

**Form of order sought**

In the appeal, Mr Csanád Szegedi claims that the Court of Justice should:

1. as regards the first ground of appeal, inasmuch as it relates to the amount claimed in respect of the recruitment of Mr László Tibor Erdélyi and Dr József Virág as accredited parliamentary assistants, amend the judgment of the General Court, uphold the application and annul the decision of the Secretary-General of the European Parliament of 30 November 2017 and debit note No 2017-1635 issued by the Directorate-General for Finance of the Secretariat of the European Parliament;
2. as regards the second ground of appeal, inasmuch as it relates to the amount claimed in respect of the recruitment of Mr László Tibor Erdélyi and Dr József Virág as accredited parliamentary assistants, set aside the judgment of the General Court and refer the case back to it.

**Pleas in law and main arguments**

In support of his appeal, the appellant relies on two grounds:

First ground of appeal:

Infringement, in the recovery procedure before the Secretary-General of the European Parliament, of the right to a fair trial (Article 6(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms ('ECHR') and Article 47, second paragraph, of the Charter of Fundamental Rights of the European Union ('the Charter')), and the principles associated therewith (principle of *inter partes* proceedings, principle of equality of arms, and principle of the rights of the defence), in so far as the appellant did not have access to the Report of the European Anti-Fraud Office (OLAF) on which the decision was based, or to the evidence supporting that report. The appellant was also unable to exercise his right to be heard prior to the adoption of that decision, in breach of the provisions of Article 68(2) of the Decision of the Bureau of the Parliament concerning implementing measures for the Statute for Members of the European Parliament ('the implementing measures'). The General Court erred, in paragraph 44 of its judgment, in relying on Article 11(4) of Regulation No 883/2013, since that article does not govern the recovery procedure before the Secretary-General, but rather the procedure before OLAF. In that context, in paragraph 45 of the judgment under appeal, the General Court incorrectly applied the case-law established in paragraph 35 of the judgment in *IMG v Commission*. In paragraph 48 of the judgment under appeal, the General Court gave a *contra legem* interpretation of Article 68(2) of the implementing measures, by equating the right to submit observations with the right to be heard. In paragraph 51 of the judgment under appeal, the General Court also misinterpreted Article 68 of the implementing measures, which governs the recovery procedure, in so far as the relevant rule does not give rise, for the appellant, to rights or obligations in relation to the submission of evidence in the procedure before the Secretary-General.

Second ground of appeal:

Infringement of the right to a fair trial (Article 6(1) ECHR and Article 47, second paragraph, of the Charter) in the proceedings before the General Court, in so far as the latter rejected the offer of witness evidence from Dr József Virág and Mr László Tibor Erdélyi, without giving any substantive statement of reasons. The decision of the General Court rejecting that offer of evidence deprived the appellant of the possibility of defending himself as regards the substance of the case against him.

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**Request for a preliminary ruling from the Svea Hovrätt — Patent- och marknadsöverdomstolen (Sweden)  
lodged on 27 August 2019 — BY v CX**

(Case C-637/19)

(2019/C 372/21)

*Language of the case: Swedish*

**Referring court**

Svea Hovrätt, Patent- och marknadsöverdomstolen

**Parties to the main proceedings**

Applicant: BY

*Defendant: CX*

### Questions referred

1. Does the term 'public' in Articles 3(1) and 4(1) of Directive 2001/29/EC <sup>(1)</sup> of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society have a uniform meaning?
2. If question 1 is answered in the affirmative, is a court to be regarded as falling within the scope of the term 'public' within the meaning of those provisions?
3. If question 1 is answered in the negative:
  - (a) in the event of communication of a protected work to a court, can that court fall within the scope of the term 'public'?
  - (b) in the event of distribution of a protected work to a court, can that court fall within the scope of the term 'public'?
4. Does the fact that national legislation lays down a general principle of access to public documents in accordance with which any person who makes a request can access procedural documents submitted to a court, except where they contain confidential information, affect the assessment of whether submission to a court of a protected work amounts to a 'communication to the public' or a 'distribution to the public'?

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<sup>(1)</sup> OJ 2001 L 167, p. 10.

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**Appeal brought on 30 August 2019 by Ja zum Nürburgring eV against the judgment of the General Court (First Chamber, Extended Composition) delivered on 19 June 2019 in Case T-373/15, Nürburgring eV v European Commission**

**(Case C- 647/19 P)**

(2019/C 372/22)

*Language of the case: German*

### Parties

*Appellant:* Ja zum Nürburgring eV (represented by: D. Frey et M. Rudolph, lawyers)

*Other party to the proceedings:* European Commission

### Form of order sought

The appellant claims that the Court should:

1. set aside the judgment of the General Court of 19 June 2019 in Case T-373/15;
2. annul Commission Decision C(2014) 3634 final of 1 October 2014 in so far as it found that
  - a. the company which acquired the assets sold in the tender, Capricorn Nürburgring Besitzgesellschaft GmbH, and its subsidiaries are not concerned by any recovery of aid which is incompatible with the internal market and
  - b. the sale of the assets of Nürburgring GmbH, Motorsport Resort Nürburgring GmbH and Congress- und Motorsport Hotel Nürburgring GmbH did not amount to State aid to Capricorn Nürburgring Besitzgesellschaft GmbH or its subsidiaries;