

- state that the effects of the annulled regulation and any implementing measure derived therefrom are definitive pending their replacement within a reasonable time-frame by acts adopted in accordance with the Treaty as interpreted by the judgment of the Court;
- order the defendants to pay the costs of the proceedings.

Pleas in law and main arguments

The Commission seeks the annulment of Article 1, point 1, as well as point 4 to the extent that it introduces a new Article 4b, of Regulation (EU) No 1289/2013 of the European Parliament and of the Council of 11 December 2013 amending Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement. Alternatively, in the event that the Court were to consider the above-mentioned provisions to be inseparable from the rest of the challenged Regulation, the Commission seeks the annulment of the entire regulation.

The Commission is of the view that the provisions referred to are incompatible with Articles 290 and 291 TFEU to the extent that they foresee the use of delegated acts, since the delegated acts in question do not supplement or amend the legislative act, but implement it.

⁽¹⁾ OJ L 347, p 74

**Appeal brought on 4 March 2014 by Investigación y Desarrollo en Soluciones y Servicios IT, SA
against the order of the General Court (Second Chamber) delivered on 13 January 2014 in Case T-
134/12 Investigación y Desarrollo en Soluciones y Servicios IT v Commission**

(Case C-102/14 P)

(2014/C 135/30)

Language of the case: Spanish

Parties

Appellant: Investigación y Desarrollo en Soluciones y Servicios IT, S.A. (represented by: M. Jiménez Perona, abogado)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

- Set aside in its entirety the order of the General Court (Second Chamber) delivered on 13 January 2014 in Case T-134/12 regarding the inadmissibility of the application for annulment
- In the alternative, set aside one or more parts of that order
 - Set aside the order regarding the aid received in respect of the projects listed on the first page of the application for annulment, and
 - Set aside the order regarding the inadmissibility of the claims for damages in respect of project *Bey Watch*, and
 - Set aside the order regarding the inadmissibility of the claims for damages in respect of project *Indect*, and
 - Set aside the order regarding the inadmissibility of the claims for damages in respect of the other projects
- Refer the case in its entirety back to the General Court for a ruling on the merits of the case
- In the alternative, refer such part or parts as the Court sees fit to the General Court for a ruling on the merits of that part or those parts
- Order the Commission to pay the costs of the present proceedings and those in Case T-134/12 as well in so far as the same grounds are concerned.

Pleas in law and main arguments

Error of fact by the General Court in the assessment of the evidence in the order under appeal, in that it did not take into account any of the documents submitted by the appellant in its application. In the appellant's opinion, the General Court disregarded facts, omissions and documents of great relevance to the reasoning in the order.

Error of law by the General Court in the assessment of the evidence in the order under appeal, in that it held that only proceedings under Article 272 TFEU were viable, and not proceedings under Article 263 TFEU.

Error of law by the General Court, in that it did not assess the Commission's part in the error into which the appellant was led as to the fact that the debit notes constituted a definitive act in the Commission's exercise of its own powers and were, therefore, an actionable measure. Breach by the General Court of the principle of equality and non-discrimination under Article 20 of the Charter of Fundamental Rights of the European Union.

Error of law by the General Court in the assessment of the evidence in the order under appeal, in that it did not take into account the facts, omissions and documents referred to in the initial headings in the notice of appeal.

Error of law by the General Court in the assessment of the lack of reasoning and of the Commission's failure even to make any observations on many of the submissions made by the appellant in its application for annulment.

Error of fact and law by the General Court in relation to the assessment of the evidence in the order under appeal as to the inadmissibility of the claim for damages in respect of project *Bey Watch*, which call in question its viability. The appellant claims that the appropriateness of the claim for non-contractual liability is established and that all the requirements under European Union case-law for that liability to be incurred have been satisfied.

Error of law by the General Court regarding the assessment of the evidence in the order under appeal as to the inadmissibility of the claim for damages in respect of project *Indect*, in that it held that the only action that would lie was an action for contractual liability when, under European Union case-law, an action for non-contractual liability is the only possible means of establishing liability for a failure to state reasons by the Commission.

Error of fact and law by the General Court regarding the assessment of the evidence in the order under appeal as to the inadmissibility of the claim for damages in respect of the other projects, in so far as the General Court went beyond its jurisdiction and acted of its own motion.

Action brought on 10 March 2014 – European Commission v Kingdom of Sweden

(Case C-114/14)

(2014/C 135/31)

Language of the case: Swedish

Parties

Applicant: European Commission (represented by: J. Enegren and L. Lozano Palacios, acting as Agents)

Defendant: Kingdom of Sweden

Form of order sought

- Declare that, by failing to exempt postal services supplied by the public postal services and the supply of goods incidental thereto from value added tax and by failing to exempt the supply at face value of postage stamps valid for use for postal services within the country from value added tax, the Kingdom of Sweden has failed to fulfil its obligations under Articles 132(1)(a) and 135(1)(h) of Council Directive 2006/112/EC of the European Parliament and of the Council of 28 November 2006 on the common system of value added tax. ⁽¹⁾
- order the Kingdom of Sweden to pay the costs.

Pleas in law and main arguments

The European Commission has brought an action against the Kingdom of Sweden under Article 258 TFEU on the following grounds.

Article 132(1)(a) of Directive 2006/112 states that the Member States are to exempt the supply by the public postal services of services and the supply of goods incidental thereto from liability for tax.