

2. Second plea in law, alleging that the defendant breached the principle of legal certainty and the applicant's legitimate expectations.
  - The contested act contains no reference or citation of any provision of law, which would empower the defendant to act in the way it did.
  - It is also argued that the contested act frustrates the applicant's legitimate expectations as it seeks to derogate from the express legal and procedural steps foreseen by the Biocidal products Regulation, in particular with regard to the mandatory timelines foreseen therein.
  - The legitimate expectations of the applicant are also frustrated by the contested act on the ground that the document referred to by the defendant, as a justification for the act, in fact concerns procedures and situations, which are irrelevant to the applicant's situation. The applicant also complains that the contested act creates legal uncertainty for operators.
3. Third plea in law, alleging that the defendant operated a discriminatory treatment towards the applicant.
  - It is argued that the contested act will result in the applicant being subjected to procedural requirements and delays, which have not been imposed on third parties in similar situations.
  - The contested act will result in the exclusive rights of the applicant's over proprietary information being infringed and being used for the benefit of third parties without financial compensation, a consequence that has not been imposed on third parties in similar situations.
  - Furthermore, the applicant complains that the confidential business information contained in its active substance dossier has been shared with third parties without permission and outside of a confidentiality commitment, a consequence that has not been imposed on third parties in similar situations.
4. Fourth plea in law, alleging that the contested act failed to state reasons because it did not disclose, in a clear and unequivocal fashion, the reasoning followed by the Agency, in such a way as to enable the applicant to ascertain the reasons for the measure and to enable the competent court to carry out its review.
5. Fifth plea in law, alleging that by adopting the contested act the defendant infringed the principle of proportionality because it does not bring about the appropriate steps for attaining the legitimate objectives pursued by it and it goes beyond what is necessary to achieve them.
  - Furthermore, it is argued that the measures entailed by the contested act do not constitute the least onerous measure to attain the objectives pursued by it.

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(<sup>1</sup>) Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ 2012 L 167, p. 1).

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**Action brought on 29 March 2021 — JS v EDPS**

**(Case T-200/21)**

(2021/C 217/77)

*Language of the case: English*

**Parties**

*Applicant:* JS (represented by: L. Levi and A. Champetier, lawyers)

*Defendant:* European Data Protection Supervisor

**Form of order sought**

The applicant claims that the Court should:

- annul the decision of the EDPS dated 18 January 2021 rejecting the complaint of the applicant;

- annul also, and so far as necessary, the decision of the EDPS dated 9 March 2021 rejecting the request for review of that initial decision;
- order compensation for the prejudice suffered;
- order the defendant to pay all the costs.

### **Pleas in law and main arguments**

In support of the action, the applicant relies on a single plea, alleging breaches of Articles 4(1), 5, 19, 20 and 23 of Regulation No 2018/1725, <sup>(1)</sup> of the principles of necessity and proportionality, and of Articles 8 and 41 of the Charter of Fundamental Rights of the EU.

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<sup>(1)</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ 2018 L 295, p. 39).

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## **Action brought on 6 April 2021 — Covington & Burling and Van Vooren v Commission**

**(Case T-201/21)**

(2021/C 217/78)

*Language of the case: English*

### **Parties**

*Applicants:* Covington & Burling (Saint-Josse-ten-Noode, Belgium) and Bart Van Vooren (Meise, Belgium) (represented by: P. Diaz Gavier, lawyer)

*Defendant:* European Commission

### **Form of order sought**

The applicants claim that the Court should:

- annul the decision of the Commission of 12 March 2021 refusing to grant access to the requested documents <sup>(1)</sup> under the Transparency Regulation;
- order the Commission to grant access to the requested documents immediately; and
- order the Commission to pay Covington's legal and other costs and expenses in relation to this matter.

### **Pleas in law and main arguments**

In support of the action, the applicants rely on five pleas in law.

1. First plea in law, alleging that the Commission erred in relying on Article 4(3), second indent, of the Transparency Regulation <sup>(2)</sup> to justify its refusal to grant access to the requested documents.
2. Second plea in law, alleging that, even if Article 4(3), second indent, of the Transparency Regulation applied, or any other ground of Article 4 thereof, the Commission has failed to demonstrate how the requested documents met the requirements.
3. Third plea in law, alleging that the Commission erred in relying on the Comitology Regulation <sup>(3)</sup> to support its refusal to grant access to the requested documents.