

2. Verein Deutsche Sprache eV is ordered to bear its own costs and to pay those incurred by the European Commission.

<sup>(1)</sup> OJ C 294, 20.8.2018.

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**Appeal brought on 26 June 2018 by Adrian Iordăchescu, Florina Iordăchescu, Mihaela Iordăchescu and Cristinel Iordăchescu against the order of the General Court (Seventh Chamber) made on 18 April 2018 in Case T-298/17, *Iordăchescu and Others v Parliament and Others***

**(Case C-426/18 P)**

(2019/C 112/14)

*Language of the case: Romanian*

**Parties**

*Appellants:* Adrian Iordăchescu, Florina Iordăchescu, Mihaela Iordăchescu, Cristinel Iordăchescu (represented by: A. Cuculis, avocat)

*Other parties to the proceedings:* European Parliament, Council of the European Union, European Commission

By order of 31 January 2019, the Court (Ninth Chamber) dismissed the appeal.

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**Appeal brought on 3 September 2018 by Izba Gospodarcza Producentów i Operatorów Urządzeń Rozrywkowych against the judgment of the General Court (Fifth Chamber) delivered on 10 July 2018 in Case T-514/15: *Izba Gospodarcza Producentów i Operatorów Urządzeń Rozrywkowych v Commission***

**(Case C-560/18 P)**

(2019/C 112/15)

*Language of the case: English*

**Parties**

*Appellant:* Izba Gospodarcza Producentów i Operatorów Urządzeń Rozrywkowych (represented by: P. Hoffman, adwokat)

*Other parties to the proceedings:* European Commission, Kingdom of Sweden, Republic of Poland

**Form of order sought**

The appellant claim that the Court should:

- set aside the order of the General Court of the European Union of 10 July 2018 in case T-514/15 *Izba Gospodarcza Producentów i Operatorów Urządzeń Rozrywkowych v Commission*;
- annul the decision of the European Commission of 12 June 2015, GESTDEM 2015/1291, refusing the appellant access to the detailed opinion issued by the European Commission in the framework of the notification procedure 2014/537/PL, and the decision of the European Commission of 17 July 2015, GESTDEM 2015/1291, refusing the appellant access to the detailed opinion issued by the Republic of Malta in the framework of the notification procedure 2014/537/PL, and order the European Commission to bear its own costs and to pay the costs of the appellant; or,
- in the alternative, if the Court of Justice does not consider that the state of the proceedings permits it to give final judgment, refer the case back to the General Court of the European Union and reserve the costs.

### Pleas in law and main arguments

The appeal is based on the following grounds:

- That the General Court erred in law both (i) when it held, in paragraphs 30 and 32 of the order under appeal, that it is unlikely that the unlawfulness alleged by the appellant in the action will recur in the future and that the appellant has no interest in pursuing the action, and (ii) when it held, in those same paragraphs, that the relevant issue in this context is whether it is likely that, in the future, a situation will occur in which a draft law is notified to the Commission addressing its concerns regarding existing legislation of the notifying Member State which is the subject of pending infringement proceedings, and in which the Commission refuses access to a detailed opinion delivered on the basis of directive 98/34<sup>(1)</sup> which pertains to that draft law, justifying this by a general presumption of non-disclosure following from the need to protect the purpose of those infringement proceedings, while, in law, the relevant issue is not whether such a specific situation is likely to recur, but instead whether the interpretations of regulation 1049/2001<sup>(2)</sup> or of directive 98/34 invoked by the Commission and complained about in the appellant's action are likely to be applied by the Commission in the future.
- That the General Court erred in law when it held, in paragraph 33 of the order under appeal, that the need to adjudicate in a case concerning the Commission's refusal to disclose documents due to an alleged 'inextricable link' between them and pending infringement proceedings and in which the oral procedure was closed cannot follow from the need to afford the applicant effective judicial protection and from the fact that, absent adjudication, the Commission will be able to escape judicial review of its decision, because otherwise any applicant whose request for access to documents was initially refused could seek a ruling against the Commission even if the request was granted after the action before the General Court was brought.
- That the General Court erred in law when, in paragraph 34 of the order under appeal, it held, even though the action brought by the appellant against the contested decisions had proceeded for almost 3 years and included multiple pleadings as well as a hearing, that closing the proceedings and requiring the appellant or its members to once again, this time in the framework of an action for damages against the Commission, argue the unlawfulness of the contested decisions, would not put an unjustifiable burden on them.
- That the General Court erred in law when, in paragraph 34 of the order under appeal, it held that no need to adjudicate exists based on the appellant's or its members' claims for damages caused by the contested decisions, merely because (i) the appellant failed to specify whether it or its members 'truly' intend to pursue such claims, (ii) it did not rely on precise, specific and verifiable evidence as to the effects of the contested decisions, and (iii) it did not provide details as to the convictions that followed from the refusal to grant access to documents, and even though (iv) the General Court at the same time ordered the appellant to bear its own costs, which costs thus formed specific and certain damage caused to the appellant by the contested decisions.
- That the General Court erred in law when it held, in paragraph 34 of the order under appeal, that the appellant has no interest in pursuing the action, even though annulment of the contested decisions is necessary to make good the non-material harm inflicted on the appellant as a professional organization, and no other means of making good such harm exist.

<sup>(1)</sup> Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations (OJ 1998, L 204, p. 37).

<sup>(2)</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001, L 145, p. 43).