

Defendant: European Parliament (represented by: C. Burgos and S. Alves, acting as Agents)

Re:

Application pursuant to Articles 278 and 279 TFEU for the grant of interim measures, seeking, first, the suspension of operation of Parliament Decision FINS-2017-28 of 15 December 2016 concerning the funding allocated to the applicant in so far as it suspends payment of prefinancing, second, exemption from the requirement to provide a bank guarantee as a condition for prefinancing and, third, an order that the Parliament pay to the applicant the prefinancing amount.

Operative part of the order

1. *The application for interim measures is dismissed.*
2. *The costs are reserved.*

Order of the President of the General Court of 13 July 2017 — BASF Grenzach ECHA

(Case T-125/17 R)

(Interim measures — REACH — Substance triclosan — Evaluation procedure — Decision of the Board of Appeal of the ECHA — Obligation to provide certain information requiring animal testing — Application for interim measures — No urgency)

(2017/C 283/81)

Language of the case: English

Parties

Applicant: BASF Grenzach GmbH (Grenzach-Wyhlen, Germany) (represented by: K. Nordlander and M. Abenhäim, lawyers)

Defendant: European Chemicals Agency (ECHA) (represented by: W. Broere, T. Röcke and M. Heikkilä, acting as Agents)

Re:

Application pursuant to Articles 278 TFEU and 279 TFEU for the grant of interim measures to (i) suspend implementation of Decision A-018-2014 of the Board of Appeal of ECHA of 19 December 2016, relating to the substance evaluation of triclosan, and (ii) order the extension of the prescribed period to communicate the results of the tests for the duration of the suspension.

Operative part of the order

1. *The application for interim measures is dismissed.*
2. *The costs are reserved.*

Action brought on 22 May 2017 — Niemelä and Others v ECB

(Case T-321/17)

(2017/C 283/82)

Language of the case: English

Parties

Applicants: Heikki Niemelä (Ohain, Belgium), Mika Lehto (Espoo, Finland), Nemea plc (St. Julians, Malta), Nevestor SA (Ohain) and Nemea Bank plc (St. Julians) (represented by: A. Meriläinen, lawyer)

Defendant: European Central Bank

Form of order sought

The applicants claim that the Court should:

- annul the European Central Bank's decision of 23 March 2017 ECB/SSM/2017– 213800JENPXTUY75VS0/1 WHD-2017-0003, withdrawing the authorisation of Nemea Bank plc ('the supervised entity') as a credit institution;
- secondarily, amend the ECB's decision so as to suspend its application in view the irreparable damage that the immediate and continued application of the decision is likely to have on the supervised entity's stakeholders, principally the Bank's depositors, employees and the shareholders, allowing or otherwise requiring the direct/indirect shareholders of the supervised entity to divest themselves of their holding in the Bank within such reasonable period as may be prescribed;
- order the defendant to compensate the applicants in the sum of EUR 10 million with legal interest from 23 March 2017 for damage suffered as a result of the decision;
- order the defendant to bear all costs and expenses incurred in the present case.

Pleas in law and main arguments

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

1. First plea in law, alleging that the facts of the case are not correctly reproduced in the statement of reasons and/or that the statement of reasons is insufficient.
 - It is argued that the ECB was not in a position to adopt a fully reasoned decision owing to ongoing appeal procedures under national law.
2. Second plea in law, alleging a manifest error of assessment by the ECB.
 - It is argued that the ECB erred in so far as it relied on the directives of the Malta Financial Services Authority as being final and conclusive notwithstanding that the latter remain subject to confirmation, reversal or variation by the Financial Services Tribunal. In any case the ECB was manifestly wrong to hold that the withdrawal of the supervised entity's licence was preferable to the forced sale of the Bank and that there was low probability that the sale option would materialise.
3. Third plea in law, alleging that the contested decision errs in law.
 - It is argued that the ECB lacked jurisdiction to adopt the contested decision as the competence to withdraw the licence issued to the supervised entity as a credit institution lies with the Malta Financial Services Authority and not the ECB. The ECB's decision was *ultra vires* and in violation of the applicants' rights of appeal under national law as well as of their right to an effective remedy and a fair trial under EU law.
4. Fourth plea in law, alleging that the ECB misused its powers.
 - It is argued that the ECB, even if it did enjoy the disputed competence, misused its powers in such a way as to deprive the supervised entity and the other applicants of their rights of appeal under national law.
5. Fifth plea in law, alleging that the ECB's decision is not in conformity with EU law in that it fails to respect the proportionality principle.
 - It is argued that the proportionality principle should have operated in the present case so as to preclude withdrawal of the supervised entity's licence. In the circumstances, the sale of the Bank would have been less damaging to the supervised entity and would not have been prejudicial to the supervised entity's depositors, employees and shareholders.