

Appeal brought on 14 July 2022 by OC against the judgment of the General Court (Ninth Chamber) delivered on 4 May 2022 in Case T-384/20, OC v Commission

(Case C-479/22 P)

(2022/C 340/32)

Language of the case: Greek

Parties

Appellant: OC (represented by: I. Ktenidis, dikigoros)

Other party to the proceedings: European Commission

Form of order sought

Appeal seeking to have set aside the judgment of the General Court (Ninth Chamber) of 4 May 2022 in Case T-384/20, OC v *European Commission* (ECLI:EU:T:2022:273)

The appellant claims that the Court should:

- set aside in its entirety the judgment under appeal;
- give a final judgment in the dispute;
- order the Commission to pay the costs of the appeal proceedings and of the proceedings before the General Court.

Grounds of appeal and main arguments

In support of the appeal, the appellant raises the following three grounds:

1. **First ground:** Incorrect interpretation of Article 3(1) of Regulation 2018/1725 ⁽¹⁾ regarding, first, the concept of 'identifiable' physical person and, second, the concept of means that are reasonably likely to be used to identify a natural person, as well as distortion of the clear sense of the evidence relating to the identification of the appellant by a specific person.
2. **Second ground:** Incorrect interpretation of Article 9(1) of Regulation No 883/2013 ⁽²⁾ and of Article 48(1) of the Charter, read in conjunction with Article 6(2) of the ECHR, regarding the scope of the presumption of innocence.
3. **Third ground:** Distortion of the clear sense of the evidence relating to the breach of the right to good administration under Article 41 of the Charter.

⁽¹⁾ 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 (Text with EEA relevance), OJ 2018 L 295, p. 39.

⁽²⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999, OJ 2013 L 248, p. 1.

Appeal brought on 22 July 2022 by the European Commission against the judgment of the General Court (Sixth Chamber) delivered on 11 May 2022 in Case T-151/20 Czech Republic v Commission

(Case C-494/22 P)

(2022/C 340/33)

Language of the case: Czech

Parties

Appellant: European Commission (represented by: J.-P. Keppenne, T. Materne, P. Němečková, Agents)

Other parties to the proceedings: Czech Republic, Kingdom of Belgium, Republic of Poland

Form of order sought

- Set aside point (1) of [the operative part of] the judgment of the General Court of the European Union of 11 May 2022, *Czech Republic v Commission* (T-151/20, EU:T:2022:281);
- Dismiss the action in Case T-151/20, or, as appropriate, refer the case back to the General Court for a decision on those parts of the pleas in law which have not yet been considered;
- Should the Court of Justice give final judgment in that case, order the Czech Republic to pay the costs incurred by the European Commission in the proceedings before the General Court of the European Union and the Court of Justice or, should the case be referred back to the General Court, reserve the decision on the costs.

Pleas in law and main arguments

The appellant puts forward two grounds of appeal on points of law in support of its appeal.

1. First, it alleges that the General Court erred in law in its interpretation of Article 6(3)(b) and Article 17(2) of Council Regulation (EC, Euratom) No 1150/2000⁽¹⁾ of 22 May 2000, as amended.

In that connection, the General Court is to have erred in law in the interpretation of Article 6(3) of that Regulation, when it decided that recording the amounts corresponding to the entitlements established under Article 2 of that regulation in Account B is purely an accounting transaction and the time limit for that recording must thus be calculated not from the day on which the entitlements concerned should have been established, but from the day on which those entitlements were actually established by the competent Czech authorities.

The General Court as a result further erred in its legal assessment when it found that the Czech Republic may rely on the possibility to be exempted from the obligation to provide the Commission with the disputed amount on the basis of Article 17(2) of that Regulation (ground directed against paragraphs 85 to 93 of the judgment under appeal).

2. Second, it alleges that the General Court also erred in law in the interpretation of Article 2(1) and Article 17(1) of Regulation No 1150/2000, in conjunction with Article 217(1) of Council Regulation (EEC) No 2913/92⁽²⁾ of 12 October 1992 establishing the Community Customs Code, and with Article 325 TFEU, which requires Member States to counter fraud and any other illegal activities affecting the financial interests of the European Union, in so far as it found that the Czech Republic did not establish the customs duty concerned late when it failed to establish that customs duty in the days following the return of the representative of the Czech customs authorities, who had participated in the inspection mission carried out by the European Anti-Fraud Office (OLAF) in Laos in November 2007 (ground directed against paragraphs 94 to 126 of the judgment under appeal).

The General Court is thus to have erred in its assessment of the legal framework, in the sense that it found that that legal framework enabled the Czech Republic to wait until OLAF provided the evidence gathered during the mission (and thus not to satisfy the obligation to establish the European Union's entitlement to own resources), to the detriment of the European Union's financial interests. The General Court should have interpreted the applicable EU law to the effect that the Czech Republic was required, under the duty of diligence, to request OLAF for the evidence gathered during the inspection mission immediately after the return of its representative from that mission, which would have enabled it to establish the European Union's entitlement to own resources in the days following the return of the Czech representative from the inspection mission to Laos.

⁽¹⁾ Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 implementing Decision 94/728/EC, Euratom on the system of the Communities' own resources (OJ 2000 L 130, p. 1).

⁽²⁾ OJ 1992 L 302, p. 1.