

Second ground of appeal: the General Court exceeded the limits of judicial review by going beyond an assessment of manifest error and by substituting its own assessment for that of the Committee for Risk Assessment of the European Chemicals Agency.

Third ground of appeal: the General Court failed to fulfil its duty to state reasons.

Fourth ground of appeal: the General Court erred in law in holding that Section 3.6.2.2.1 of Annex I to Regulation (EC) No 1272/2008 ⁽¹⁾ had to be interpreted as precluding a substance from being regarded as having the intrinsic property to cause cancer if the carcinogenicity of that substance arises where there is a certain quantity of particles.

⁽¹⁾ Regulation of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ 2008 L 353, p. 1).

Appeal brought on 10 February 2023 by Kurdistan Workers' Party (PKK) against the judgment of the General Court (Fourth Chamber) delivered on 14 December 2022 in Case T-182/21, PKK v Council

(Case C-72/23 P)

(2023/C 127/31)

Language of the case: English

Parties

Appellant: Kurdistan Workers' Party (PKK) (represented by: A.M. van Eik, T. Buruma, advocates)

Other party to the proceedings: Council of the European Union

Form of order sought

The appellant claims that the Court should:

- join this appeal with the appeal lodged under registration number C-44/23 P;
- set aside the judgment of the General Court of 14 December 2022 in Case T-182/21;
- give final judgment in the matters that are the subject of this appeal and annul Council Decision (CFSP) 2021/142 ⁽¹⁾ and Council Implementing Regulation (EU) No 2021/138 ⁽²⁾ of 5 February 2021; Council Decision (CFSP) 2021/1192 ⁽³⁾ and Council Implementing Regulation (EU) 2021/1188 ⁽⁴⁾ of 19 July 2021; and Council Decision (CFSP) 2022/152 ⁽⁵⁾ and Council Implementing Regulation (EU) 2022/147 ⁽⁶⁾ of 3 February 2022, insofar as they concern the PKK (a.k.a. KADEK a.k.a. KONGRA-GEL);
- order the Council to pay the costs of litigation of the Appellant arising from the present appeal and from Case T-182/21 with interest.

Pleas in law and main arguments

The Appellant submits that the General Court erred in the contested judgment on the following points:

1. The General Court erred in law regarding the first subparagraph of Article 1(3) of Common Position 2001/931 ⁽⁷⁾ (hereafter: 'CP 931') in regards in particular to the interpretation given to the 'aims' therein and its application to the case. The General Court wrongfully concluded that the plea alleging infringement of article 1(3) CP 931 must be rejected.

2. The General Court wrongly held that the Council could rely on the order of the UK Home Secretary of 29 March 2001 (hereafter: 'the UK 2001 decision') as the 1(4) CP 931 decision, since it is not clear whether the events mentioned in the Statements of Reasons in connection to the UK 2001 decision underly the UK 2001 decision, those events are outdated and do not support the conclusion that the appellant was a terrorist group within the meaning of article. The General Court wrongfully concluded that the plea alleging infringement of article 1(3) and article 1(4) CP 931 in so far as the contested measures are based on the UK 2001 decision must be rejected.
3. The General Court wrongly held that the Council's review fulfilled the obligations under Article 1(6) CP 931, and that the Appellant's plea that Article 1(6) was infringed upon by Council should be rejected.
4. The General Court erred in law regarding the principle of proportionality and applied it wrongly to the case at hand.
5. The General Court wrongly considered the Council to have fulfilled the obligation to state reasons.

-
- (1) Council Decision (CFSP) 2021/142 of 5 February 2021 updating the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism, and repealing Decision (CFSP) 2020/1132 (OJ 2021, L 43, p. 14).
 - (2) Council Implementing Regulation (EU) 2021/138 of 5 February 2021 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, and repealing Implementing Regulation (EU) 2020/1128 (OJ 2021, L 43, p. 1).
 - (3) Council Decision (CFSP) 2021/1192 of 19 July 2021 updating the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism, and repealing Decision (CFSP) 2021/142 (OJ 2021, L 258, p. 42).
 - (4) Council Implementing Regulation (EU) 2021/1188 of 19 July 2021 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, and repealing Implementing Regulation (EU) 2021/138 (OJ 2021, L 258, p. 14).
 - (5) Council Decision (CFSP) 2022/152 of 3 February 2022 updating the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism, and repealing Decision (CFSP) 2021/1192 (OJ 2022, L 25, p. 13).
 - (6) Council Implementing Regulation (EU) 2022/147 of 3 February 2022 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, and repealing Implementing Regulation (EU) 2021/1188 (OJ 2022, L 25, p. 1).
 - (7) Council Common Position of 27 December 2001 on the application of specific measures to combat terrorism (OJ 2001, L 344, p. 93).

Appeal brought on 14 February 2023 by the European Commission against the judgment of the General Court (Ninth Chamber, Extended Composition) delivered on 23 November 2022 in joined Cases T-279/20 and T-288/20, CWS Powder Coatings and Others v Commission, and in Case T-283/20, Billions Europe and Others v Commission

(Case C-82/23 P)

(2023/C 127/32)

Languages of the cases: German and English

Parties

Appellant: European Commission (represented by: S. Delaude, A. Dawes, R. Lindenthal and M. Noll-Ehlers, Agents)

Other parties to the proceedings: CWS Powder Coatings GmbH, Billions Europe Ltd, Cinkarna Metalurško-kemična Industrija Celje d.d. (Cinkarna Celje d.d.), Evonik Operations GmbH, Kronos Titan GmbH, Precheza a.s., Tayca Corp., Tronox Pigments (Holland) BV, Venator Germany GmbH, Brillux GmbH & Co. KG, Daw SE, Ettengruber GmbH Abbruch und Tiefbau, Ettengruber GmbH Recycling und Verwertung, TIGER Coatings GmbH & Co. KG, Conseil Européen de l'Industrie Chimique — European Chemical Industry Council (Cefic), Conseil Européen de l'Industrie des Peintures, des Encres d'Imprimerie et des Couleurs d'Art (CEPE), British Coatings Federation Ltd (BCF), American Coatings Association, Inc. (ACA), Mytilineos SA, Delfi-Distomon Anonymos Metalleytiki Etaireia, Sto SE & Co. KGaA, Rembrandtin Coatings GmbH, Kingdom of Denmark, French Republic, Kingdom of the Netherlands, Kingdom of Sweden, European Chemicals Agency, Republic of Slovenia, European Parliament, Council of the European Union