The Hungarian government claims that the Commission’s interpretation in the contested decision is not only contrary to the Commission’s previous practice and the case-law of the Court of Justice, but is also seriously detrimental to cooperation between the Commission and the managing authorities of the Member States. The Hungarian government — in addition to arguing that there is decision-making of an EU institution in relation to the amendment of operational programmes, since the Commission approves those amendments, and that the exception in Article 4(3) of Regulation No 1049/2001 is therefore applicable — submits that the particularity of the present procedure is that, under the system of shared management, the decision taken by the Member State is in fact subject to the strict supervision of the Commission. Although, formally, it is a decision of a Member State authority, the Commission has a demonstrable influence over it, and it is therefore all the more unacceptable that the exception in question does not protect such a decision. The exception laid down in Article 4(3) of Regulation No 1049/2001 is also intended to protect the decision-making of Member State authorities.


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Action brought on 28 February 2022 — Schneider v EUIPO — Frutaria Comercial de Frutas y Hortalizas (frutania)

(Case T-109/22)

(2022/C 158/16)

Language in which the application was lodged: German

Parties

Applicant: Markus Schneider (Bonn, Germany) (represented by: M. Bergermann and D. Graetsch, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Frutaria Comercial de Frutas y Hortalizas, SL (Zaragoza, Spain)

Details of the proceedings before EUIPO

Applicant for the trade mark at issue: Applicant

Trade mark at issue: Application for EU figurative mark frutania in blue — Application for registration No 11 987 419

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 17 December 2021 in Case R 1058/2017-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;
— order EUIPO to pay the costs, including those incurred in the appeal proceedings.

Plea in law