

2. Second plea in law, alleging infringement of Article 69(1) of Regulation (EU) No 806/2014

The applicant disputes that the amount of the target level was correctly determined. Even if the view of the defendant were followed and a dynamic policy chosen, the wording of the legislation does not leave room to link the calculation of the contributions for 2023 to 2024 values and accordingly a time period outside the initial period.

3. Third plea in law, alleging infringement of Article 296 TFEU and Article 41 of the Charter of Fundamental Rights of the European Union ^(?) due to a failure to state adequate reasons for the decision

The requirements for an adequate statement of reasons for an act of individual application in accordance with case-law of the Court of Justice of the European Union ^(?) are not met in the present decision. The individual contributions are calculated pro-rata to the amount of the liabilities less covered deposits of an institution with respect to the aggregate liabilities less covered deposits of all the institutions concerned. The statement of reasons for the decision does not contain detailed information concerning the data of the other institutions.

The details of the calculations concerning the applicant, relied, in essence, on information, which the applicant had reported using the SRB data template. That further included how many classes it gives for each factor and the classes into which they fall. All the information, which was provided by the statement of reasons, was only sufficient to precisely determine the accuracy of the calculation of the applicant's contribution up to a certain point.

4. Fourth plea in law, alleging infringement of Article 47 of the Charter and the principle of legal certainty due to the fact that the decision is not subject to review

On the basis of the information provided in the decision and the annexes thereto, the applicant is not able to determine the accuracy of the calculation of its contribution to the Single Resolution Fund. Considering that the decision refers to a contribution in the (mid) tens of millions for the applicant, that is unequivocally incompatible with principles of the rule of law.

⁽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).

⁽²⁾ OJ 2012, C 326, p. 391.

⁽³⁾ Judgment of 15 July 2021, *Commission v Landesbank Baden-Württemberg and SRB*, C-584/20 P and C-621/20 P, EU:C:2021:601.

Action brought on 7 August 2023 — ePlus v EUIPO — Telefónica Germany (E-Plus)

(Case T-462/23)

(2023/C 338/42)

Language in which the application was lodged: English

Parties

Applicant: ePlus Inc. (Herndon, Virginia, United States) (represented by: A. Mottet, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Telefónica Germany GmbH & Co. OHG (Munich, Germany)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: European Union word mark E-Plus — European Union trade mark No 17 698 846

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 2 June 2023 in Case R 1463/2022-1

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO to bear its own costs and to pay those incurred by the applicant, including those incurred for the purposes of the proceedings before the Cancellation Division and the First Board of Appeal of EUIPO;
- order any intervener to bear its own costs.

Pleas in law

- Insufficient assessment of genuine use and implications for bad faith assessment;
- Misinterpretation of evidence pertaining to cessation of use;
- Disregard for proprietor's discontinuation of use and implication for bad faith assessment.

Action brought on 7 August 2023 — ePlus v EUIPO — Telefónica Germany (E-Plus)

(Case T-463/23)

(2023/C 338/43)

Language in which the application was lodged: English

Parties

Applicant: ePlus Inc. (Herndon, Virginia, United States) (represented by: A. Mottet, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Telefónica Germany GmbH & Co. OHG (Munich, Germany)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: European Union word mark E-Plus — European Union trade mark No 17 781 791

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 2 June 2023 in Case R 951/2022-1

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO to bear its own costs and to pay those incurred by the applicant, including those incurred for the purposes of the proceedings before the Cancellation Division and the First Board of Appeal of EUIPO;
- order any intervener to bear its own costs.