

3. Is Article 4 of Council Framework Decision 2005/212/JHA, ⁽²⁾ read in conjunction with Article 47 of the Charter, to be interpreted as meaning that it applies *a fortiori* where the act is not a criminal offence and as precluding national legislation, such as Article 59(2) of the ZANN, which excludes the owner of property confiscated from the group of persons entitled to lodge an appeal, or, such as Article 232 of the ZM, which expressly states that a notice by which property is confiscated under national law from a third party not party to the administrative offence proceedings is not open to appeal?

(¹) Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ 2013 L 269, p. 1).

(²) Council Framework Decision 2005/212/JHA of 24 February 2005 on Confiscation of Crime-Related Proceeds, Instrumentalities and Property (OJ 2005 L 68, p. 49).

Appeal brought on 8 December 2021 by Jérôme Rivière and Others against the judgment of the General Court (Sixth Chamber) delivered on 6 October 2021 in Case T-88/20, Rivière and Others v Parliament

(Case C-767/21 P)

(2022/C 109/23)

Language of the case: French

Parties

Appellants: Jérôme Rivière, Dominique Bilde, Joëlle Mélin, Aurélia Beigneux, Thierry Mariani, Jordan Bardella, Jean-Paul Garraud, Jean-François Jalkh, Gilbert Collard, Gilles Lebreton, Nicolaus Fest, Gunnar Beck, Philippe Olivier (represented by: F. Wagner, avocat)

Other party to the proceedings: European Parliament

Form of order sought

The appellants claim that the Court should:

- Set aside the judgment of the General Court of the European Union of 6 October 2021 in Case T-88/20, *Rivière and Others v Parliament*;
- Declare the application admissible, having regard to Articles 263 and 277 TFEU;
- Consequently, find that the oral decision of the President of the European Parliament of 13 January 2020 had no legal basis and annul it;
- Order the European Parliament to pay the entire costs

Grounds of appeal and main arguments

In support of their appeal, the appellants rely on two grounds of appeal.

The first ground of appeal alleges distortion of the facts and mischaracterisation of the legal nature of the facts. In particular, the appellants claim that the second sentence of paragraph 38 of the judgment is a distortion of the facts. The contested measure did have the practical effect of denying the floor to MEPs who refused to remove their flags. That distortion of the facts led the General Court to disregard the second consequence of the decision of 13 January 2020. Accordingly, the General Court erred in its characterisation of the legal nature of the facts. It did not take into account the deprivation of one of the essential aspects of an MEP's exercise of his or her mandate, namely taking the floor.

The second ground of appeal alleges infringement and distortion in law and in fact of Article 10 of the Rules of Procedure of the European Parliament and a manifest error of assessment. According to the appellants, the General Court was in fact required to analyse whether the small flag used by MEPs was a banner, and then whether the presence of that flag disrupted the good order of the sittings or constituted inappropriate behaviour, and interfered with the smooth conduct of parliamentary business, in order to draw a legal conclusion. Through its comparison with other official languages of the European Union, the General Court had failed to have regard to Article 1 of Regulation No 1 of 15 April 1958 determining

the languages to be used by the European Economic Community,⁽¹⁾ which confirms French as an official language and working language of the institutions of the European Union, thus of the Parliament. In respect of French MEPs, Article 10 of the Rules of Procedure should be read in accordance with the scope given to it by the French language.

The General Court also failed to analyse the expression: ‘They shall not display banners’ and to carry out an analysis of paragraph 3 in the context of Article 10, in particular paragraph 2 thereof. Proof that the presence of a flag caused no disruption was provided in the response to the plea of inadmissibility, since MEPs could display small European flags and Belgian MEP Guy Verhofstadt could speak with such a flag before him.

By setting out, in paragraphs 43 to 49 of its judgment, a line of reasoning derived from that of the Parliament on an entirely different legal basis from Article 10, and by relying on Article 171 of the Rules of Procedure, which is entitled *Allocation of speaking time and list of speakers*, in order to invoke equality between MEPs as regards speaking time, the General Court added to Article 10 a subject matter which it does not have. That constitutes a distortion of the text which led the General Court to give that article legal effects which it does not have. According to the appellants, the decision of 13 January 2020 did produce legal effects liable to affect the conditions for exercising the appellants’ mandate by bringing about a distinct change in their legal position. The measure is therefore an act open to challenge and the judgment should be set aside.

⁽¹⁾ OJ 17, 6.10.1958, p. 385.

Request for a preliminary ruling from the Retten i Esbjerg (Denmark) lodged on 17 December 2021 — Skatteministeriet Departementet v Global Gravity ApS

(Case C-788/21)

(2022/C 109/24)

Language of the case: Danish

Referring court

Retten i Esbjerg

Parties to the main proceedings

Applicant: Skatteministeriet Departementet

Defendant: Global Gravity ApS

Questions referred

1. What criteria must be applied in order to determine whether an article constitutes a container under subheading 8609 00 9000 of the Combined Nomenclature of the Common Customs Tariff, as set out in Annex I to Commission Regulation (EU) No 1001/2013⁽¹⁾ of 4 October 2013 amending Annex I to Council Regulation (EEC) No 2658/87⁽²⁾ on the tariff and statistical nomenclature and on the Common Customs Tariff, including:

- a) whether these criteria, each viewed in isolation, can lead to the classification of an article as a container;
- b) whether an overall assessment of criteria should be made in order to determine whether an article should be classified as a container, so that the fulfilment of several criteria — but not all criteria — results in the article being classified as a container;

or

- c) whether all the criteria must be met cumulatively before an article can be classified as a container?
2. Should the term ‘container’ under subheading 8609 00 9000 of the Combined Nomenclature of the Common Customs Tariff, in the version set out in Annex I to Commission Regulation (EU) No 1001/2013 of 4 October 2013 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff, be interpreted as covering an article which is a system for transporting pipes, consisting of a number of aluminium lifting profiles, two steel lifting poles per lifting profile and two M20 bolts per lifting profile used to secure