

2. If Question 1 is answered in the negative:

Does the interpretation of national law in conformity with EU law permit and require the national court and administrative authority to supplement — in the absence of new legislation at national level — the domestic penal provisions applicable in the present proceedings with the criteria of the requirement of proportionality laid down in the orders of the Court of Justice of the European Union in *Bezirkshauptmannschaft Hartberg-Fürstenfeld* (C-645/18, EU:C:2019:1108) and *Bezirkshauptmannschaft Hartberg-Fürstenfeld* (C-140/19, C-141/19, C-492/19, C-493/19 and C-494/19, EU:2019:1103)?

<sup>(1)</sup> Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation') (OJ 2014 L 159, p. 11).

<sup>(2)</sup> EU:C:2019:1108.

<sup>(3)</sup> EU:2019:1103.

**Appeal brought on 9 June 2020 by the European Commission against the judgment of the General Court (Eighth Chamber) delivered on 2 April 2020 in Case T-571/17, UG v Commission**

**(Case C-249/20 P)**

(2020/C 348/04)

*Language of the case: French*

**Parties**

*Appellant:* European Commission (represented by: B. Mongin, L. Radu Bouyon, acting as Agents)

*Other party to the proceedings:* UG

**Form of order sought**

- Set aside the judgment of the European Union (Eighth Chamber) of 2 April 2020, delivered in Case T-571/17, *UG v Commission*
- Refer the case back to the General Court;
- Reserve the costs of the proceedings at first instance and on appeal.

**Pleas in law and main arguments**

1. First ground of appeal: distortion of the facts (paragraphs 64 to 71 of the contested decision)

According to settled case-law, there exists a distortion of the facts subject to review by the Court where the assessment of the existing evidence is manifestly incorrect. Such distortion must be obvious from the documents before the Court

In the first part of the ground, the Commission claims that the General Court's finding that the authority empowered to conclude contracts of employment (AECE) set UG too short a timeframe within which to remedy professional incompetence is contradicted by the evidence in the file. The AECE did not require UG to meet all the objectives fixed in the 2015 appraisal and to restore a relationship of trust with all his work colleagues within a period of three months.

According to the second part of the ground, the General Court erroneously focused its consideration on the issue of unjustified absences and failed to take into account the recurrence of several aspects of professional incompetence noted in the decision of 17 October 2016 and the letter of 8 September 2016.

2. Second ground of appeal: error in law (paragraphs 72 to 77 of the contested decision)

The General Court annulled the contested decision because of an error of fact without however demonstrating that that error was ‘manifest’. AECE has a broad discretion in respect of dismissal and the review by the General Court is limited to the issue of whether there has been a manifest error or a misuse of powers. The General Court identified an error in the contested decision which merely concerned one of the aspects of professional incompetence to which the AECE had drawn UG’s attention, an error which was not ‘manifest’ and could therefore not lead to the annulment of the contested decision.

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**Request for a preliminary ruling from the Landgericht Erfurt (Germany) lodged on 24 June 2020 —**

**A. G. E. v B AG**

**(Case C-276/20)**

(2020/C 348/05)

*Language of the case: German*

**Referring court**

Landgericht Erfurt

**Parties to the main proceedings**

*Applicant:* A. G. E.

*Defendant:* B AG

**Questions referred**

1. Under EU law, especially the principle of effectiveness, and for the purposes of European fundamental rights, must no deduction for actual use of the vehicle be applied to the damage sustained by the purchaser where the manufacturer of a vehicle or engine infringes European registration law and European emissions standards? Does that preclusion of any deduction apply where a manufacturer causes a customer intentional damage contrary to public policy?
2. Is the referring court an independent and impartial court or tribunal for the purpose of Article 267 TFEU, read in conjunction with the third sentence of Article 19(1) TEU and Article 47(2) of the Charter of Fundamental Rights of the European Union?

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**Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 3 July 2020 —**  
**Commerzbank AG v E.O.**

**(Case C-296/20)**

(2020/C 348/06)

*Language of the case: German*

**Referring court**

Bundesgerichtshof

**Parties to the main proceedings**

*Applicant:* Commerzbank AG

*Defendant:* E.O.