

The applicant claims that he has an individual right to participate in a properly administered legislative procedure, on account of his status as a member of the European Parliament, pursuant to Articles 2, 10(1), 13(1) and 14(1) TEU, which are given specific expression by the applicant's parliamentary participation rights under secondary law, in particular under the first sentence of Article 6(1) of the Elections Act, Article 2 et seq. of the Statute for Members and Rules 177 and 218(1) of the Rules of Procedure of the European Parliament. He claims that, by adopting the contested delegated regulation on the basis of Article 290 TFEU instead of initiating the ordinary legislative procedure — which was, in actual fact, appropriate — pursuant to Article 289 TFEU by means of a corresponding proposal, the European Commission infringed not only the institutional legislative power of the European Parliament, pursuant to Article 14(1) TEU and Articles 289 and 294 TFEU, and the principle of institutional balance pursuant to the first sentence of Article 13(2) TEU, but also the applicant's individual right to participate in a properly administered legislative procedure directly and individually. A member of the European Parliament may bring an action for annulment under the fourth paragraph of Article 263 TFEU against breach of the rules governing allocation of powers, essential procedural requirements or a misuse of powers by other EU bodies, in so far as his or her right to participate in a properly administered legislative procedure is affected, in order to obtain a referral to the European Parliament.

The applicant alleges that the classification of energy production by fossil natural gas and nuclear power as environmentally sustainable economic activities within the meaning of the Taxonomy Regulation (EU) 2020/852 of 18 June 2020 constitutes — irrespective of the political position — a highly political and thus essential aspect of facilitating sustainable investment, which, pursuant to the second sentence of Article 290(1) TFEU, is reserved for a legislative act pursuant to Article 289 TFEU. The applicant submits that, by adopting the contested delegated regulation, irrespective of its substantive legality, the Commission exceeded its powers in breach of the principle of institutional balance under the first sentence of Article 13(2) TEU. This also constitutes infringement of the European Parliament's legislative power and of the applicant's democratic and parliamentary right to participate in a properly administered legislative procedure.

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**Action brought on 10 October 2022 — ZR v EUIPO**

**(Case T-634/22)**

(2023/C 24/61)

*Language of the case: English*

**Parties**

*Applicant:* ZR (represented by: S. Rodrigues and A. Champetier, lawyers)

*Defendant:* European Union Intellectual Property Office

**Form of order sought**

The applicant claims that the Court should:

- annul the decision of the Appointing Authority of the EUIPO dated 14 December 2021 and notified on the same date, informing the applicant of the payment in its favour of the amount of EUR 5 000 in order to implement the judgment delivered by the General Court on 13 January 2021 in case T-610/18 ZR v EUIPO;
- in as far as necessary, annul the decision of the Chairperson of the Management Board of EUIPO, dated 28 June 2022, notified on the same date, rejecting the complaint filed under Article 90(2) of the EU Staff Regulations against the decision of 14 December 2021;
- award compensation of its material and moral prejudices; and
- order the reimbursement of all the costs incurred for the present appeal.

### Pleas in law and main arguments

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

1. First plea in law, alleging a breach of Article 266 TFEU and of the principle of equal treatment, as enshrined in Article 20 of the Charter of Fundamental Rights of the European Union, concerning the applicant in relation to other candidates who participated in the selection procedure.

The amount of EUR 5 000 cannot be considered as putting the applicant in the same situation as other candidates who, as a result of the breach of this principle, were included in the reserve list or obtained a more advantageous compensation.

2. Second plea in law, alleging a breach of the right of defence/right to judge, as enshrined in Article 47 of the Charter of Fundamental Rights of the European Union, and of the principles of good administration, duty of care and duty to state reasons, as enshrined in Article 41 of the Charter of Fundamental Rights of the European Union.

As regards the breach of the right of defence/right to judge, the only reason for refusal by the defendant of giving any consideration to the option of a transfer is based on the fact that the applicant exercised its right of appeal. The mere fact that the applicant lodged an appeal cannot be presented as a valid justification for the administration to deny a fair implementation of the judgment in case T-610/18 ZR v EUIPO;

As regards the breach of the principles of good administration, duty of care and duty to state reasons:

- first, the defendant did not take into consideration all the factors capable of affecting its decision since legally tenable options were rejected and the alternative option was ignored;
- second, the exchanges with the defendant based on one option envisaged by the administration can hardly qualify as a comprehensive dialogue aiming at finding a just solution.

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### Action brought on 8 November 2022 — van der Linde v EDPS

(Case T-678/22)

(2023/C 24/62)

*Language of the case: English*

### Parties

*Applicant:* Frank van der Linde (Netherlands) (represented by: C. Forget, lawyer)

*Defendant:* European Data Protection Supervisor

### Form of order sought

The applicant claims that the Court should:

- confirm the contested decision <sup>(1)</sup> insofar as the EDPS orders Europol to give the applicant access to all data concerning him in accordance with Article 36(2) of Regulation 2022/991 <sup>(2)</sup>;
- for the rest, annul the decision of the EDPS insofar as it does not offer the applicant sufficient guarantees since it does not provide for any time limit within which it must be executed, no penalty payment, and does not provide for any sufficient sanction with regard to Europol, thereby de facto depriving the applicant of the right of access and of the right to effective judicial protection within the meaning of Articles 8 and 47 of the Charter;
- in the alternative, award the applicant a provisional euro for non-material damage;
- in any event, order EDPS to pay the costs in the amount detailed by the applicant.