

3. Compatibility with the internal market (justification, Article 107(3) TFEU)

- In the context of the third plea in law, it is claimed that the full exemption of baseload consumers remedies a serious disturbance in the German economy. Particularly energy-intensive industries should remain competitive and be deterred from moving abroad.

4. Unlawfulness of the order for recovery

- In the context of the fourth plea in law, the applicant submits that the recovery of a minimum charge in the amount of 20 % of the published network charges with reference to the version of Paragraph 19(2) of the StromNEV applicable until 3 August 2011 is arbitrary and at variance with the principle of non-discrimination.
- It is further claimed that only the determination of the network charges by means of the physical path ensures the observance of the cost-causality principle and the payment of reasonable and non-discriminatory network charges.
- The recovery order also infringes the principle of non-discrimination in that the Commission failed to take into account the transitional arrangement in Paragraph 32(3) of the StromNEV.
- Lastly, it is claimed that baseload consumers and atypical network users within the meaning of the first sentence of Paragraph 19(2) of the StromNEV differ substantially. The fact that both groups of network users, notwithstanding their differences, have to pay a minimum charge in the amount of 20 % is not objectively justified.

(¹) Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ 2015 L 248, p. 9).

Action brought on 21 December 2018 — Briois v Parliament

(Case T-750/18)

(2019/C 82/70)

Language of the case: French

Parties

Applicant: Steeve Briois (Hénin-Beaumont, France) (represented by: F. Wagner, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

- annul the decision of the European Parliament of 24 October 2018 on the request for waiver of the immunity of Steeve Briois (2018/2075 IMM) to adopt the report of the Committee on Legal Affairs A8-0349/2018;
- order the European Parliament to pay all the costs of the proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union ('the Protocol'), in so far as the wording used by Mr Briois, which has given rise to criminal proceedings in his Member State of origin, constitutes the expression of an opinion in the performance of parliamentary duties within the meaning of that provision.

2. Second plea in law, alleging infringement of Article 9 of the Protocol, in so far as the Parliament misconstrued both the letter and the spirit of that provision by adopting the decision to waive the immunity of Mr Briois and thus vitiated that decision.
3. Third plea in law, alleging breach of the principles of equal treatment and of good administration.

In the first place, the applicant claims that the Parliament has infringed the principle of equal treatment in his regard by treating him differently from other Members of Parliament in comparable situations and that the Parliament has therefore also infringed the principle of good administration under which the competent institution is required to examine carefully and impartially all the relevant aspects of each individual case.

In the second place, the applicant claims that there is a body of evidence supporting the conclusion that there is a clear case of *fumus persecutionis* against him.

Action brought on 21 December 2018 — ABLV Bank v SRB

(Case T-758/18)

(2019/C 82/71)

Language of the case: English

Parties

Applicant: ABLV Bank AS (Riga, Latvia) (represented by: O. Behrends, M. Kirchner and L. Feddern, lawyers)

Defendant: Single Resolution Board (SRB)

Form of order sought

The applicant claims that the Court should:

- annul the decision of the SRB of 17 October 2018 with respect to ABLV Bank as regards the SRB's refusal to recalculate and to repay that bank's ex ante contributions to the Single Resolution Fund;
- order the defendant to bear the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the SRB failed to give sufficient weight to the pro rata temporis nature of Fund contributions.
2. Second plea in law, alleging that the SRB failed to take into account the SRB's own express recognition that Fund contributions are refundable on a pro rata temporis basis.
3. Third plea in law, alleging that the SRB failed to take into account the express recognition in Article 12(1) of Commission Delegated Regulation 2015/63⁽¹⁾ that only partial payments are owed if the conditions are met only during part of the relevant year.
4. Fourth plea in law, alleging that the SRB erroneously relied on Article 70(4) of Regulation 806/2014.⁽²⁾
5. Fifth plea in law, alleging that the SRB relied on an erroneous interpretation of Article 12(2) of Commission Delegated Regulation 2015/63.
6. Sixth plea in law, alleging that the SRB violated the principles of legal certainty and legitimate expectations.
7. Seventh plea in law, alleging that the SRB violated the principle of proportionality.