

4. In the event that Article 23 of the Dublin III Regulation applies (analogously) to such a person (question 2(a)): Is the new take back request tied (analogously) to a new time limit under Article 23(2) of the Dublin III Regulation? If so: Does this new time limit start to run when the responsible authority learns of re-entry, or does another event determine its commencement?
5. In the event that Article 24 of the Dublin III Regulation applies (analogously) to such a person (question 2(b)):
- a) Is the submission of a new take back request tied (analogously) to a new time limit under Article 24(2) of the Dublin III Regulation? If so: Does this new time limit start to run when the responsible authority learns of re-entry, or does another event determine its commencement?
- b) If the other Member State (here, Germany) allows a time limit to expire that is required to be complied with (analogously) under Article 24(2) of the Dublin III Regulation: Does the lodging of a new asylum application pursuant to Article 24(3) of the Dublin III Regulation directly establish the responsibility of the other Member State (here, Germany), or may it, despite the new asylum application, submit a new take back request to the Member State having original responsibility (here, Italy) without being bound by a time limit, or transfer the foreign national to that Member State without submitting a take back request?
- c) If the other Member State (here, Germany) allows a time limit to expire that is required to be complied with (analogously) under Article 24(2) of the Dublin III Regulation: Is the *lis pendens* of an asylum application lodged in the other Member State (here, Germany) prior to transfer equivalent to the lodging of a new asylum application pursuant to Article 24(3) of the Dublin III Regulation?
- d) If the other Member State (here, Germany) allows a time limit to expire that is required to be complied with (analogously) under Article 24(2) of the Dublin III Regulation and the foreign national neither lodges a new asylum application and the *lis pendens* of an asylum application lodged in the other Member State (here, Germany) prior to transfer is not equivalent to the lodging of a new asylum application pursuant to Article 24(3) of the Dublin III Regulation: Can the other Member State (here, Germany) submit a new take back request to the Member State having original responsibility (here, Italy) without being bound by a time limit, or transfer the foreign national to that Member State without submitting a take back request?

⁽¹⁾ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ 2013 L 180, p. 31).

Appeal brought on 1 July 2016 by Trioplast Industrier AB against the judgment of the General Court (Seventh Chamber) delivered on 12 May 2016 in Case T-669/14: Trioplast Industrier AB v European Commission

(Case C-364/16 P)

(2016/C 343/43)

Language of the case: English

Parties

Appellant: Trioplast Industrier AB (represented by: T. Pettersson, F. Sjövall, A. Johansson, advokater)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

- a. annul the General Court's judgment of 12 May 2016 in case T-669/14 Trioplast Industrier v European Commission;

b. in the first alternative:

- (i) annul the Commission's decision in its letter of 3 July 2014 in Case COMP/38354 — Industrial Bags — Trioplast Industrier AB;
- (ii) cancellation of, or a reduction in the amount of, the default interest of EUR 674 033,32 imposed on Trioplast by the Commission's decision in its letter of 3 July 2014 in Case COMP/38354 — Industrial Bags — Trioplast Industrier AB;
- (iii) order the Commission to reimburse Trioplast for the expenses of EUR 4 686,64 incurred in providing security for payment of the default interest.

c. In the second alternative, damages pursuant to Article 340(2) TFEU as a result of the breaches of EU laws set out above for:

- (i) The amount of the default interest of EUR 674 033,32, or part thereof;
- (ii) The expenses of EUR 4 686,64 incurred in providing security for the default interest;

d. In addition to the relief sought under (b) or (c), damages pursuant to Article 340(2) TFEU as a result of the breaches of EU law set out above:

- (i) As a result of the breaches of EU law relating to the period when the Commission did not release or reduce the bank guarantee amount following the General Court's judgment in case T-40/06, for the expenses incurred in providing security, to an amount of EUR 22 783,90, or part thereof.

e. Interest on such sums as are found to be due.

f. order the Commission to pay the costs of the proceedings before the General Court as well as the Court of Justice.

Pleas in law and main arguments

1. Trioplast maintains before the Court of Justice the case brought before the General Court and the grounds relied on. Pursuant to Article 58 of the Statute of the court of Justice of the European Union and Articles 168.1 d) and 169.2 of the Rules of Procedure of the Court of Justice, Trioplast submits that the General Court by way of its judgment of 12 May 2016 in case T-669/14 dismissing the case has erred in the application of EU law.
 2. First, the General Court was wrong in law to conclude as it did that the 2010 judgment only amended the 2005 decision. Instead, the 2010 judgment annulled the 2005 decision in full and required the Commission to adopt a new decision against Trioplast once the outcome of the FLS cases became known.
 3. Second, the General Court was wrong in law to conclude that the contested letter was not a decision capable of challenge, since the contested letter set out for the first time an obligation for Trioplast which was certain and of a fixed amount.
 4. Third, the fact that the 2005 decision was annulled by the 2010 judgment means that default interest cannot accrue according to the terms of the 2005 decision.
 5. Fourth, the General Court was wrong in law to conclude that the actions of the Commission did not cause damage for Trioplast and the General Court should thus have proceeded to try the action for damages on its substance.
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