

— (v) order the Commission to pay the costs.

### Pleas in law and main arguments

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

1. First plea in law, concerning the application for compensation, alleging incorrect execution by the Commission of the judgment of 21 September 2017, *Ferriera Valsabbia and Others v Commission* (C-86/15 P and C-87/15 P, EU:C:2017:717) contrary to the first paragraph of Article 266 TFEU and Article 41(3) of the Charter of Fundamental Rights of the European Union.

In this regard, the applicant claims that the Commission has not paid the entire amount of default interest on the penalty repaid following the judgment.

2. Second plea in law, concerning the application for annulment, alleging infringement and incorrect assessment of Articles 266 and 296 TFEU, infringement and incorrect assessment of Article 46 of the Statute of the Court of Justice of the European Union, a failure to state reasons in the Commission's letter of 30 April 2021, and an error in law and manifest error of assessment.

In this regard, the applicant claims that the letter, in which the Commission refused to pay default interest to the applicants, does not contain a sufficient statement of reasons and infringes the principles of limitation.

3. Third plea in law, concerning the application for annulment, alleging infringement and incorrect assessment of Article 266 TFEU and of Delegated Regulation (EU) No 1268/2012. <sup>(1)</sup>

In this regard, the applicant claims that Article 85a(2) of Delegated Regulation (EC, Euratom) No 2342/2002, <sup>(2)</sup> relied on by the Commission in its letter of 30 April 2021, was no longer in force when the penalty was repaid, and therefore was no longer applicable.

<sup>(1)</sup> Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ 2012 L 362, p. 1).

<sup>(2)</sup> Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ 2002 L 357, p. 1).

### Action brought on 10 July 2021 — Feralpi v Commission

(Case T-413/21)

(2021/C 431/48)

*Language of the case: Italian*

### Parties

*Applicant:* Feralpi Holding SpA (Brescia, Italy) (represented by: G. Roberti and I. Perego, lawyers)

*Defendant:* European Commission

### Form of order sought

The applicant claims that the General Court should:

- (i) in accordance with and for the purposes of the second paragraph of Article 266 TFEU, Article 268 TFEU and the second paragraph of Article 340 TFEU, order the European Union, represented by the Commission, to pay compensation for the damage suffered by the applicant as a result of the Commission's failure to pay the default interest on the amount of the fine, which it was required to do in order to comply, in accordance with Article 266 TFEU, with the judgment of the Court of Justice of 21 September 2017 annulling a measure, *Feralpi v Commission* (C-85/15 P, EU:C:2017:709), to be calculated as follows:

- (a) an amount constituting the default interest payable on the amount of the fine paid provisionally by the applicant in respect of the period between 4 March 2010 and 26 October 2017, which is EUR 10 250 000,00, calculated using the rate set by the European Central Bank (ECB) for its principal refinancing operations which was in force on 1 March 2010 (namely one per cent), increased by three and a half percentage points, less the bank interest already paid, amounting to EUR 3 204 301,82, or, in the alternative, calculated using the interest rate that the General Court considers appropriate;

- (b) an amount constituting the default interest on the sum referred to in point (a) above in respect of the period between 26 October 2017 and the date on which that sum is actually paid or, in the alternative, between 16 March 2021 and the date on which that sum is actually paid, calculated using the interest rate referred to in point (a) above or, in the alternative, using another interest rate that the General Court considers appropriate;
- (ii) in accordance with the fourth paragraph of Article 263 TFEU, annul the decision set out in the letter from the Commission's Directorate-General for Budget of 30 April 2021 (Ref. Ares(2021)2904279) rejecting the request for payment of that default interest submitted by Feralpi Holding SpA on 16 March 2021;
- (iii) order the Commission to pay the costs.

### Pleas in law and main arguments

In support of the action for compensation, the applicant relies on a single plea in law, in which it claims that the Commission is obliged, on the basis of its non-contractual liability under the second paragraph of Article 266 TFEU, Article 268 TFEU and the second paragraph of Article 340 TFEU, to pay the applicant compensation equal to the amount of default interest payable on the fine, the amount of the fine itself having been repaid to the applicant by that institution in order to comply, in accordance with Article 266 TFEU, with the judgment of the Court of Justice of 21 September 2017 annulling a measure, *Feralpi v Commission* (C-85/15 P, EU:C:2017:709), plus the default interest payable on that sum.

In support of the action for annulment, the applicant relies on three pleas in law.

1. First plea in law, alleging a failure to state reasons.
  - In this regard, the applicant claims that the statement of reasons in the communication from the Commission's Directorate-General for Budget does not make clear the reasons which led it to find that the applicant's action was time-barred.
2. Second plea in law, alleging infringement of Article 266 TFEU and of Article 46 of the Statute of the Court of Justice.
  - In this regard, the applicant claims that the Directorate-General for Budget's identification of the date from which the limitation period starts to run is based on a misinterpretation of Article 266 TFEU and of Article 46 of the Statute of the Court of Justice.
3. Third plea in law, alleging infringement and misapplication of Article 266 TFEU, Regulation No 966/2012 <sup>(1)</sup> and [Delegated] Regulation No 1268/2012. <sup>(2)</sup>
  - In this regard, the applicant claims that the Directorate-General for Budget referred to a provision which is no longer in force and that the relevant provisions of Regulation No 966/2012 and [Delegated] Regulation No 1268/2012 must, in any case, be applied in a manner consistent with Article 266 TFEU and do not relieve the Commission of the obligation resulting from that provision.

<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ 2012 L 298, p. 1).

<sup>(2)</sup> Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ 2012 L 362, p. 1).

## Action brought on 10 July 2021 — eSlovensko Bratislava v Commission

(Case T-425/21)

(2021/C 431/49)

*Language of the case: English*

### Parties

*Applicant:* eSlovensko Bratislava (Bratislava-Staré Mesto, Slovakia) (represented by: B. Fridrich, lawyer)

*Defendant:* European Commission

### Form of order sought

The applicant claims that the Court should:

- annul Commission Implementing Decision C(2020)7415 final of 21 October 2020 amending Implementing Decision C(2018)6712 on the selection and award of grants under the Connecting Europe Facility in the sector of Telecommunication (annex No. 1), delivered to eSlovensko Bratislava on 10 May 2021 by email;