

2. From the perspective of equality of arms and the perspective of an effective legal remedy, is Article 47 of the Charter, potentially in conjunction with Articles 41 and 52 thereof, to be understood as precluding legislation of a Member State which, as laid down in Paragraph 19(3) and (4) of the Tyrol State police Law, provides for de facto measures of direct authority and coercive power, such as, in particular, closures of business establishments, without documentation and without providing confirmation to the person concerned?
3. From the perspective of equality of arms, is Article 47 of the Charter, potentially in conjunction with Articles 41 and 52 thereof, to be understood as precluding legislation of a Member State which, for the purpose of annulling de facto measures of direct authority and coercive power, such as, in particular, closures of business establishments, requires a substantiated application to lift that closure from the person affected by those de facto measures, as laid down in Paragraph 19(3) and (4) of the Tyrol State police Law?
4. From the perspective of an effective legal remedy, is Article 47 of the Charter, in conjunction with Article 52 thereof, to be understood as precluding legislation of a Member State which, as in the case of Paragraph 19(4) of the Tyrol State police Law, allows only for a right to apply for annulment that is restricted to specific conditions in the case of a de facto coercive measure in the form of the closure of a business establishment?

Request for a preliminary ruling from the Thüringer Oberlandesgericht (Germany) lodged on 3 April 2018 — Saatgut-Treuhandverwaltungs GmbH v Freistaat Thüringen

(Case C-239/18)

(2018/C 249/08)

Language of the case: German

Referring court

Thüringer Oberlandesgericht

Parties to the main proceedings

Applicant: Saatgut-Treuhandverwaltungs GmbH

Defendant: Freistaat Thüringen

Questions referred

1. Does a right to information from official bodies under Article 11(1) of Regulation (EC) No 1768/95 ⁽¹⁾ exist in a situation where a request relates solely to information concerning species of plants, without the request for information also seeking information on a protected variety?
2. If the answer to Question 1 is that such a right to information can exist:
 - (a) Is a body which monitors subsidies for farmers from EU funds and, in that respect, stores data which relate to (plant) species obtained from farmers who apply for those subsidies to be regarded as an official body involved in the monitoring of agricultural production within the meaning of the first indent of Article 11(2) of Regulation (EC) No 1768/95?

- (b) Is an official body justified in withholding the requested information if the provision of that information requires the data which it holds to be processed and catalogued by a third party and if doing so would require financial expense in the region of EUR 6 000? In that regard, is it relevant whether the person making the request is prepared to meet the costs incurred?

(¹) Commission Regulation (EC) No 1768/95 of 24 July 1995 implementing rules on the agricultural exemption provided for in Article 14 (3) of Council Regulation (EC) No 2100/94 on Community plant variety rights (OJ 1995 L 173, p. 14).

Appeal brought on 4 April 2018 by Constantin Film Produktion GmbH against the judgment of the General Court (Sixth Chamber) delivered on 24 January 2018 in Case T-69/17, Constantin Film Produktion GmbH v European Union Intellectual Property Office

(Case C-240/18 P)

(2018/C 249/09)

Language of the case: German

Parties

Appellant: Constantin Film Produktion GmbH (represented by: E. Saarmann and P. Baronikians, Rechtsanwälte)

Other party to the proceedings: European Union Intellectual Property Office

Form of order sought

The appellant claims that the Court of Justice should:

- set aside the judgment of the General Court of 24 January 2018 in Case T-69/17;
- order the respondent to pay the costs.

Grounds of appeal and main arguments

In support of its appeal the appellant submits three grounds.

1. Infringement of Article 7(1)(f) of the EU Trade Mark Regulation (EUTMR)

The General Court of the European Union erred in refusing the EU trade mark application at issue on the basis of the absolute ground for refusal under Article 7(1)(f) of the EUTMR. (¹) The sign applied for is not, it is submitted, contrary to accepted principles of morality.

The General Court of the European Union committed the following errors in its examination of the findings made by the Board of Appeal:

The General Court of the European Union examined the sign ‘Fuck you, Goethe’, instead of the specific sign applied for, namely ‘Fack Ju Göhte’.

The General Court of the European Union erred in assuming that the sign applied for was marked by an inherent vulgarity, thereby overlooking the fact that the multi-word sign ‘Fack Ju Göhte’ is an original and distinctive artistic term which, on account of its misspelling, appears humorous and harmless.