



C/2024/1247

12.2.2024

Appeal brought on 27 November 2023 by the Kingdom of Spain against the judgment of the General Court (Seventh Chamber, Extended Composition) delivered on 26 July 2023 in Case T-776/20, Stockdale v Council and Others

(Case C-728/23 P)

(C/2024/1247)

Language of the case: French

Parties

Appellant: Kingdom of Spain (represented by: M. Morales Puerta, acting as Agent)

Other parties to the proceedings: Robert Stockdale, Council of the European Union, European Commission, European External Action Service, European Union Special Representative in Bosnia and Herzegovina ('the EUSR')

Form of order sought

The Kingdom of Spain claims that the Court should:

- set aside the judgment of 26 July 2023, *Stockdale v Council and Others* (T-776/20, EU:T:2023:422), as regards the finding concerning the capacity to be sued in relation to the first head of claim, and declare that the first head of claim is admissible as regards the Council and inadmissible as regards the EUSR.

Grounds of appeal and main arguments

The Kingdom of Spain challenges the judgment in so far as the General Court ruled on the 'pleas of inadmissibility relating to the identification of the defendant(s)', in the context of the first head of claim seeking the annulment of the termination decision and compensation for the resulting damage.

The Kingdom of Spain puts forward two grounds of appeal.

The first ground of appeal alleges an error of law in the interpretation of Articles 4 and 6 of Decision (CFSP) 2019/1340, ⁽¹⁾ read in conjunction with Article 33 and Article 28(1) TEU, in so far as the decision to terminate Mr Robert Stockdale's contract could not be imputed to the European Union Special Representative since, in addition to the fact that that representative adopted that decision on behalf of the institution which he represents, such a decision is not at his discretion and is taken pursuant to instructions which he follows as the European Union Representative in Bosnia and Herzegovina and, ultimately, pursuant to the mandate entrusted to him by the Council, with the result that only the Council should be regarded as having the capacity to be sued in relation to Mr Stockdale's first head of claim seeking the annulment of the termination decision and the payment of the sum of EUR 393 850,08 by way of compensation.

The second ground of appeal alleges infringement of the principle of non-discrimination, in so far as the judgment under appeal infringed the principle of non-discrimination by concluding that the EUSR must be regarded as having the capacity to be sued in relation to the first head of claim raised by the applicant at first instance, thereby not ruling to the same effect as in the judgment of 19 July 2016, *H v Council and Others* (C-455/14 P, EU:C:2016:569), in which the decision adopted by the Head of the European Union Police Mission in Sarajevo (Bosnia and Herzegovina) was imputed to the Council, even though those cases were identical in substance.

⁽¹⁾ Council Decision (CFSP) 2019/1340 of 8 August 2019 appointing the European Union Special Representative in Bosnia and Herzegovina (OJ 2019 L 209, p. 10).