

Form of order sought

The appellant claims that the Court should:

- set aside the judgment of the General Court of the European Union of 24 February 2021 in Case T-108/18 and declare that the claims for repayment asserted against the appellant by decision of the respondent of 21 December 2017 (No OF/2016/0720) and of 7 February 2018 (No OF/2016/0720) do not exist;
- in the alternative, set aside the judgment of the General Court of the European Union referred to above and refer the case back to the General Court of the European Union;
- order the respondent to bear the costs of the proceedings.

Grounds of appeal and main arguments

In support of the appeal, the appellant raises three grounds of appeal.

1. First ground of appeal: Objection of a procedural nature regarding the failure to reopen the oral part of the procedure

The appellant contends that new facts alleged by the applicant, which only became known to it after the end of the oral part of the procedure and which it could not have brought into the proceedings until that time, invalidated the arguments on which the contested decision is based in material respects, as that decision is based on facts that have not been confirmed by the findings of the national criminal investigation body.

Furthermore, the applicant's request for the reopening of the oral part of the procedure because of hitherto unknown new facts, which are of legal importance to the outcome of the dispute in that they are capable of influencing it in the applicant's favour, was rejected on the basis of an error of assessment.

2. Second ground of appeal: Misinterpretation of the scope of the principle of the right to a fair hearing

The General Court disregarded the fact that the defendant made a decision on the appropriate use of funds to the detriment of the applicant due to the fact that, without fault on the part of the applicant, it was objectively impossible on the date of the contested decision of the defendant for the documents proving appropriate use of funds to be submitted.

3. Third ground of appeal: Infringement of the principle of the protection of legitimate expectations and misinterpretation of the scope of the principle of proportionality

The General Court did not, or did not without making an error of law, assess the legitimate expectations on the part of the applicant as a result of the defendant's written confirmation of the proper implementation of the funded projects at issue.

The General Court did not establish that a material deviation subsequently came to light in respect of the facts on which the statement of the defendant confirming the correct use of funds is based, only such a deviation being capable of calling into question an initially positive assessment of the implementation processes and the suitability thereof.

Lastly, the failure to clarify in full the indications of a possible deviation in the facts using all of the sources of information available to the defendant and the General Court, before the most drastic of all possible measures was taken by the defendant (in this case the full recovery of all funds approved and granted), was incompatible with the principle of proportionality.

**Request for a preliminary ruling from the Tribunal de première instance de Liège (Belgium) lodged
on 7 May 2021 — Starkinvest SRL**

(Case C-291/21)

(2021/C 278/49)

Language of the case: French

Referring court

Tribunal de première instance de Liège

Parties to the main proceedings

Applicant: Starkinvest SRL

Questions referred

1. Does a judgment which has been served, ordering a party to make a penalty payment in the event of breach of a prohibitory order, constitute a decision requiring the debtor to pay the creditor's claim within the meaning of Article 7 (2) of Regulation (EU) No 655/2014 of the European Parliament and of the Council of 15 May 2014 establishing a European Account Preservation Order procedure? ⁽¹⁾
2. Does a judgment ordering a party to make a penalty payment, although enforceable in the country of origin, fall within the meaning of 'judgment' in Article 4 of Regulation No 655/2014 of the European Parliament and of the Council of 15 May 2014 establishing a European Account Preservation Order where there has been no final determination of the amount in accordance with Article 55 of Regulation (EU) No 1215/12 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters? ⁽²⁾

⁽¹⁾ Regulation (EU) No 655/2014 of the European Parliament and of the Council of 15 May 2014 establishing a European Account Preservation Order procedure to facilitate cross-border debt recovery in civil and commercial matters (OJ 2014 L 189, p. 59).

⁽²⁾ OJ 2012 L 351, p. 1.

Request for a preliminary ruling from the Tribunale Ordinario di Firenze (Italy) lodged on 10 May 2021 — XXX.XX v Ministero dell'Interno, Dipartimento per le Libertà civili e l'Immigrazione — Unità Dublino

(Case C-297/21)

(2021/C 278/50)

Language of the case: Italian

Referring court

Tribunale Ordinario di Firenze

Parties to the main proceedings

Applicant: XXX.XX

Defendant: Ministero dell'Interno, Dipartimento per le Libertà civili e l'Immigrazione — Unità Dublino

Questions referred

1. Must Article 17(1) of Regulation (EU) No 604/2013 ⁽¹⁾ be interpreted, in accordance with Articles 19 and 47 of the [Charter of Fundamental Rights of the European Union] and Article 27 of Regulation (EU) No 604/2013, as meaning that the court of the Member State, hearing an appeal against the decision of the Dublin Unit, may establish the responsibility of the Member State which would have to carry out the transfer under Article 18(1)(d), if it determines the existence, in the Member State responsible, of a risk of infringement of the principle of *non-refoulement* by returning the applicant to his country of origin, where the applicant's life would be in danger and where he would be at risk of inhuman and degrading treatment?
2. In the alternative, must Article 3(2) of Regulation (EU) No 604/2013 be interpreted in accordance with Articles 19 and 47 of the [Charter] and Article 27 of Regulation (EU) No 604/2013, as meaning that the court may establish the responsibility of the Member State required to carry out the transfer under Article 18(1)(d) of that regulation, where it is established that:
 - (a) there is a risk in the Member State responsible of infringing the principle of *non-refoulement* by returning the applicant to his country of origin, where his life would be in danger and where he would be at risk of inhuman or degrading treatment?