

5. Fifth plea in law, alleging infringement of the right to fair and just working conditions (Art. 31 of the Charter).

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**Action brought on 26 April 2017 — António Conde & Companhia v Commission**

**(Case T-244/17)**

(2017/C 231/36)

*Language of the case: English*

**Parties**

*Applicant:* António Conde & Companhia, SA (Gafanha de Nazaré, Portugal) (represented by: J. García-Gallardo Gil-Fournier, lawyer)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- Declare that the European Commission has failed to act in application of Article 14(1) of Council Regulation (EC) No 1386/2007 of 22 October 2007 laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation (OJ 2007 L 318, p. 1) by requesting Portugal to submit to it a list of Portuguese-flagged vessels authorised to fish in the NAFO Regulatory Area for the season 2017 which excludes the fishing vessel CALVÃO, with the consequence that it has failed to forward a list including that vessel to the NAFO Secretariat;
- Order the European Commission to pay the costs.

**Pleas in law and main arguments**

In support of the action, the applicant relies on a single plea in law, alleging that the Commission breached Article 14(1) of Council Regulation (EC) No 1386/2007 by unlawfully failing to forward a list of vessels including the applicant's fishing vessel CALVÃO for the purposes of authorisation to fish in the NAFO Regulatory Area for the season 2017.

The applicant maintains that the Commission lacks powers to participate in the drafting of the lists of authorised vessels which remains an exclusive competence of the Member States. The applicant has requested the Commission to desist from interfering in the drafting of the list concerned and has called upon it to fulfil its obligations regarding the forwarding of the list including its fishing vessel CALVÃO to the NAFO Secretariat.

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**Action brought on 28 April 2017 — Intermarché Casino Achats v Commission**

**(Case T-254/17)**

(2017/C 231/37)

*Language of the case: French*

**Parties**

*Applicant:* Intermarché Casino Achats (Paris, France) (represented by: Y. Utzschneider and J. Jourdan, lawyers)

*Defendant:* European Commission

**Form of order sought**

- Declare, on the basis of Article 277 TFEU, Article 20 of Regulation No 1/2003 inapplicable to the present case;

- Annul, on the basis of Articles 263 TFEU and 277 TFEU, European Commission Decision C(2017) 1056 of 9 February 2017;
- Order the European Commission to pay all the costs.

### **Pleas in law and main arguments**

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

1. First plea in law, alleging that the decision of the European Commission of 9 February 2017 ordering the applicant to submit to an inspection under Article 20(1) and (4) of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ 2003 L 1, p. 1; 'the contested decision'). According to the applicant, the contested decision is unlawful in that it is based on provisions which run counter to the Charter of Fundamental Freedoms of the European Union ('the Charter') and the European Convention on Human Rights ('the ECHR'). In that regard, it argues that:
  - Article 20 of Regulation No 1/2003 infringes the right to an effective remedy guaranteed under Article 47 of the Charter and Article 6 of the ECHR in that it does not provide for any effective means of redress against the Commission's inspection operations;
  - Article 20 of Regulation No 1/2003 also infringes the principle of equality of arms guaranteed under Article 47 of the Charter and Article 6 of the ECHR in that it does not provide for access to the documents underlying the Commission's inspection decision or their communication.
2. Second plea in law, alleging a failure to state reasons vitiating the contested decision since it is insufficiently reasoned contrary to the requirements of Article 20(4) of Regulation No 1/2003. The applicant is of the opinion that the contested decision fails entirely to explain how the applicant may be involved in any offence and nor does it state precisely the period during which offences against competition law are suspected to have occurred. That infringement of the obligation to state reasons is all the more injurious since the contested decision does not include the documents on which it is based.
3. Third plea in law, alleging that the contested decision is unlawful since it was adopted by the Commission without the Commission having sufficiently serious indications giving rise to suspicion that an offence against competition law had been committed and so to justify an inspection in the applicant's premises.
4. Fourth plea in law, alleging that the contested decision is unlawful in that it does not comply with the fundamental right of the inviolability of the dwelling provided for in Article 7 of the Charter and Article 8 of the ECHR as a result of the disproportionate nature of the inspection which it orders and the lack of sufficient guarantee against abuses.

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### **Action brought on 28 April 2017 — Les Mousquetaires and ITM Entreprises v Commission**

**(Case T-255/17)**

(2017/C 231/38)

*Language of the case: French*

#### **Parties**

*Applicants:* Les Mousquetaires (Paris, France), ITM Entreprises (Paris) (represented by: N. Jalabert-Doury, B. Chemama and K. Mebarek, lawyers)

*Defendant:* European Commission

#### **Form of order sought**

- Adopt a measure of organisation of the procedure to require the Commission to state the presumptions and produce the indications which it had to justify the object and aim of Decisions AT.40466 — Tute 1 and AT.40467- Tute 2;