

**Pleas in law and main arguments**

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

1. First plea in law, alleging Switzerland's failure to comply with the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons (OJ 2002 L 114, p. 6) and Directive No 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ 2005 L 255, p. 22). The applicant submits that the Swiss Confederation, in July 2013, adopted a provision restricting doctors from setting up in overstuffed areas covered by compulsory Swiss medical insurance, which constitutes indirect discrimination on grounds of nationality, in so far as that restriction does not relate to doctors with 3 years' experience in Swiss university hospitals.
2. Second plea in law, alleging that there are no discriminatory measures on the part of the European Union vis-à-vis doctors who are Swiss nationals, in the name of the principle of reciprocity in international law, which the General Court should find, in the submission of the applicant.
3. Third plea in law, alleging the Commission's wrongful failure to act, in so far as it was obliged to act because it is the guarantor of the Treaties under Article 17(1) TEU and of the fundamental rights of European Union citizens. In that regard, the applicant relies on the principles of legitimate expectations towards institutions and legal certainty of acquired rights.
4. Fourth plea in law, alleging that the Commission's failure to deal with the applicant's request to act urgently constitutes, as fact, an implied refusal and therefore a decision adversely affecting him.
5. Fifth plea in law, alleging that the Commission is non-contractually liable on the basis of Article 340 TFEU for failure to act.

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**Action brought on 15 March 2019 — Breyer v Commission****(Case T-158/19)**

(2019/C 206/48)

*Language of the case: German***Parties**

*Applicant:* Patrick Breyer (Kiel, Germany) (represented by: J. Breyer, lawyer)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- annul the Commission's decision of 17 January 2019 bearing the reference Ares(2018)6073379; and
- order the Commission to pay the costs.

**Pleas in law and main arguments**

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

1. Misapplication of the first indent of Article 4(2) of Regulation (EC) No 1049/2001 <sup>(1)</sup> (protection of commercial interests)
  - In the first plea in law the applicant argues that the disclosure of documents concerning the approval and execution of the iBorderCtrl research project would not negatively impact the protection of the commercial interests of the consortium's members. The subject matter of the 'Intelligent Portable Border Control System' project is research into new technologies for immigration control, such as the introduction of 'automated lie detection' and the calculation of a risk value.
  - Further, the applicant claims that there is an overriding public interest in the disclosure of the documents at issue.
2. Second plea in law: misapplication of Articles 7(1) and 8(1) of Regulation (EC) No 1049/2001 (processing of applications)
  - In the second plea in law the applicant maintains that the Commission processed only the application for access to documents on the execution of the iBorderCtrl research project. However, the application for access to documents relating to the project's approval was not processed.

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<sup>(1)</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

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**Action brought on 22 March 2019 — Vincenti v EUIPO**

**(Case T-174/19)**

(2019/C 206/49)

*Language of the case: German*

**Parties**

*Applicant:* Guillaume Vincenti (Alicante, Spain) (represented by: H. Tettenborn, lawyer)

*Defendant:* European Union Intellectual Property Office (EUIPO)

**Form of order sought**

The applicant claims that the Court should:

- annul the decisions of the appointing authority of EUIPO, sent by letter of 6 June 2018, not to promote the applicant to the next grade (AST 8) in the 2014 promotion exercise, the 2015 promotion exercise, the 2016 promotion exercise and the 2017 promotion exercise; and