

2. refer the case back to the General Court for a ruling on the merits, where possible to another chamber;
3. declare that the representation of Universität Bremen by the university teacher, Christoph Schmid, in Case T-660/19 is effective in accordance with the seventh paragraph of Article 19 of the Statute of the Court of Justice of the European Union;
4. in the alternative, in the event that representation by the university teacher referred to above is deemed ineffective, declare that Universität Bremen is entitled to have a lawyer who fulfils the requirements of the third and fourth paragraphs of Article 19 of the Statute pursue before the General Court the proceedings in Case T-660/19 as they currently stand;
5. reserve the costs pending the final decision of the General Court, provided that, irrespective of the final decision of the General Court, the defendant is to bear the costs relating to the proceedings to date, namely the direct action and the appeal, or that — in the alternative — each party is to bear its own costs relating to the proceedings to date; order that, in both cases, the applicant is to be reimbursed immediately in respect of lawyers' fees for the proceedings before the General Court paid by the applicant to the defendant.

Grounds of appeal and main arguments

The appellant claims that the order under appeal wrongly dismissed as manifestly inadmissible, in accordance with Article 126 of the Rules of Procedure of the General Court, its action for annulment of decision Ares (2019) 4590599 of the Research Executive Agency of 16 July 2019 on the ground of ineffective legal representation by the university teacher, Christoph Schmid. The appellant submits that that order of the General Court is legally flawed. First, the appellant claims that the General Court disregarded the fact that university teachers having a right of audience under the law of their home country are privileged as legal representatives under the wording and scheme of the seventh paragraph of Article 19 of the Statute of the Court of Justice of the European Union and do not have to fulfil the conditions of the autonomous concept of a lawyer under the third and fourth paragraphs of Article 19 of the Statute. Secondly — and in the alternative — the appellant claims that the General Court ought, in accordance with the fundamental right to be heard under Article 47 of the Charter of Fundamental Rights of the European Union and Article 6(1) ECHR and in accordance with the principle of proportionality, to have in any event provided an indication of the problems regarding admissibility; in the alternative, such an indication ought to have at least been provided on the website of the General Court, for example in the 'Aide-mémoire: Application'.

**Appeal brought on 25 February 2021 by the European Commission against the judgment of the
General Court (Seventh Chamber) delivered on 16 December 2020 in Case T-243/18, VW v
Commission**

(Case C-116/21 P)

(2021/C 182/50)

Language of the case: French

Parties

Appellant: European Commission (represented by: B. Schima, B. Mongin and G. Gattinara, acting as Agents)

Other parties to the proceedings: VW, European Parliament and Council of the European Union

Form of order sought

The appellant claims that the Court should:

- set aside the judgment of the General Court (Seventh Chamber) delivered on 16 December 2020 in Case T-243/18, VW v Commission;
- dismiss the action at first instance;
- order the respondent to pay the costs of the proceedings at first instance;
- order the respondent to pay the costs of the proceedings on appeal.

Grounds of appeal and main arguments

The first ground of appeal alleges an error of law concerning the criteria for assessing the legality of the choices made by the legislature, as well as a failure to fulfil the obligation to state reasons (paragraphs 46 to 49 and paragraph 58 of the judgment under appeal). The Commission claims that:

- the General Court departed from the principle according to which the assessment of the legality of an EU measure in the light of fundamental rights may not be based on claims relating to the consequences of that measure in a specific case;
- the illegality of a provision of the Staff Regulations may not be based on the ‘unreasonable’ nature of the choice made by the legislature;
- the General Court did not take account of all the elements which characterise the two situations under comparison, in breach of the principles laid down by the judgment in *HK v Commission* (C-460/18 P).

The second ground of appeal alleges an error of law in the interpretation of the principle of non-discrimination, because the General Court judged the situations referred to in Articles 18 and 20 of Annex VIII to the Staff Regulations to be comparable (paragraphs 50 to 61 of the judgment under appeal). The Commission considers that:

- the date of the marriage is not the only criterion which distinguishes Article 18 of Annex VIII to the Staff Regulations from Article 20 of that annex. The distinction stems from a number of factors which the General Court refused to take into account;
- the General Court should have considered the purpose of the minimum duration of the marriage in the two provisions in question, which would have highlighted the differences between them;
- discrimination on grounds of age is not established.

The third ground of appeal alleges an error of law in the interpretation of Article 52(1) of the Charter of Fundamental Rights of the European Union and several instances of failure to fulfil the obligation to state reasons (paragraphs 65 to 80 and 81 to 88 of the judgment under appeal):

- the first part of the ground alleges a failure to adjudicate with regard to the survivor’s pension referred to in Articles 18 and 20 of Annex VIII to the Staff Regulations;
- the second part of the ground alleges an error of law in the interpretation of the objective of preventing fraud as well as a failure to fulfil the obligation to state reasons (paragraphs 65 to 80 of the judgment under appeal);
- the third part of the ground alleges an error of law in the interpretation of the objective of protecting the financial equilibrium of the EU pension scheme (paragraphs 81 to 88 of the judgment under appeal).

**Appeal brought on 25 February 2021 by the European Commission against the judgment of the
General Court (Seventh Chamber) delivered on 16 December 2020 in Case T-315/19, BT v
Commission**

(Case C-117/21 P)

(2021/C 182/51)

Language of the case: French

Parties

Appellant: European Commission (represented by: B. Schima, B. Mongin and G. Gattinara, acting as Agents)

Other parties to the proceedings: BT, European Parliament, Council of the European Union and International Association of Former Officials of the European Union (AIACE International)

Form of order sought

The appellant claims that the Court should:

- set aside the judgment of 16 December 2020, *BT v Commission* (T-315/19);