

Defendant: Council of the European Union (represented by: H. Marcos Fraile and P. Mahnič, acting as Agents)

Re:

Application under Articles 278 and 279 TFEU seeking the suspension of operation of Council Decision 2014/145/CFSP of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2014 L 78, p. 16), of Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2014 L 78, p. 6), of Council Decision (CFSP) 2017/2163 of 20 November 2017 amending Decision 2014/145 (OJ 2017 L 304, p. 51), of Council Implementing Regulation (EU) 2017/2153 of 20 November 2017 implementing Regulation (EU) No 269/2014 (OJ 2017 L 304, p. 3), of Council Decision (CFSP) 2020/399 of 13 March 2020 amending Decision 2014/145 (OJ 2020 L 78, p. 44), of Council Implementing Regulation (EU) 2020/398 of 13 March 2020 implementing Regulation (EU) No 269/2014 (OJ 2020 L 78, p. 1), of Council Decision (CFSP) 2020/1269 of 10 September 2020 amending Decision 2014/145 (OJ 2020 L 298, p. 23), of Council Implementing Regulation (EU) 2020/1267 of 10 September 2020 implementing Regulation (EU) No 269/2014 (OJ 2020 L 298, p. 1), of Council Decision (CFSP) 2020/1368 of 1 October 2020 amending Decision 2014/145 (OJ 2020 L 318, p. 5), and of Council Implementing Regulation (EU) 2020/1367 of 1 October 2020 implementing Regulation (EU) No 269/2014 (OJ 2020 L 318, p. 1), in so far as those measures concern the applicant.

Operative part of the order

1. The application for interim measures is dismissed.
2. The costs are reserved.

Action brought on 25 March 2021 — McCord v Commission

(Case T-161/21)

(2021/C 252/36)

Language of the case: English

Parties

Applicant: Raymond Irvine McCord (Belfast, United Kingdom) (represented by: C. O'Hare, Solicitor)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- pursuant to Article 263 to the Treaty on the Functioning of the European Union, annul the decision and/or draft Regulation on 29 January 2021 of the European Commission to trigger Article 16 of the Northern Ireland Protocol of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (2019/C 384 I/01) ('the Withdrawal Agreement') and;
- pursuant to Article 263 to the Treaty on the Functioning of the European Union, annul the decision of the European Commission not to have a published policy or an order that the European Commission develops and publishes a policy on the circumstances in which the Commission will trigger Article 16 of the Northern Ireland Protocol;
- pursuant to Article 265 to the Treaty on the Functioning of the European Union, declare that the European Commission has failed to act to have a published policy or an order that the European Commission develops and publishes a policy on the circumstances in which the Commission will trigger Article 16 of the Northern Ireland Protocol;

- order against the Commission for the Applicant's costs of this application, to include all preparatory legal costs.

Pleas in law and main arguments

In support of the action, the applicant puts forward that the decision and/or draft regulation to invoke Article 16 of the Northern Ireland Protocol of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community⁽¹⁾, by the European Commission was disproportionate and unlawful. He further states that the Commission needs to publish its policy in relation to the triggering of Article 16 of the Northern Ireland Protocol of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community in the future.

⁽¹⁾ Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ 2019 CI 384, p. 1).

Action brought on 28 April 2021 — Illumina v Commission

(Case T-227/21)

(2021/C 252/37)

Language of the case: English

Parties

Applicant: Illumina, Inc. (Wilmington, Delaware, United States) (represented by: D. Beard, QC, and P. Chappatte, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the decision of the European Commission of 19 April 2021 (case COMP/M.10188), pursuant to Article 22(3) of Regulation 139/2004/EC on the control of concentrations between undertakings⁽¹⁾, to accept the request dated 9 March 2021 for a referral under Article 22(1) of the Merger Regulation made by the Autorité de la Concurrence, France, and assert jurisdiction to examine the concentration of Illumina, Inc. and GRAIL, Inc. under the Merger Regulation;
- annul the five further joinder decisions issued by the Commission to each of the Netherlands, Belgium, Greece, Iceland and Norway permitting them to join the request for a referral;
- annul the request for a referral;
- if and insofar as it is necessary to do so, annul the decision of the Commission dated 11 March 2021 which informed Illumina that the Commission had received a request for referral and had the legal consequence, pursuant to Article 22 (4), second sentence of the Merger Regulation, that Illumina was prohibited from implementing the concentration pursuant to Article 7 of the Merger Regulation;
- order the Commission to pay the costs of the present proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging that the decision of the Commission to examine the concentration is outside its competence. In particular, the decision:
 - erred in its identification of the objective of the Merger Regulation;