

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.

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 ⁽¹⁾ 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 ⁽²⁾;
- 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.

Pleas in law and main arguments

In support of the action, the applicant relies on one plea in law alleging a breach of Articles 8 and 47 of the EU Charter of Fundamental Rights.

- (¹) Decision of the European Data Protection Supervisor in complaint case 2020 — 0908 against the European Union Agency for Law Enforcement Cooperation (Europol) of 8 September 2022.
- (²) Regulation (EU) 2022/991 of the European Parliament and of the Council of 8 June 2022 amending Regulation (EU) 2016/794 as regards Europol's cooperation with private parties, the processing of personal data by Europol in support of criminal investigations and Europol's role in research and innovation (OJ 2022 L 169, p. 1).

Action brought on 14 November 2022 — Spain v Commission

(Case T-681/22)

(2023/C 24/63)

Language of the case: Spanish

Parties

Applicant: Kingdom of Spain (represented by: A. Gavela Llopis and M.J. Ruiz Sánchez, acting as Agents)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul Commission Implementing Regulation (EU) 2022/1614 (¹) of 15 September 2022 determining the existing deep-sea fishing areas and establishing a list of areas where vulnerable marine ecosystems are known to occur or are likely to occur, as regards the establishment of a list of areas where vulnerable marine ecosystems are known to occur or are likely to occur, set out in Article 2 and in Annex II.
- in addition, declare Article 9(6) and (9) of Regulation 2016/2336 (²) to be invalid, in accordance with Article 277 TFEU.
- order the European Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that Implementing Regulation 2022/1614, in so far as it establishes areas where vulnerable marine ecosystems are known to occur or are likely to occur, infringes the basic Regulation and the principle of proportionality:
 - In that regard, the applicant submits that:
 - (i) the failure to analyse the impact of passive deep-sea fishing gears infringes the basic Regulation and the principle of proportionality;
 - (ii) the determination of the areas where vulnerable marine ecosystems are known to occur or are likely to occur infringes the basic Regulation and the principle of proportionality.
2. Second plea in law, alleging that paragraphs 6 and 9 of Article 9 of Regulation 2016/2336 are unlawful:
 - In that regard, the applicant submits that:
 - (i) the reference to an implementing act to supplement essential elements of Regulation 2016/2336 infringes Article 291 TFEU;