

Judgment of the General Court of 30 November 2022 — KN v Parliament(Case T-401/21) ⁽¹⁾

(Institutional law — Member of the EESC — Discharge procedure in respect of the implementation of the EESC's budget for the 2019 financial year — Resolution of the Parliament designating the applicant as the perpetrator of psychological harassment — Action for annulment — Non-actionable measure — Inadmissibility — Action for damages — Protection of personal data — Presumption of innocence — Duty of confidentiality — Principle of sound administration — Proportionality — Sufficiently serious infringement of a rule of law conferring rights on individuals)

(2023/C 35/59)

Language of the case: French

Parties

Applicant: KN (represented by: M. Casado García-Hirschfeld and M. Aboudi, lawyers)

Defendant: European Parliament (represented by: R. Crowe, C. Burgos and M. Allik, acting as Agents)

Re:

By its action, the applicant seeks, first, on the basis of Article 263 TFEU, annulment of Decision (EU, Euratom) 2021/1552 of the European Parliament of 28 April 2021 on discharge in respect of the implementation of the general budget of the European Union for the financial year 2019, Section VI — European Economic and Social Committee (OJ 2021 L 340, p. 140), and of Resolution (EU) 2021/1553 of the European Parliament of 29 April 2021 with comments forming an integral part of the decision on the discharge for implementation of the European Union general budget for the financial year 2019, Section VI — European Economic and Social Committee (OJ 2021 L 340, p. 141), and, secondly, on the basis of Article 268 TFEU, compensation for the damage which it has allegedly suffered as a result of the contested acts.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders KN to pay the costs.

⁽¹⁾ OJ C 338, 23.8.2021.

Judgment of the General Court of 7 December 2022 — Neoperl v EUIPO (Representation of a cylindrical sanitary insert)(Case T-487/21) ⁽¹⁾

(EU trade mark — Application for an EU trade mark representing a cylindrical sanitary insert — Tactile position mark — Absolute grounds for refusal — Scope of the law — Court acting of its own motion — Examination of distinctive character by the Board of Appeal — Article 7(1)(b) of Regulation (EC) No 207/2009 (now Article 7(1)(b) of Regulation (EU) 2017/1001) — Sign not capable of constituting an EU mark — Absence of a precise and self-contained graphic representation of the tactile impression produced by the sign — Article 4 and 7(1)(a) of Regulation (EC) No 207/2009 (now Article 4 and 7(1)(a) of Regulation (EU) 2017/1001))

(2023/C 35/60)

Language of the case: German

Parties

Applicant: Neoperl AG (Reinach, Switzerland) (represented by: U. Kaufmann, lawyer)

Defendant: European Union Intellectual Property Office (represented by: T. Klee and D. Hanf, acting as Agents)

Re:

By its action under Article 263 TFEU, the applicant seeks annulment of the decision of the Fifth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 3 June 2021 (Case R 2327/2019-5).

Operative part of the judgment

The Court:

1. Annuls the decision of the Fifth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 3 June 2021 (Case R 2327/2019-5);
2. Orders EUIPO to pay the costs.

⁽¹⁾ OJ C 391, 27.9.2021.

Judgment of the General Court of 23 November 2022 — Zeta Farmaceutici v EUIPO — Specchiasol (EUPHYTOS)

(Case T-515/21) ⁽¹⁾

(EU trade mark — Invalidity proceedings — EU wordmark EUPHYTOS — Earlier EU figurative mark EuPhidra — Proof of genuine use of the earlier mark — Article 56(2) and Article 43(2) of Regulation (EC) No 40/94 (now Article 64(2) and Article 47(2) of Regulation (EU) 2017/1001) — Relevant periods — Submission of evidence for the first time before the Board of Appeal — Discretion of the Board of Appeal — Article 95(2) of Regulation 2017/1001 — Article 27(4) of Delegated Regulation (EU) 2018/625)

(2023/C 35/61)

Language of the case: Italian

Parties

Applicant: Zeta Farmaceutici SpA (Vicenza, Italy) (represented by: F. Celluprica, F. Fischetti and F. De Bono, lawyers)

Defendant: European Union Intellectual Property Office (represented by: S. Scardocchia, J. Crespo Carrillo and D. Hanf, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO: Specchiasol Srl (Bussolengo, Italy)

Re:

By its action under Article 263 TFEU, the applicant seeks annulment and alteration of the decision of the First Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 10 June 2021 (Case R 2094/2019-1).

Operative part of the judgment

The Court:

1. Annuls the decision of the First Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 10 June 2021 (Case R 2094/2019-1);