charter of Fundamental Rights, read in conjunction with Article 126 of the Rules of Procedure of the General Court, has been breached and that the General Court infringed the obligation to state reasons, because it distorted the subject matter of the action by holding that it corresponded to 'a duty to be vaccinated', set out in paragraphs 4, 8, 7, 9, 10 and 11 of the order under appeal. Consequently, the first ground of appeal is based on an error of law resulting from the absence of a valid legal basis for the decision at issue.
2. By the second ground of appeal, the appellants submit that the effective judicial protection enshrined in Article 47 of the Charter of Fundamental Rights, read in conjunction with Article 263 TFEU and Article 19 TEU, has been breached and, lastly, they claim that the Court did not correctly interpret the arguments put forward by the applicants at first instance. It is not disputed that the fourth paragraph of Article 263 TFEU extended the standing of natural and legal persons to institute proceedings. In the appellants' view, the Court interpreted the fourth paragraph of Article 263 TFEU in an excessively restrictive manner and disregarded the requirements of effective judicial protection.

Action brought on 18 January 2023 — Kingdom of Denmark v European Parliament and Council of the European Union

(Case C-19/23)

(2023/C 104/22)

Language of the case: Danish

Parties

Applicant: Kingdom of Denmark (represented by: C. Maertens, M.P. Brøchner Jespersen and J. Farver Kronborg, Agents)

Defendants: European Parliament and Council of the European Union

Form of order sought

The applicant claims primarily that the Court should:

- annul Directive (EU) 2022/2041 ⁽¹⁾ of the European Parliament and of the Council of 19 October 2022 on adequate minimum wages in the European Union.
- order the European Parliament and the Council of the European Union to pay the costs.

In the alternative, the Government claims that the Court should:

- annul Article 4(1)(d) of Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022 on adequate minimum wages in the European Union.
- annul Article 4(2) of Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022 on adequate minimum wages in the European Union.

Pleas in law and main arguments

In support of the principal claim, the Government claims in the first place that, in adopting the contested directive, the defendants infringed the principle of the conferral of powers and acted in breach of Article 153(5) TEU. The contested directive interferes directly with the determination of the level of pay in the Member States and concerns the right of association, which is excluded from the competence of the EU legislature pursuant to Article 153(5) TFEU.

In support of its principal claim, the Government submits, in the second place, that the contested directive could not validly be adopted on the basis of Article 153(1)(b) TFEU. That is because the Directive pursues both the objective set out in Article 153(1)(b) TFEU and the objective set out in Article 153(1)(f) TFEU. The latter objective is not ancillary to the first and presupposes the use of a decision-making procedure different from that followed when the contested directive was adopted (see Article 153(2) TFEU). The two decision-making procedures are incompatible since the adoption of acts under Article 153(1)(f) TFEU — in contrast to those adopted under Article 153(1)(b) TFEU — requires unanimity (see Article 153(2) TFEU).

In support of its claim put forward in the alternative, the Government submits that, in adopting Article 4(1)(d) and Article 4(2) of the contested directive, the defendants infringed the principle of the conferral of powers and acted in breach of Article 153(5) TFEU. Those provisions interfere directly with the determination of the level of pay in the Member States and concern the right of association, which is excluded from the competence of the EU legislature pursuant to Article 153(5) TFEU.

(¹) OJ 2022 L 275, p. 33.

**Appeal brought on 28 January 2023 by DL (*) against the order of the General Court
(Fifth Chamber) delivered on 18 November 2022 in Case T-586/22, DL (*) v Parliament and
Council**

(Case C-43/23 P)

(2023/C 104/23)

Language of the case: French

Parties

Appellant: DL (*) (represented by: S. Manna, avocate)

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

Form of order sought

The appellant claims that the Court of Justice should set aside the order of 18 November 2022 in Case T-586/22 in its entirety, on the ground that the General Court of the European Union made a number of errors of law.

Grounds of appeal and main arguments

In support of its appeal, the appellant puts forward five grounds.

The first ground of appeal alleges that the General Court of the European Union erred in law by distorting the pleas in law relied on by DL (*). The General Court decided the case on the premiss that DL (*) relied on the freedom of movement in the European Union, whereas his application was based on the right to health and the right to life.

The second ground of appeal alleges an error of law as to the requirement that the contested regulation must directly affect the legal situation of the applicant. The General Court held that the contested regulations did not affect the applicant's legal situation on the ground that they merely lay down a technical framework.

Although Regulation (EU) 2022/1034 lays down a technical framework, that framework directly affects the legal situation of the applicant and any EU citizen who wishes to be eligible for an EU Digital COVID Certificate.

The third ground of appeal alleges an error of law as to the condition relating to the discretion of the addressees of the contested act. The General Court held that the contested regulations merely lay down a technical framework for the application of which Member States have a discretion, such that those regulations cannot be regarded as applying automatically.

(*) Information erased or replaced within the framework of protection of personal data and/or confidentiality.