

- grant the annulment of Commission Decision C(2020) 5540 final of 6 August 2020 and of Decision C(2021) 2834 final of 19 April 2021; and
- order the European Commission to pay the Applicant's costs; or
- in the alternative, remit the case to the General Court for a decision on its merits and reserve the costs

Pleas in law and main arguments

In their first plea in law, the Applicant contests the General Court's findings that there is no risk that the Commission will in the future breach Article 4(3) of the Regulation 1049/2001 (the 'Transparency Regulation') because:

- i. the 'climate of mutual trust' ground does not constitute a general presumption of confidentiality; and
- ii. there is no risk that the Commission will again rely on a vague ground, such as 'climate of mutual trust', in future document access requests.

In their second plea in law, the Applicant submits that the General Court erred in law when it concludes that there is no risk that there will be a repetition of the breaches of the principles of transparency, good administration, and procedural breaches of the Transparency Regulation that occurred in the procedure that gave rise to this proceedings.

Request for a preliminary ruling from the Curtea de Apel Pitești (Romania) lodged on 2 March 2023 — Asociația 'Forumul Judecătorilor din România', Asociația 'Mișcarea pentru Apărarea Statutului Procurorilor' v Parchetul de pe lângă Înalta Curte de Casație și Justiție — Procurorul General al României

(Case C-53/23, Asociația 'Forumul Judecătorilor din România')

(2023/C 189/13)

Language of the case: Romanian

Referring court

Curtea de Apel Pitești

Parties to the main proceedings

Applicants: Asociația 'Forumul Judecătorilor din România', Asociația 'Mișcarea pentru Apărarea Statutului Procurorilor'

Defendant: Parchetul de pe lângă Înalta Curte de Casație și Justiție — Procurorul General al României

Questions referred

1. Do Article 2 and the second subparagraph of Article 19(1) TEU, read in conjunction with Articles 12 and 47 [of the Charter of Fundamental Rights of the European Union, preclude the placing of limits on the bringing of certain legal proceedings by the professional associations of judges — aiming to promote and to protect the independence of the judiciary and the rule of law, and to safeguard the status of the profession — by introducing the condition that there must be a legitimate private interest which has been excessively restricted, on the basis of a binding decision of the High Court of Cassation and Justice, followed by a national practice in cases such as that in which the present question has been raised, which requires a direct link between the administrative act subject to judicial review by the courts and the direct purpose and objectives of the professional associations of judges, laid down in their articles of association, in cases where such associations seek to obtain effective judicial protection in matters governed by EU law, in accordance with the general purpose and objectives of the articles of association?

2. In the light of the answer to the first question, do Article 2, Article 4(3) and the second subparagraph of Article 19(1) TEU, Annex IX to the Act concerning the conditions of accession of Romania and Decision 2006/928 ⁽¹⁾ preclude national legislation which limits the competence of the National Anti-Corruption Directorate by conferring exclusive competence to investigate corruption offences (in a broad sense) committed by judges and prosecutors upon certain prosecutors appointed for that purpose (by the Prosecutor General of Romania, acting on a proposal of the plenary assembly of the Supreme Council of Judiciary) in the public prosecutor's office attached to the High Court of Cassation and Justice and, respectively, in the public prosecutor's offices attached to the Courts of Appeal, the latter also being competent for the other categories of offences committed by judges and prosecutors?

⁽¹⁾ Commission Decision of 13 December 2006 establishing a mechanism for cooperation and verification of progress in Romania to address specific benchmarks in the areas of judicial reform and the fight against corruption (OJ 2006 L 354, p. 56).

**Request for a preliminary ruling from the Administrativen sad Haskovo (Bulgaria) lodged on
7 February 2023 — ‘Ekostroy’ EOOD v Agentsia ‘Patna infrastruktura’**

(Case C-61/23, Ekostroy)

(2023/C 189/14)

Language of the case: Bulgarian

Referring court

Administrativen sad Haskovo

Parties to the main proceedings

Appellant: ‘Ekostroy’ EOOD

Respondent: Agentsia ‘Patna infrastruktura’

Question referred

Must Article 9a of Directive 1999/62/EC ⁽¹⁾ of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures be interpreted as meaning that the requirement laid down in that article that penalties for infringements of the national provisions adopted pursuant to that directive must be proportionate precludes national legislation, such as that at issue in the main proceedings, which provides for the imposition of a flat-rate fine (on natural or legal persons) for infringements of the provisions relating to the obligation to ascertain and pay in advance a toll for the use of the road infrastructure, irrespective of the nature and gravity of the infringement, with the option of being exempted from liability to pay an administrative penalty through payment of a so-called ‘redress charge’?

⁽¹⁾ OJ 1999 L 187, p. 42.

**Request for a preliminary ruling from the Landgericht Frankfurt am Main (Germany) lodged on
13 February 2023 — Cobult UG v TAP Air Portugal SA**

(Case C-76/23, Cobult)

(2023/C 189/15)

Language of the case: German

Referring court

Landgericht Frankfurt am Main

Parties to the main proceedings

Applicant: Cobult UG

Defendant: TAP Air Portugal SA