

Appeal brought on 22 April 2022 by Mr Michaël Julien against the order of the General Court (Tenth Chamber) delivered on 24 February 2022 in Case T-442/21, Rhiannon Thomas and Michaël Julien v Council of the European Union

(Case C-285/22 P)

(2022/C 257/36)

Language of the case: French

Parties

Appellant: Michaël Julien (represented by: J. Fouchet and J.-N. Caubet-Hilloutou, avocats)

Other party to the proceedings: Council of the European Union

Form of order sought

The appellant claims that the Court should:

- set aside the order in Case T-442/21 delivered on 24 February 2022 by the General Court of the European Union;
- annul decision 2021/689 ⁽¹⁾ taken by the Council of the European Union on 29 April 2021, in so far as it approves Article COMPROV.16 of the Trade Agreement signed on 30 December 2020 by the European Union and the United Kingdom, and in so far as that agreement does not continue to ensure freedom of movement for British nationals with close family and property ties in the European Union;
- order the European Union to pay all the costs of the proceedings, including lawyers' fees of EUR 5 000.

Pleas in law and main arguments

In support of his appeal, the appellant submits that the organisation of the United Kingdom's withdrawal from the European Union is, with respect to the rights of individuals, narrowly conceived, and that the Trade Agreement's disregard for the rights of individuals affects his situation as a British citizen of French origin, with French family and as the owner of a property in France in which he regularly resides for more than 90 days.

Consequently, the appellant has an interest which gives him standing to bring proceedings against the decision to conclude the Trade and Cooperation Agreement and the General Court infringed Article 263 TFEU by failing to acknowledge it, with the result that the Court should set aside the order of the General Court and rule on the substance of the case.

In particular, the General Court erred in law in its assessment of the criteria for admissibility of the action laid down by the fourth paragraph of Article 263 TFEU. First, the contested acts, as acts of general application not subject to the legislative procedure, are regulatory acts; secondly, since the Trade Agreement makes no provision for British citizens who have retained close personal, family or property ties with the European Union, it does not entail any implementing measures for them.

Furthermore, even the requirement that the acts be of direct concern to the applicant's individual situation is fulfilled in so far as the rights to private and family life, legal certainty and the free and peaceful enjoyment of his right to property, which are dependent on his freedom of movement, are denied him by the Trade Agreement, which has made no provision for the limited circle of persons who are in the same situation.

Accordingly, the omissions in the Trade Agreement as regards the freedom of movement of British nationals who have retained close personal, family and property ties in the European Union are of sufficient individual concern to the applicant.

⁽¹⁾ Council Decision (EU) 2021/689 of 29 April 2021 on the conclusion, on behalf of the Union, of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, and of the Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland concerning security procedures for exchanging and protecting classified information (OJ 2021 L 149, p. 2).