

infringe the Treaty and/or a rule of law relating to its application and/or, to the extent that it is held that depriving the applicants bank deposit undermined the rule of law contrary to Article 6.1 of the TEU, were a misuse of powers.

⁽¹⁾ See the judgment of 2 December 1971 in Case 5/71 Zuckerfabrik Schoeppe v Council (1971) ECR 975

⁽²⁾ Article 52(1) of the Charter

Action brought on 24 May 2013 — Evangelou v Commission and ECB

(Case T-292/13)

(2013/C 226/24)

Language of the case: English

Parties

Applicants: Christos Evangelou (Derynia, Cyprus); and Yvonne Evangelou (Derynia) (represented by: C. Paschalides, Solicitor, and A. Paschalides, lawyer)

Defendant: European Central Bank and European Commission

Form of order sought

The applicants claim that the Court should:

— Order compensation in the sum of EUR 1 552 110,64 on the basis that the conditions required under the Memorandum of Understanding of 26 April 2013 between Cyprus and the Defendants at paragraphs 1.23 to 1.27 were pregnant with requirements in flagrant violation of a superior law for the protection of the individual, namely: article 17 of the Charter of Fundamental Rights of the European Union and article 1 of Protocol 1 of the European Convention of Human Rights;

— Declare the relevant conditions void and order an urgent review of the financial assistance instruments under article 14 to 18 of the Treaty establishing the European Stability Mechanism ('ESM Treaty') pursuant to Article 19 in light of the court's judgment with a view to changes in order to comply with the judgment of the court; and

— To the extent that compensation under the first head of claim does not cater for the fact that the relevant conditions would stand annulled, an order for compensation for breach of article 263 TFEU.

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 relevant conditions in the Memorandum of Understanding were pregnant with requirements that were 'in flagrant violation of a superior rule of law for the protection of the individual' ⁽¹⁾ because:

— The said rule of law is superior because it is a law contained the Charter and the ECHR;

— By Article 51(1) of the Charter and 6.2 TEU the defendants are obliged to respect and uphold fundamental rights guaranteed by the Charter and the ECHR; and

— Bank deposits are property within the meaning of the said article 17 of the Charter and article 1 of Protocol 1 of the ECHR.

2. Second plea in law, alleging that the violations below taken together were so extensive as to amount to a flagrant violation of a superior law, as follows:

— At the time the applicants were deprived of their bank deposits there were no 'conditions provided for by law' in place in the *acquis* dealing with deprivation of bank deposits contrary to the Charter and Protocol;

— The applicants were deprived of their deposits without 'fair compensation being paid in good time' contrary to article 17 of the Charter and article 1 of the Protocol;

— Deprivation of deposits is *prima facie* unlawful unless 'subject to the principle of proportionality... it is necessary and genuinely meets objectives of general interest recognised by the EU or the need to protect the rights and freedoms of others.' ⁽²⁾;

— The competing public interest in preventing panic and a run on the banking system, short and medium term, was not considered in evaluating the public interest under Article 17 of the Charter and Article 1 of the Protocol;

— The aim was not to damage or penalise Cyprus but to benefit it and the euro area by providing stability support and thereby alleviating not destabilising its financial institutions and economic viability; and

— There was no relationship of proportionality of the interference to a legitimate aim since by Article 3 of the ESM Treaty 2012 the genuine objective was 'to mobilise funding and provide stability support under strict conditionality... to the benefit of ESM Members which are experiencing or are threatened by severe financial problems, if indispensable to safeguard the euro area as a whole and of its member state' without paralysing its economy.

3. Third plea in law, alleging that deprivation of the applicants' deposits was not necessary or proportionate.

4. Fourth plea in law, alleging that in the result the defendants caused the applicants to be deprived of their bank deposits because, but for the flagrant infringement, the applicants' bank deposits would have been protected by their rights under the Charter and Protocol with the result that the applicants' loss was sufficiently direct and foreseeable.

5. Fifth plea in law, alleging that if the above submissions are well founded the relevant conditions fall to be declared void notwithstanding the relevant conditions were addressed to Cyprus, since they are of direct and individual concern to each of the applicants on the grounds that the relevant conditions and the manner of their implementation infringe the Treaty and/or a rule of law relating to its application and/or, to the extent that it is held that depriving the applicants' bank deposit undermined the rule of law contrary to Article 6.1 of the TEU, were a misuse of powers.

Action brought on 24 May 2013 — Theophilou v Commission and ECB

(Case T-293/13)

(2013/C 226/25)

Language of the case: English

Parties

Applicants: Christos Theophilou (Nicosia, Cyprus); and Eleni Theophilou (Nicosia) (represented by: C. Paschalides, Solicitor, and A. Paschalides, lawyer)

Defendants: European Central Bank and European Commission

Form of order sought

The applicants claim that the Court should:

— Order compensation in the sum of EUR 1 583 479,00 on the basis that the conditions required under the Memorandum of Understanding of 26 April 2013 between Cyprus and the Defendants at paragraphs 1.23 to 1.27 were pregnant with requirements in flagrant violation of a superior law for the protection of the individual, namely: article 17 of the Charter of Fundamental Rights of the European Union and article 1 of Protocol 1 of the European Convention of Human Rights;

— Declare the relevant conditions void and order an urgent review of the financial assistance instruments under article 14 to 18 of the Treaty establishing the European Stability Mechanism ('ESM Treaty') pursuant to Article 19 in light of the court's judgment with a view to changes in order to comply with the judgment of the court; and

— To the extent that compensation under the first head of claim does not cater for the fact that the relevant conditions would stand annulled, an order for compensation for breach of article 263 TFEU.

Pleas in law and main arguments

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1. First plea in law, alleging that the relevant conditions in the Memorandum of Understanding were pregnant with requirements that were 'in flagrant violation of a superior rule of law for the protection of the individual' ⁽¹⁾ because:

— The said rule of law is superior because it is a law contained the Charter and the ECHR;

⁽¹⁾ See the judgment of 2 December 1971 in Case 5/71 Zuckerfabrik Schoeppenstedt v Council (1971) ECR 975

⁽²⁾ Article 52(1) of the Charter