According to the applicant, the Commission breached Article 8(1), (9) and (10) and Article 10(5) of Regulation (EU) 2016/1036 ([1]), and Article 13(1), (9) and (10) and Article 16(5) of Regulation (EU) 2016/1037 ([2]), when it invalidated undertaking invoices and then directed customs to all duties, as if no valid undertaking invoices had been issued and communicated to customs at the time the goods were declared for release in free circulation.

The applicant bases this plea on a plea of illegality of Article 3(2) of Council Implementing Regulation (EU) No 1238/2013 ([3]), and Article 2(2) of Council Implementing Regulation (EU) No 1239/2013 ([4]), which give to the Commission the power to declare undertaking invoices invalid.

([1]) Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union (OJ 2016 L 176, p. 21).

([2]) Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union (OJ 2016, L 176, p. 55).

([3]) Council Implementing Regulation (EU) No 1238/2013 of 2 December 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China (OJ 2013, L 325, p. 1).

([4]) Regulation (EU) No 1239/2013 of 2 December 2013 imposing a definitive countervailing duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China (OJ 2013, L 325, p. 66).

Action brought on 20 February 2017 — Spiegel-Verlag Rudolf Augstein and Sauga v ECB

(Case T-116/17)

(2017/C 121/64)

Language of the case: German

Parties

Applicants: Spiegel-Verlag Rudolf Augstein GmbH & Co. KG (Hamburg, Germany) and Michael Sauga (Berlin, Germany) (represented by: A. Koreng and T. Feldmann, lawyers)

Defendant: European Central Bank (ECB)

Form of order sought

The applicants claim that the Court should:

— annul the decision, notified by letter of 15 December 2016, of the Board of Directors of the European Central Bank, by which the applicants' request for access to the two European Central Bank documents 'The impact on government deficit and debt from off-market swaps. The Greek case' (SEC/GovC/X/10/88a) and 'The Titlos transaction and possible existence of similar transactions impacting on the euro area government debt or deficit levels' (SEC/GovC/X/10/88b) was rejected;

— order the European Central Bank to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging misapplication of the second indent of Article 4(1)(a) of Decision ECB/2004/3 ([1])

   The applicants claim that the ECB has failed to show in sufficient detail that disclosure of the documents concerned would undermine the protection of the public interest as regards the financial, monetary or economic policy of the European Union or of a Member State.

   The risk of detriment to the public interest claimed by the ECB is, they submit, more than six years after the documents were drafted and after a fundamental change in the surrounding circumstances, no longer a matter giving rise to actual concern.

2. Second plea in law, alleging misapplication of Article 4(3) of Decision ECB/2004/3

— The applicants submit that the documents in question did not serve as preparation for actual decisions but only for general opinion-forming and information purposes within the ECB.

— Furthermore, it also cannot be assumed that ECB employees would allow themselves to be intimidated by the possibility that the documents might be disclosed.

— Moreover, as matters stand, in light of the documents at issue in the present case, there is no fear of improper third-party influence over the deliberations of the ECB.

— Additionally, the ECB has not sufficiently weighed and taken into consideration the public interest in access to the information.

— Finally, it is not for the ECB to assess how the public debate can be enriched; rather, that is a role for the press as part of the 'watchdog function' which the European Court of Human Rights has recognised it as possessing.

(1) 2004/258/EC: Decision of the European Central Bank of 4 March 2004 on public access to European Central Bank documents (ECB/2004/3) (OJ 2004 L 80, p. 42).

Action brought on 24 February 2017 — Institute for Direct Democracy in Europe v Parliament

(Case T-118/17)

(2017/C 121/65)

Language of the case: English

Parties

Applicant: Institute for Direct Democracy in Europe (Brussels, Belgium) (represented by: E. Plasschaert and E. Montens, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul the European Parliament's decision of December 15th 2016, inasmuch it (i) suspends the payment of the 2017 grant, including the payment of the pre-financing, (ii) limits the pre-financing amount for the 2017 grant to 33 % of the maximum grant amount and (iii) makes the payment of the pre-financing amount conditional on the presentation of a first demand guarantee, and, as a consequence, article I.4.1 of the grant award decision FINS-2017-28 appended to this decision;

— order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on six pleas in law.

a) *With respect to the decision to suspend the payment of the 2017 grant including the pre-financing amount for IDDE*

1. First plea in law, alleging that the decision breaches the principal of good administration and violates the rights of the defence of IDDE. In particular, the decision was not taken by fair and impartial authority and IDDE was not properly heard nor granted an effective possibility to comment and dispute the accusations directed at it.

2. Second plea in law, alleging that the decision breaches article 208(1) first sentence of the Rules of Application to the Financial Regulation, article 8(a) of the decision of the Bureau of the European Parliament and article II.13.2 of the Grant Award decision. In particular, the payment of the 2017 grant cannot be suspended based on unverified allegations unrelated to said decision and pertaining allegedly only to the 2015 grant award decision. In addition, the payment of the 2017 grant can only be suspended for reasons of verifications which in present matter have already been performed and have been concluded without any of the alleged suspicions and allegations being definitively confirmed. In consequence, the suspension must be lifted. Finally, the alleged suspicions and presumptions are not sufficient to justify any suspension of the payment.