

2. Second plea in law, alleging a failure to comply with the duty to consider all relevant aspects of the case at issue, in that the Council did not take into account the fact that the international agreement, entered into by means of the contested decision, applies on a provisional basis, for a period of 12 years, to the territory of Western Sahara, in breach of its separate and distinct status.
3. Third plea in law, alleging a failure to comply with the duty to examine the question of respect for fundamental rights, in that, when it adopted the contested decision, the Council did not consider the question of respect for human rights in occupied Sahrawi territory.
4. Fourth plea in law, alleging infringement of the rights of defence in that the Council did not initiate any discussion with the Front Polisario, sole representative of the people of the Western Sahara, before the adoption of the contested decision.
5. Fifth plea in law, alleging, first, infringement of the core principles and values guiding the European Union's action on the international scene, in that the international agreement, entered into by means of the contested decision, applies to the territory of Western Sahara, in the context of the Kingdom of Morocco's policy of annexation, and, second, systematic breaches of fundamental rights required for the maintenance of that policy.
6. Sixth plea in law, alleging infringement of the right to self-determination, in that the international agreement, entered into by means of the contested decision, applies to the territory of Western Sahara, in breach of, first, the separate and distinct status of that territory and, second, the Sahrawi people's right to respect for the territorial integrity of their territory.
7. Seventh plea in law, alleging infringement of the principle of the relative effects of treaties, in that the people of Western Sahara, as represented by the Front Polisario, did not consent to the international agreement, entered into by means of the contested decision.
8. Eighth plea in law, alleging violation of Western Sahara's air space, in that the contested decision, by ratifying the illegal practice stemming from the provisional application of the international agreement entered into by means of that decision, results in the inclusion of Sahrawi airspace within the scope of application of that agreement.
9. Ninth plea in law, alleging infringement of the law of international responsibility, in that, by the contested decision, the European Union fails to fulfil, first, its duty not to recognise the illegal occupation of Western Sahara and, second, renders aid and assistance to the maintenance of that situation.
10. Tenth plea in law, alleging breach of the obligation to ensure compliance with international human rights law and international humanitarian law, in that compliance by the European Union with its international obligations towards the people of Western Sahara entails, as a minimum, that the Council should refrain from adopting the contested decision, inasmuch as it allows the entry into force of an international agreement applicable to the part of Western Sahara which is under Moroccan occupation.

Action brought on 16 May 2018 — Hungary v Commission

(Case T-306/18)

(2018/C 268/48)

Language of the case: Hungarian

Parties

Applicant: Hungary (represented by: M.Z. Fehér, G. Koós and G. Tornyai, acting as Agents)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— Annul Commission Decision (EU) 2018/262 of 14 February 2018 on the proposed citizens' initiative entitled: 'We are a welcoming Europe, let us help!'.⁽¹⁾

— Order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Article 4(2)(b), (c) and (d), and Article 4(3) of Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative ⁽²⁾

The first and second parts of the European citizens' initiative registered under the contested decision are manifestly outside the scope of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties. For that reason, the registration of the initiative infringes Article 4(2)(b) and Article 4(3) of Regulation (EU) No 211/2011. Furthermore, the first part of the initiative is abusive and, consequently, is also contrary to Article 4(2)(c) of Regulation (EU) No 211/2011. As regards the second part, it can be argued that it can lead to a result contrary to the values of the EU established in Article 2 TEU, and is therefore also contrary to Article 4(2)(d) of Regulation (EU) No 211/2011.

2. Second plea in law, alleging infringement of Article 296 TFEU and Article 41 of the Charter of Fundamental Rights of the European Union

The contested decision does not satisfy the requirements relating to the obligation to state reasons, and therefore infringes the obligation to state reasons established in Article 296 TFEU and the right to good administration provided for in Article 41 of the Charter of Fundamental Rights. In essence, the contested decision does not give any indication of the grounds on which the Commission found that, as regards the third part of the initiative, there is an appropriate legal basis and legislative power of the EU which meets the requirement established in Article 4(2)(b) of Regulation (EU) No 211/2011 relating to the registration.

⁽¹⁾ OJ 2018 L 49, p. 64.

⁽²⁾ OJ 2011 L 65, p. 1; corrigendum in OJ 2011 L 330, p. 47, and in OJ 2012 L 94, p. 49.

Action brought on 28 May 2018 — VI.TO. v EUIPO — Bottega (Shape of a pink bottle)

(Case T-325/18)

(2018/C 268/49)

Language in which the application was lodged: Italian

Parties

Applicant: Vinicola Tombacco (VI.TO.) Srl (Trebaseleghe, Italy) (represented by: L. Giove, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Sandro Bottega (Colle Umberto, Italy)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: European Union three-dimensional mark (Shape of a pink bottle) – European Union trade mark No 12 309 795

Procedure before EUIPO: Proceedings for a declaration of invalidity

Contested decision: Decision of the First Board of Appeal of EUIPO of 14 March 2018 in Case R 1037/2017-1