2. Second plea in law, alleging infringement of Article 8 of Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ 2009, L 30, p. 16).

3. Third plea in law, alleging infringement of Article 23 of Council Regulation (EC) No 247/2006 of 30 January 2006 laying down specific measures for agriculture in the outermost regions of the Union (OJ 2006, L 42, p. 1).

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**Action brought on 24 April 2017 — ViaSat v Commission**

**(Case T-245/17)**

(2017/C 213/45)

*Language of the case: English*

**Parties**

*Applicant:* ViaSat, Inc. (Carlsbad, California, United States) (represented by: E. Righini, J. Ruiz Calzado, and A. Aresu, lawyers)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

— declare the application admissible;

— declare the failure to act of the Commission, pursuant to Article 265(3) TFEU;

— in the alternative, annulling, in whole or in part, pursuant to Article 263(2) and (4) TFEU, the decision of the Commission contained in two letters sent to the applicant of 14 and 21 February 2017;

— order the Commission to pay the costs.

**Pleas in law and main arguments**

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

1. First plea in law, raised in support of the action for failure to act, and alleging that the Commission failed to adopt a decision preventing a different use of the 2 GHz Band

   — The Commission has unlawfully failed to decide that the use of 2 GHz mobile satellite service spectrum on a primarily terrestrial-based network constitutes a fundamental change in the use of the 2 GHz Band that is harmonised and tendered at EU level through a Union selection procedure. The Commission should have taken responsibility and acted to adopt a decision to prevent NRAs from authorising Inmarsat to use the 2 GHz Band primarily for Air-To-Ground purposes, instead of primarily for a mobile satellite services ('MSS') satellite network in accordance with the EU's MSS decisions.

2. Second plea in law, in support of the action for failure to act, alleging that the Commission has failed to take action to prevent the fragmentation of the Internal Market

   — The Commission has a duty to exercise its powers in order to prevent the risk of fragmentation of the internal market for pan-European mobile satellite services that provide universal connectivity, which would be caused if certain national regulatory authorities ('NRAs') decide — on their own motions — to allow a specific company to use the 2 GHz Band for a new purpose. Indeed, the failure to exercise this duty in response to the applicant's request to act Letter and the requests for guidance by NRAs have increased the risk that some Member States authorise use of the 2 GHz Band for new purposes.

3. Third plea in law, raised alternatively in support of the action for annulment, alleging errors of interpretation.

— The Commission's decision contained in the above-mentioned letters of 14 and 21 February 2017 should be annulled because the Commission erred in interpreting i) the provisions defining its powers in the area of the MSS spectrum harmonisation; ii) the scope of its duty to ensure full compliance with the general principles of EU public procurement law applicable to this case; iii) its duties to prevent divergence among the decisions adopted by Member States and ensure that the Internal Market for pan-European mobile satellite services that provide universal connectivity is not fragmented, and iv) the scope of its duty of sincere cooperation to assist Member States in carrying out the tasks that flow from the Treaties.

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**Action brought on 2 May 2017 — Labiri v EESC**

**(Case T-256/17)**

(2017/C 213/46)

*Language of the case: French*

**Parties**

*Applicant:* Vassiliki Labiri (Brussels, Belgium) (represented by: J.-N. Louis and N. de Montigny, lawyers)

*Defendant:* European Economic and Social Committee (EESC)

**Form of order sought**

Declare and rule that,

— the decision of the EESC not to perform in good faith point 3 of the amicable settlement agreement reached between the parties is annulled;

— the EESC shall pay the applicant the sum of EUR 250 000;

— the defendant shall pay the costs.

**Pleas in law and main arguments**

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

1. First plea in law, alleging infringement of Article 266 TFEU, insofar as the contested decision, according to which it is impossible for the defendant to execute an agreement made as part of an amicable settlement in Case F-33/15, *Labiri* v *EESC*, constitutes a failure to execute a decision of the Court of Justice of the European Union. Such an unlawful failure to execute the agreement thus reached constitutes, moreover, an infringement of the duty of care to the applicant, the duty to cooperate in good faith provided for in Article 4(3) TEU, the [principle] of performance in good faith of agreements freely entered into between parties and the principle of sound administration and the duty of assistance flowing from Article 24 of the Staff Regulations of Officials.

2. Second plea in law, alleging a misuse of powers, consisting more specifically of an abuse of process, insofar as the defendant never intended to perform in good faith the agreement reached between the parties and signed that agreement only in order to achieve the discontinuance of Case F-33/15.

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