

3. Is Article 18(1) of Directive 2014/24/EU to be interpreted as precluding the award of a contract to undertakings which constitute an economic unit and have each submitted a tender?

(<sup>1</sup>) Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ 2014 L 94, p. 65).

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**Appeal brought on 20 July 2021 by Petrus Kerstens against the order of the General Court (Seventh Chamber) delivered on 17 May 2021 in Case T-672/20 Kerstens v Commission**

**(Case C-447/21 P)**

(2021/C 431/06)

*Language of the case: French*

**Parties**

*Appellant:* Petrus Kerstens (represented by: C. Mourato, avocat)

*Other party to the proceedings:* European Commission

**Form of order sought**

The appellant submits that the Court of Justice should:

- set aside the order of the General Court of 17 May 2021, *Kerstens v Commission* (T-672/20);
- declare the action at issue admissible;
- find that the case cannot proceed on the merits, and refer the matter back to the General Court so that it may rule on the merits of the dispute;
- reserve the costs.

**Grounds of appeal and main arguments**

The four grounds of appeal relate to the admissibility of the action brought by the applicant at first instance.

By the first ground of appeal, the appellant submits that by declaring inadmissible the action seeking annulment of the decisions of 20 and 31 January 2020, the General Court infringed the rules on the burden of proof and Article 91(3) of the Staff Regulations, and distorted the facts and evidence.

By the second ground of appeal, the appellant submits that the General Court provided an insufficient statement of reasons for the order under appeal.

By the third ground of appeal, the appellant submits that the General Court gravely infringed the principle of legal certainty in determining the date of notification of the contested act.

By his fourth and final ground of appeal, the appellant submits that the General Court infringed the principle of equal treatment of officials in determining the date of notification of acts addressed to them, to which there a judicial follow-up is necessary.

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**Request for a preliminary ruling from the Bundesverwaltungsgericht (Austria) lodged on 9 August 2021 — F.F.**

**(Case C-487/21)**

(2021/C 431/07)

*Language of the case: German*

**Referring court**

Bundesverwaltungsgericht

**Parties to the main proceedings**

*Applicant:* F.F.

*Other parties:* Österreichische Datenschutzbehörde, CRIF GmbH

### Questions referred

1. Is the term ‘copy’ in Article 15(3) of Regulation (EU) 2016/679 <sup>(1)</sup> (‘the GDPR’) to be interpreted as meaning a photocopy, a facsimile or an electronic copy of an (electronic) item of data, or does it also cover an ‘Abschrift’, a ‘double’ (‘*duplicata*’) or a ‘transcript’, in line with the understanding of the term in German, French and English dictionaries?
2. Is the first sentence of Article 15(3) of the GDPR, according to which ‘the controller shall provide a copy of the personal data undergoing processing’, to be interpreted as affording a general right for a data subject to obtain a copy of — also — entire documents in which the personal data of that data subject are processed, or to receive a copy of a database extract if the personal data are processed in such a database, or does the data subject have a right — only — to an exact reproduction of the personal data about which information is to be provided pursuant to Article 15(1) of the GDPR?
3. In the event that Question 2 is answered to the effect that the data subject has a right only to an exact reproduction of the personal data about which information is to be provided pursuant to Article 15(1) of the GDPR, is the first sentence of Article 15(3) of the GDPR to be interpreted as meaning that, depending on the nature of the data processed (for example in relation to the diagnoses, examination results and assessments mentioned in recital 63 or documents in relation to an examination within the meaning of the judgment of the Court of Justice of 20 December 2017, *Nowak* <sup>(2)</sup>) and the transparency requirement in Article 12(1) of the GDPR, it may nevertheless be necessary in individual cases to make text passages or entire documents available to the data subject?
4. Is the term ‘information’ which, pursuant to the third sentence of Article 15(3) of the GDPR, ‘where the data subject makes the request by electronic means, and unless otherwise requested by the data subject, [...] shall be provided in a commonly used electronic form’, to be interpreted as referring solely to the ‘personal data undergoing processing’ mentioned in the first sentence of Article 15(3) of the GDPR?
  - a. If Question 4 is answered in the negative: Is the term ‘information’ which, pursuant to the third sentence of Article 15(3) of the GDPR, ‘where the data subject makes the request by electronic means, and unless otherwise requested by the data subject, [...] shall be provided in a commonly used electronic form’ to be interpreted as also referring to the information pursuant to Article 15(1)(a) to (h) of the GDPR?
  - b. If Question 4a also is answered in the negative: Is the term ‘information’ which, pursuant to the third sentence of Article 15(3) of the GDPR, ‘where the data subject makes the request by electronic means, and unless otherwise requested by the data subject, [...] shall be provided in a commonly used electronic form’ to be interpreted as referring, beyond the ‘personal data undergoing processing’ and the information pursuant to Article 15(1)(a) to (h) of the GDPR, to associated metadata, for example?

<sup>(1)</sup> Regulation of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ 2016 L 119, p. 1).

<sup>(2)</sup> C-434/16, EU:C:2017:994.

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### Reference for a preliminary ruling from the High Court (Ireland) made on 11 August 2021 — Eircom Limited v Commission for Communications Regulation

(Case C-494/21)

(2021/C 431/08)

*Language of the case: English*

### Referring court

High Court (Ireland)

### Parties to the main proceedings

*Applicant:* Eircom Limited