

(b) with the Federal Chancellery, Germany, regarding the company BioNTech SE and its products,

(c) with the German Federal Minister for Health regarding the purchasing of vaccines to combat the coronavirus pandemic,

from 1 April 2020 and in particular as regards the quantity of vaccines offered by BioNTech and their delivery times, in so far as those decisions do not grant the applicant access or grant him access only in part;

— order the Commission to pay the costs of the proceedings.

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

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

1. First plea in law: The applicant claims that he is entitled to access the European Commission documents at issue in accordance with Article 2(1) of Regulation (EC) No 1049/2001.<sup>(1)</sup>
2. Second plea in law: The applicant submits that Article 4(1)(b) of Regulation No 1049/2001 does not preclude the right of access to the information at issue. The information requested is necessary in the interests of national security, public safety and the economic well-being of the country, for the prevention of disorder, and for the protection of health. Therefore, a potential interference with privacy and the integrity of the individual is permissible. Lastly, the disclosure of the information requested is of significant public interest.
3. Third plea in law: The applicant submits that the second indent of Article 4(2) of Regulation (EC) No 1049/2001 does not preclude the right of access to the information at issue. There is no ground for exclusion under that provision, since it provides for a ground for exclusion which is limited in time and relates only to ongoing legal advice. The applicant's request for information, however, concerns only the completed operations.
4. Fourth plea in law: The applicant claims that the first subparagraph of Article 4(3) of Regulation (EC) No 1049/2001 does not preclude the right of access to the information at issue. According to the applicant, only the current decision-making process is protected by that provision. The object of the applicant's request for access to documents is, however, documentation concerning the defendant's negotiations on vaccine deliveries. Those negotiations have already been completed. There is, moreover, an overriding public interest in the disclosure of the information at issue, since the EU's vaccine procurement has been discussed and reported for weeks at European level.
5. Fifth plea in law: The applicant submits that the first indent of Article 4(2) of Regulation (EC) No 1049/2001 does not preclude the right of access to the information at issue. Disclosure of the information would not undermine the commercial interests of a natural or legal person. According to the applicant, the information requested does not contain any trade secrets within the meaning of Directive (EU) 2016/943.<sup>(2)</sup>
6. Sixth plea in law: Lastly, the applicant claims that there is an overriding public interest in the disclosure of the documents requested.

<sup>(1)</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

<sup>(2)</sup> Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ 2016 L 157, p. 1).

---

### **Action brought on 11 October 2021 — L. Oliva Torras v EUIPO — Mecánica del Frío (Vehicle couplings)**

**(Case T-652/21)**

(2021/C 481/57)

*Language in which the application was lodged: Spanish*

### **Parties**

*Applicant:* L. Oliva Torras (Manresa, Spain) (represented by: E. Sugrañes Coca, lawyer)

*Defendant:* European Union Intellectual Property Office (EUIPO)

*Other party to the proceedings before the Board of Appeal:* Mecánica del Frío, SL (Cornellá de Llobregat, Spain)

**Details of the proceedings before EUIPO**

*Proprietor of the design at issue:* Other party to the proceedings before the Board of Appeal

*Design at issue:* European Union design (Vehicle couplings) — European Union design No 002217588-0001

*Contested decision:* Decision of the Third Board of Appeal of EUIPO of 27 August 2021 in Case R 1306/2020-3

**Form of order sought**

The applicant claims that the Court should:

- annul the contested decision; or
- alter the contested decision; and
- order the unsuccessful party to pay the costs, if these have been applied for in the successful party's pleadings.

**Pleas in law**

- Infringement of Article 4(2) and (3) and Article 8(1) and (2) of Council Regulation No 6/2002;
  - Infringement of Articles 5, 6 and 7 of Regulation No 6/2002.
-