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Information and Notices

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(2019/C 263/01)

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These texts are available on:

EUR-Lex: http://eur-lex.europa.eu

GENERAL COURT

Designation of a Judge to replace a Judge who is prevented from acting

(2019/C 263/02)

1. On 10 July 2019, the General Court decided that, as of 27 September 2019, in those cases in which a Judge is prevented from acting, referred to in the second sentence of Article 17(2) and the second sentence of Article 24(2), respectively, of the Rules of Procedure of the General Court, the President of the General Court shall replace the Judge prevented from acting.

2. If the President of the General Court is prevented from acting, he shall designate the Vice-President of the General Court to replace him, in accordance with Article 11(1) of the Rules of Procedure.

3. If the Vice-President of the General Court is prevented from acting, the President of the General Court shall designate the Judge to replace him according to the order of precedence laid down in Article 8 of the Rules of Procedure, with the exception of the Presidents of Chambers.

4. If the Judge designated in accordance with paragraph 3 is prevented from acting, and the case in which the Judge is prevented from acting is a civil service case, as defined in the decision of the General Court of 3 July 2019 on the criteria for the assignment of cases to Chambers (OJ 2019 C 246, p. 2), or a case concerning intellectual property rights referred to in Title IV of the Rules of Procedure, the President of the General Court shall designate, following the order of precedence laid down in Article 8 of the Rules of Procedure, a Judge assigned to a Chamber examining the same type of cases as the Chamber to which the Judge prevented from acting belongs in order to replace him.

5. In order to ensure a balanced distribution of the caseload, the President of the General Court shall be able to deviate from the order of precedence laid down in Article 8 of the Rules of Procedure, as referred to in paragraphs 3 and 4 of the present decision.

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Seventh Chamber) of 5 June 2019 (request for a preliminary ruling from the Budai Központi Kerületi Bíróság — Hungary) — GT v HS

(Case C-38/17) ([1])

(Reference for a preliminary ruling — Consumer protection — Unfair terms in consumer contracts — Directive 93/13/EEC — Article 3(1) — Article 4(2) — Article 6(1) — Loan agreement denominated in foreign currency — The exchange rate applicable to the sum made available in domestic currency communicated to the consumer after the agreement has been concluded)

(2019/C 263/03)

Language of the case: Hungarian

Referring court

Budai Központi Kerületi Bíróság

Parties to the main proceedings

Applicant: GT

Defendant: HS

Operative part of the judgment

Articles 3(1), 4(2) and 6(1) of Council Directive 91/13/EEC of 5 April 1993 on unfair terms in consumer contracts are to be interpreted as not precluding the legislation of a Member State, as interpreted by the Supreme Court of that Member State, under which a loan agreement is not invalid if it is denominated in foreign currency and, although it specifies the sum corresponding to that set out in the consumer's application for finance in domestic currency, does not indicate the exchange rate applicable to that sum for the purpose of determining the definitive amount of the loan in foreign currency, but at the same time stipulates, in one of its terms, that that rate will be set by the lender in a separate document after the agreement has been concluded,

— where that term is in plain intelligible language, within the meaning of Article 4(2) of Directive 93/13, in that the mechanism for calculating the total amount lent and the exchange rate applicable are indicated transparently, so that a reasonably well-informed and reasonably observant and circumspect consumer may evaluate, on the basis of clear, intelligible criteria, the economic consequences for him of entering into the agreement, including, in particular, the total cost of the loan, or, if it is apparent that the term is not in plain intelligible language,

— where that term is not unfair, within the meaning of Article 3(1) of the directive, or, if it is unfair, the agreement concerned is capable of continuing in existence without the unfair term, in accordance with Article 6(1) of Directive 93/31.

(1) OJ C 178, 6.6.2017.

Judgment of the Court (Fifth Chamber) of 12 June 2019 (request for a preliminary ruling from the Sąd Najwyższy — Poland) — Prezes Urzędu Ochrony Konkurencji i Konsumentów v Orange Polska S.A.

(Case C-628/17) (1)

(Reference for a preliminary ruling — Consumer protection — Directive 2005/29/EC — Unfair business-to-consumer commercial practices — Concept of an aggressive commercial practice — Consumer required to take a final transactional decision in the presence of the courier handing over the general terms and conditions of the contract)

(2019/C 263/04)

Language of the case: Polish

Referring court

Sąd Najwyższy

Parties to the main proceedings

Applicant: Prezes Urzędu Ochrony Konkurencji i Konsumentów

Defendant: Orange Polska S.A.

Operative part of the judgment

Article 2(j) and Articles 8 and 9 of Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council must be interpreted as meaning that the application by a trader of a model for concluding or amending contracts for the supply of telecommunications services, such as that at issue in the main proceedings, under which the consumer must take the final transactional decision in the presence of a courier who delivers the standard-form contract, without being able freely to take cognisance of the content of that contract while the courier is present:

— does not constitute an aggressive commercial practice in all circumstances;

— does not constitute an aggressive commercial practice through the exertion of undue influence solely on the ground that not all the standard-form contracts were sent to the consumer individually beforehand, for example by email or to his home address, where that consumer had the opportunity, prior to the courier's visit, to take cognisance of their content; and

— constitutes an aggressive commercial practice through the exertion of undue influence where the trader or its courier adopt unfair conduct, the effect of which is to put pressure on the consumer such that his freedom of choice is significantly impaired, such as conduct that makes that consumer feel uncomfortable or confuses his thinking concerning the transactional decision to be taken.

(1) OJ C 104, 19.3.2018.

Judgment of the Court (Fifth Chamber) of 23 May 2019 (request for a preliminary ruling from the Verwaltungsgericht Oldenburg — Germany) — ReFood GmbH & Co. KG v Landwirtschaftskammer Niedersachsen

(Case C-634/17) (1)

(Reference for a preliminary ruling — Environment — Shipments of waste within the European Union — Regulation (EC) No 1013/2006 — Article 1(3)(d) — Scope — Regulation (EC) No 1069/2009 — Shipments of animal by-products)

(2019/C 263/05)

Language of the case: German

Referring court

Verwaltungsgericht Oldenburg

Parties to the main proceedings

Applicant: ReFood GmbH & Co. KG

Defendant: Landwirtschaftskammer Niedersachsen

Operative part of the judgment

Article 1(3)(d) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste, must be interpreted as meaning that shipments of animal by-products falling within the scope of Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation), are excluded from the scope of Regulation No 1013/2006, unless Regulation No 1069/2009 expressly provides for the application of Regulation No 1013/2006.

(1) OJ C 52, 12.2.2018.

Judgment of the Court (First Chamber) of 13 June 2019 (request for a preliminary ruling from the Tribunale di Brindisi — Italy) — Criminal proceedings against Gianluca Moro

(Case C-646/17) ([1])

(Reference for a preliminary ruling — Judicial cooperation in criminal matters — Directive 2012/13/EU — Right to information in criminal proceedings — Article 6(4) — Right of a person to be informed about the accusation against him — Being informed about any change in the information provided when that is necessary to safeguard the fairness of the proceedings — Change in the legal classification of the acts upon which the accusation is based — The accused person being unable to request, during the trial proceedings, the imposition of a negotiated penalty provided for under national law — Difference in the event of a change in the facts on which the accusation is based)

(2019/C 263/06)

Language of the case: Italian

Referring court

Tribunale di Brindisi

Parties in the main criminal proceedings

Gianluca Moro

Operative part of the judgment

Article 6(4) of Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings, and Article 48 of the Charter of Fundamental Rights of the European Union must be interpreted as not precluding national legislation under which the accused person may request, during the trial proceedings, the imposition of a negotiated penalty in the event of a change in the facts on which the accusation is based, and not in the event of a change in the legal classification of the acts on which the accusation is based.

([1]) OJ C 52, 12.2.2018.

Judgment of the Court (First Chamber) of 23 May 2019 (request for a preliminary ruling from the Sąd Okręgowy w Gorzowie Wielkopolskim — Poland) — Proceedings brought by WB

(Case C-658/17) ([1])

(Reference for a preliminary ruling — Judicial cooperation in civil matters — Regulation (EU) No 650/2012 — Article 3(1)(g) and (i) — Definition of a 'decision' in a matter of succession — Definition of an 'authentic instrument' in a matter of succession — Legal classification of the national deed of certification of succession — Article 3(2) — Definition of a 'court' — Failure by the Member State to notify the European Commission of notaries as non-judicial authorities exercising judicial functions like courts)

(2019/C 263/07)

Language of the case: Polish

Referring court

Sąd Okręgowy w Gorzowie Wielkopolskim

Parties to the main proceedings

WB

Intervener: Przemysława Bac, acting in her capacity as notary

Operative part of the judgment

1. The second subparagraph of Article 3(2) of Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession must be interpreted as meaning that failure by a Member State to notify the Commission of the exercise of judicial functions by notaries, as required under that provision, is not decisive for their classification as a 'court'.

   The first subparagraph of Article 3(2) of Regulation No 650/2012 must be interpreted as meaning that a notary who draws up a deed of certificate of succession at the unanimous request of all the parties to the procedure conducted by the notary, such as the deed at issue in the main proceedings, does not constitute a 'court' within the meaning of that provision and, consequently, Article 3(1)(g) of that regulation must be interpreted as meaning that such a deed does not constitute a 'decision' within the meaning of that provision.

2. Article 3(1)(i) of Regulation No 650/2012 is to be interpreted as meaning that a deed of certification of succession, such as that at issue in the main proceedings, drawn up by a notary at the unanimous request of all the parties to the procedure conducted by the notary, constitutes an 'authentic instrument' within the meaning of that provision, which may be issued at the same time as the form referred to in the second subparagraph of Article 59(1) of that regulation, which corresponds to the form set out in Annex 2 to [Commission Implementing Regulation (EU) No 1329/2014 of 9 December 2014 establishing the Forms referred to in Regulation No 650/2012].

([1]) OJ C 134, 16.4.2018.

Judgment of the Court (Third Chamber) of 13 June 2019 (request for a preliminary ruling from the Areios Pagos — Greece) — Ellinika Nafpigeia AE v Panagiotis Anagnostopoulos and Others

(Case C-664/17) ([1])

(Reference for a preliminary ruling — Social policy — Directive 2001/23/EC — Scope — Transfer of part of an undertaking — Safeguarding of employees' rights — Concept of 'transfer' — Concept of 'economic entity' — Transfer of part of the economic activity of a parent company to a newly created subsidiary — Identity — Autonomy — Pursuit of an economic activity — Criterion requiring stability of the pursuit of an economic activity — Recourse to factors of production of third parties — Intention to liquidate the entity transferred)

(2019/C 263/08)

Language of the case: Greek

Referring court

Areios Pagos

Parties to the main proceedings

Appellant: Ellinika Nafpigeia AE

Respondents: Panagiotis Anagnostopoulos and Others

Interveners: Syllogos Ergazomenon Nafpigeion Skaramagka, I TRIAINA, Panellinia Omospondia Ergatoÿpallilon Metallou (POEM), Geniki Synomospondia Ergaton Ellados (GSEE)

Operative part of the judgment

Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, in particular Article 1(1)(a) and (b) thereof, must be interpreted as applying to the transfer of a production unit where, first, the transferor, the transferee, or both those persons jointly, act with a view to the transferee pursuing the economic activity engaged in by the transferor, but also with a view to the transferee itself subsequently ceasing to exist, in the context of a liquidation, and second, the unit at issue, lacking the ability to attain its economic object without having recourse to factors of production from third parties, is not totally autonomous, provided that — matters which are for the referring court to establish — first, the general principle of EU law requiring the transferor and transferee not to seek to obtain fraudulently or wrongfully the advantages that they might derive from Directive 2001/23 is observed and, second, the production unit concerned has sufficient safeguards ensuring it access to the factors of production of a third party so as not to be dependent upon the economic choices unilaterally made by the latter.

([1]) OJ C 32, 29.1.2018.

Judgment of the Court (Fifth Chamber) of 12 June 2019 (request for a preliminary ruling from the Svea hovrätt — Sweden) — Patent- och registreringsverket v Mats Hansson

(Case C-705/17) ([1])

(Reference for a preliminary ruling — Trade marks — Directive 2008/95/EC — Article 4(1)(b) — Likelihood of confusion — Overall impression — Earlier trade mark registered with a disclaimer — Effects of such a disclaimer on the extent of protection of the earlier trade mark)

(2019/C 263/09)

Language of the case: Swedish

Referring court

Svea hovrätt

Parties to the main proceedings

Applicant: Patent- och registreringsverket

Defendant: Mats Hansson

Operative part of the judgment

Article 4(1)(b) of Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks must be interpreted as precluding national legislation making provision for a disclaimer whose effect would be to exclude an element of a complex trade mark, referred to in that disclaimer, from the global analysis of the relevant factors for showing the existence of a likelihood of confusion within the meaning of that provision, or to attribute to such an element, in advance and permanently, limited importance in that analysis.

([1]) OJ C 83, 5.3.2018.

Judgment of the Court (Fifth Chamber) of 23 May 2019 (request for a preliminary ruling from the Verwaltungsgerichtshof — Austria) — Mohammed Bilali v Bundesamt für Fremdenwesen und Asyl

(Case C-720/17) ([1])

(Reference for a preliminary ruling — Area of freedom, security and justice — Asylum policy — Subsidiary protection — Directive 2011/95/EU — Article 19 — Revocation of subsidiary protection status — Error on the part of the administrative authorities with respect to the facts)

(2019/C 263/10)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Mohammed Bilali

Defendant: Bundesamt für Fremdenwesen und Asyl

Operative part of the judgment

Article 19(1) of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, read in conjunction with Article 16 thereof, must be interpreted as meaning that a Member State must revoke subsidiary protection status if it granted that status when the conditions for granting it were not met, in reliance on facts which have subsequently been revealed to be incorrect, and notwithstanding the fact that the person concerned cannot be accused of having misled the Member State on that occasion.

([1]) OJ C 104, 19.3.2018.

Judgment of the Court of Justice (Third Chamber) of 13 June 2019 (request for a preliminary ruling from the Amtsgericht Darmstadt — Germany) — TopFit e.V., Daniele Biffi v Deutscher Leichtathletikverband e.V.

(Case C-22/18) ([1])

(Reference for a preliminary ruling — Citizenship of the Union — Articles 18, 21 and 165 TFEU — Rules of a sports association — Participation in the national championship of a Member State by an amateur athlete holding the nationality of another Member State — Different treatment on the basis of nationality — Restriction on free movement)

(2019/C 263/11)

Language of the case: German

Referring court

Amtsgericht Darmstadt

Parties to the main proceedings

Applicants: TopFit e.V., Daniele Biffi

Defendant: Deutscher Leichtathletikverband e.V.

Operative part of the judgment

Articles 18, 21 and 165 TFEU must be interpreted as precluding rules of a national sports association, such as those at issue in the main proceedings, under which an EU citizen, who is a national of another Member State and who has resided for a number of years in the territory of the Member State where that association, in which he runs in the senior category and in an amateur capacity, is established, cannot participate in the national championships in those disciplines in the same way as nationals can, or can participate in them only 'outside classification' or 'without classification', without being able to progress to the final and without being eligible to be awarded the title of national champion, unless those rules are justified by objective considerations which are proportionate to the legitimate objective pursued, this being a matter for the referring court to verify.

([1]) OJ C 123, 9.4.2018.

Judgment of the Court (Sixth Chamber) of 6 June 2019 (request for a preliminary ruling from the Cour du travail de Liège — Belgium) — V v Institut national d'assurances sociales pour travailleurs indépendants (Inasti), Securex Integrity ASBL

(C-33/18) ([1])

(Reference for a preliminary ruling — Coordination of social security systems — Migrant workers — Regulation (EC) No 883/2004 — Transitional provisions — Article 87(8) — Regulation (EEC) No 1408/71 — Article 14c(b) — Worker exercising an activity as an employed and an activity as a self-employed person in different Member States — Derogations from the principle of a single applicable national legislation — Double affiliation — Application to be subject to the legislation applicable under Regulation No 883/2004)

(2019/C 263/12)

Language of the case: French

Referring court

Cour du travail de Liège

Parties to the main proceedings

Applicant: V

Defendant: Institut national d'assurances sociales pour travailleurs indépendants, Securex Integrity ASBL

Operative part of the judgment

Article 87(8) of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, as amended by Regulation (EC) No 988/2009 of the European Parliament and of the Council of 16 September 2009, must be interpreted as meaning that a person who, at the date of application of Regulation No 883/2004, exercised as activity as an employed person in one Member State and an activity as a self-employed person in another Member State, thereby being simultaneously subject to legislations applicable to social security in those two Member States, should not, in order to be subject to the legislation applicable under Regulation No 883/2004, as amended by Regulation No 988/2009, submit an express application to that effect.

([1]) OJ C 112, 26.3.2018.

Judgment of the Court (First Chamber) of 12 June 2019 (request for a preliminary ruling from the Conseil d'État — Belgium) — Compagnie d'entreprises CFE SA v Région de Bruxelles-Capitale

(Case C-43/18) ([1])

(Reference for a preliminary ruling — Environment — Directive 2001/42/EC — Assessment of the effects of certain plans and programmes on the environment — Order — Designation of a special area of conservation in accordance with Directive 92/43/EEC — Establishment of conservation objectives and certain preventive measures — Notion of 'plans and programmes' — Obligation to undertake an environmental assessment)

(2019/C 263/13)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Compagnie d'entreprises CFE SA

Defendant: Région de Bruxelles-Capitale

Operative part of the judgment

Article 3(2) and (4) of Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment must be interpreted as meaning that, subject to the verifications to be made by the referring court, an order such as that at issue in the main proceedings, by which a Member State designates a special area of conservation (SAC) and establishes conservation objectives as well as certain preventive measures, does not fall within 'plans and programmes' for which an assessment of the effects on the environment is obligatory.

([1]) OJ C 112, 26.3.2018.

Judgment of the Court (First Chamber) of 6 June 2019 (request for a preliminary ruling from the Justice de Paix du canton de Visé — Belgium) — Michel Schyns v Belfius Banque SA

(Case C-58/18) ([1])

(Reference for a preliminary ruling — Consumer protection — Directive 2008/48/EC — Pre-contractual obligations — Article 5(6) — Obligation on the creditor to seek to establish the credit most suitable — Article 8(1) — Obligation on the creditor to refrain from concluding the loan agreement if there are doubts over the creditworthiness of the consumer — Obligation on the creditor to assess the expediency of the credit)

(2019/C 263/14)

Language of the case: French

Referring court

Justice de Paix du canton de Visé

Parties to the main proceedings

Applicant: Michel Schyns

Defendant: Belfius Banque SA

Operative part of the judgment

1. Article 5(6) of Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC must be interpreted as not precluding a national rule, such as that at issue in the main proceedings, which obliges creditors or credit intermediaries to seek to establish, within the framework of the credit agreements which they usually offer, the type and the amount of credit most suitable, taking into account the consumer's financial situation at the time the credit agreement is concluded and the purpose of the credit.

2. Article 5(6) and Article 8(1) of Directive 2008/48 must be interpreted as not precluding a national rule, such as that at issue in the main proceedings, which obliges the creditor to refrain from concluding the credit agreement if he cannot reasonably take the view, following the check of the consumer's creditworthiness, that the consumer will be able to fulfil the obligations arising from the proposed agreement.

([1]) OJ C 166. 14.5.2018.

Judgment of the Court (Fourth Chamber) of 5 June 2019 (request for a preliminary ruling from the cour d'appel de Bruxelles — Belgium) — Skype Communications Sàrl v Institut belge des services postaux et des télécommunications (IBPT)

(Case C-142/18) ([1])

(Reference for a preliminary ruling — Electronic communications networks and services — Directive 2002/21/EC — Article 2(c) — Notion of 'electronic communications service' — Transmission of signals — Voice over Internet Protocol (VoIP) service to fixed or mobile telephone numbers — SkypeOut service)

(2019/C 263/15)

Language of the case: French

Referring court

Cour d'appel de Bruxelles

Parties to the main proceedings

Applicant: Skype Communications Sàrl

Defendant: Institut belge des services postaux et des télécommunications (IBPT)

Operative part of the judgment

Article 2(c) of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), as amended by Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009, must be interpreted as meaning that the provision, by a software publisher, of a feature offering a Voice over Internet Protocol (VoIP) service which allows the user to call a fixed or mobile number covered by a national numbering plan from a terminal via the public switched telephone network (PSTN) of a Member State constitutes an 'electronic communications service' within the meaning of that provision, provided that, first, the software publisher is remunerated for the provision of that service and, second, the provision of that service involves the conclusion of agreements between that software publisher and telecommunications service providers that are duly authorised to send and terminate calls to the PSTN.

([1]) OJ C 161, 7.5.2018.

Judgment of the Court (Sixth Chamber) of 12 June 2019 (request for a preliminary ruling from the Tribunal Supremo — Spain) — Oro Efectivo SL v Diputación Foral de Bizkaia

(Case C-185/18) ([1])

(Reference for a preliminary ruling — Value added tax (VAT) — Directive 2006/112/EC — Article 401 — Principle of fiscal neutrality — Acquisition by an undertaking, from private individuals, of objects with a high gold or other precious metal content with a view to resale — Duty on transfers of assets)

(2019/C 263/16)

Language of the case: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Applicant: Oro Efectivo SL

Defendant: Diputación Foral de Bizkaia

Operative part of the judgment

Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax and the principle of fiscal neutrality must be interpreted as not precluding a national rule of law, such as that at issue in the main proceedings, which subjects to an indirect tax on asset transfers, other than value added tax, the acquisition by an undertaking, from private individuals, of objects with a high gold or other precious metal content, where those assets are intended for use in the economic activities of that undertaking, which, with a view to their being processed and placed back on the market, resells them to undertakings specialising in the manufacture of ingots or a variety of items made from precious metals.

([1]) OJ C 182, 28.5.2018.

Judgment of the Court (Fourth Chamber) of 13 June 2019 (request for a preliminary ruling from the Oberverwaltungsgericht für das Land Nordrhein-Westfalen — Germany) — Google LLC v Bundesrepublik Deutschland

(Case C-193/18) ([1])

(Reference for a preliminary ruling — Electronic communications networks and services — Directive 2002/21/EC — Article 2(c) — Concept of 'electronic communications service' — Conveyance of signals — Web-based email service — Gmail service)

(2019/C 263/17)

Language of the case: German

Referring court

Oberverwaltungsgericht für das Land Nordrhein-Westfalen

Parties to the main proceedings

Applicant: Google LLC

Defendant: Bundesrepublik Deutschland

Operative part of the judgment

Article 2(c) of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), as amended by Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009, must be interpreted as meaning that a web-based email service which does not itself provide internet access, such as the Gmail service provided by Google LLC, does not consist wholly or mainly in the conveyance of signals on electronic communications networks and therefore does not constitute an 'electronic communications service' within the meaning of that provision.

([1]) OJ C 211, 18.6.2018.

Judgment of the Court (Sixth Chamber) of 6 June 2019 — Deichmann SE v European Union Intellectual Property Office (EUIPO), Munich SL

(Case C-223/18 P) ([1])

(Appeal — EU trade mark — Regulation (EC) No 207/2009 — Revocation proceedings — Figurative mark representing a cross on the side of a sports shoe — Rejection of the application for revocation)

(2019/C 263/18)

Language of the case: English

Parties

Appellant: Deichmann SE (represented by: C. Onken, Rechtsanwältin)

Other parties to the proceedings: European Union Intellectual Property Office (EUIPO) (represented by: D. Gája, acting as Agent), Munich SL (represented by: J. Güell Serra and M. del Mar Guix Vilanova, abogados)

Operative part of the judgment

The Court:

1. Dismisses the appeal;

2. Orders Deichmann SE to pay the costs.

([1]) OJ C 249, 16.7.2018.

Judgment of the Court (Fifth Chamber) of 6 June 2019 (request for a preliminary ruling from the Grondwettelijk Hof — Belgium) — P. M., N. G.d.M., P. V.d.S. v Ministerraad

(Case C-264/18) ([1])

(Reference for a preliminary ruling — Procedures for the award of public works contracts, public supply contracts and public service contracts — Directive 2014/24/EU — Article 10, (c), and (d)(i),(ii) and (v) — Validity — Scope — Exclusion of arbitration and conciliation services and of certain legal services — Principles of equal treatment and subsidiarity — Articles 49 and 56 TFEU)

(2019/C 263/19)

Language of the case: Dutch

Referring court

Grondwettelijk Hof

Parties to the main proceedings

Applicants: P. M., N. G.d.M., P. V.d.S.

Defendant: Ministerraad

Operative part of the judgment

The examination of the question referred has disclosed no factor of such a kind as to affect the validity of the provisions of Article 10(c) and (d)(i),(ii) and (v) of Directive 2014/24/EU, of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, having regard to the principles of equal treatment and subsidiarity, and also Articles 49 and 56 TFEU.

([1]) OJ C 276, 6.8.2018.

Judgment of the Court (Eighth Chamber) of 13 June 2019 (request for a preliminary ruling from the Tribunal Judicial da Comarca de Faro) — Cátia Correia Moreira v Município de Portimão

(Case C-317/18) ([1])

(Reference for a preliminary ruling — Directive 2001/23/EC — Transfers of undertakings — Safeguarding of employees' rights — Concept of 'worker' — Substantial change in working conditions to the detriment of the employee)

(2019/C 263/20)

Language of the case: Portuguese

Referring court

Tribunal Judicial da Comarca de Faro

Parties to the main proceedings

Applicant: Cátia Correia Moreira

Defendant: Município de Portimão

Operative part of the judgment

1. Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, in particular Article 2(1)(d), must be interpreted as meaning that a person who has entered into a contract for a position of trust, within the meaning of the national legislation at issue in the main proceedings, with the transferor may be regarded as an 'employee' and thus benefit from the protection which that directive affords, provided, however, that that person is protected as an employee by that legislation and has a contract of employment at the date of transfer, which is a matter for the referring court to determine.

2. Directive 2001/23, read in conjunction with Article 4(2) TEU, must be interpreted as meaning that it precludes national legislation which provides that, in the event of a transfer within the meaning of that directive and where the transferee is a municipality, the employees concerned must, first, undergo a public competitive selection procedure and, secondly, have a new relationship with the transferee.

([1]) OJ C 268, 30.7.2018.

Judgment of the Court (First Chamber) of 12 June 2019 (request for a preliminary ruling from the Conseil d'État — Belgium) — Terre wallonne ASBL v Région wallonne

(Case C-321/18) ([1])

(Reference for a preliminary ruling — Environment — Directive 2001/42/EC — Assessment of the effects of certain plans and programmes on the environment — Decree — Establishment of conservation objectives for the Natura 2000 network, in accordance with Directive 92/43/EEC — Definition of 'plans and programmes' — Obligation to undertake an environmental assessment)

(2019/C 263/21)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Terre wallonne ASBL

Defendant: Région wallonne

Operative part of the judgment

Article 3(2) and (4) of Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment, must be interpreted as meaning that a decree, such as that at issue in the main proceedings, by which a body of a Member State establishes, at regional level for its Natura 2000 network, conservation objectives which have an indicative value, whereas the conservation objectives at site level have a statutory value, is not one of the 'plans and programmes', within the meaning of that directive, for which an environmental impact assessment is mandatory.

([1]) OJ C 259, 23.7.2018.

Judgment of the Court (Sixth Chamber) of 6 June 2019 (request for a preliminary ruling from the Szekszárdi Járásbíróság — Hungary) — Ágnes Weil v Géza Gulácsi

(Case C-361/18) ([1])

(Reference for a preliminary ruling — Judicial cooperation in civil matters — Regulation (EU) No 1215/2012 — Article 66 — Temporal scope — Regulation (EC) No 44/2001 — Material scope — Civil and commercial matters — Article 1(1) and (2)(a) — Matters excluded — Rights in property arising out of a matrimonial relationship — Article 54 — Application for the certificate certifying that the judgment given by the court of origin is enforceable — Judgment given concerning a debt stemming from the settlement of rights in property arising out of an unregistered non-marital partnership)

(2019/C 263/22)

Language of the case: Hungarian

Referring court

Szekszárdi Járásbíróság

Parties to the main proceedings

Applicant: Ágnes Weil

Defendant: Géza Gulácsi

Operative part of the judgment

1. Article 54 of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that a Member State's court hearing an application for a certificate certifying that a judgment given by the court of origin is enforceable must, in a situation such as that at issue in the main proceedings, where the court which gave the judgment to be enforced did not adjudicate, when giving that judgment, on whether that regulation was applicable, ascertain whether the dispute falls within the scope of that regulation.

2. Article 1(1) and (2)(a) of Regulation No 44/2001 must be interpreted as meaning that an action, such as that at issue in the main proceedings, concerning an application for dissolution of the property relationships arising out a de facto (unregistered) partnership, comes within the concept of 'civil and commercial matters' within the meaning of Article 1(1) of that regulation and falls, therefore, within the material scope of that regulation.

(1) OJ C 311, 3.9.2018.

Judgment of the Court (Second Chamber) of 13 June 2019 (request for a preliminary ruling from the Gerechtshof 's-Hertogenbosch — Netherlands) — IO v Inspecteur van de rijksbelastingdienst

(Case C-420/18) (1)

(Request for a preliminary ruling — Value added tax (VAT) — Directive 2006/112/EC — Articles 9 and 10 — Taxable person — Economic activity carried out 'independently' — Definition — Activity as a member of the Supervisory Board of a foundation)

(2019/C 263/23)

Language of the case: Dutch

Referring court

Gerechtshof 's-Hertogenbosch

Parties to the main proceedings

Applicant: IO

Defendant: Inspecteur van de rijksbelastingdienst

Operative part of the judgment

Articles 9 and 10 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that a member of the Supervisory Board of a foundation, such as the applicant in the main proceedings, who, although he is not bound to the governing body of that foundation by any employer-employee relationship or to the Supervisory Board of that foundation by such a relationship in respect of the performance of his role as a member of that board, does not act in his name, on his own behalf or under his own responsibility, but on behalf of and under the responsibility of that Supervisory Board and does not bear the economic risk arising from his activities, since he receives a fixed remuneration which is not dependent on his participation in meetings or hours actually worked, does not carry out an economic activity independently.

(1) OJ C 319, 10.9.2018.

Judgment of the Court (Sixth Chamber) of 6 June 2019 — Inge Barnett v European Economic and Social Committee

(Case C-503/18 P) ([1])

(Appeal — Civil service — Official — Retirement pension — Early retirement without reduction of pension rights — Staff Regulations of Officials of the European Union — Article 9(2) of Annex VIII — General implementing provisions — Interests of the service — Decision adopted to comply with a judgment of the European Union Civil Service Tribunal — Article 266 TFEU — Res judicata)

(2019/C 263/24)

Language of the case: French

Parties

Appellant: Inge Barnett (represented by: S. Orlandi and T. Martin, acting as Agents)

Other party: European Economic and Social Committee (represented by: Pascua Mateo, A. Carvajal and L. Camarena Januzec, acting as Agents, and by M. Troncoso Ferrer, abogado, F.-M. Hislaire, avocat)

Operative part of the judgment

The Court:

1. dismisses the appeal;

2. orders Mrs Inge Barnett to bear her own expenses, as well as those incurred by the European Economic and Social Committee (EESC).

([1]) OJ C 381, 22.10.2018.

Judgment of the Court (Fifth Chamber) of 13 June 2019 (request for a preliminary ruling from the Conseil d'État — France) — Copebi SCA v Établissement national des produits de l'agriculture et de la mer (FranceAgriMer)

(Case C-505/18) ([1])

(Reference for a preliminary ruling — State aid — Decision 2009/402/EC — Contingency plans in the fruit and vegetable sector implemented by the French Republic — Finding that the aid is incompatible — Recovery order — Scope of the decision — Economic agricultural committees)

(2019/C 263/25)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Appellant: Copebi SCA

Respondent: Etablissement national des produits de l'agriculture et de la mer (FranceAgriMer)

Other party: Ministre de l'Agriculture et de l'Alimentation

Operative part of the judgment

Commission Decision 2009/402/EC of 28 January 2009 on the 'contingency plans' in the fruit and vegetable sector implemented by France must be interpreted as covering aid paid by the Office national interprofessionnel des fruits, des légumes et de l'horticulture (ONIFLHOR) (National Fruit, Vegetables and Horticulture Trade Board) to the comité économique bigarreau industrie (CEBI) (Economic Committee for the Whiteheart Cherry Industry) and allocated to producers of whiteheart cherries for industrial uses by the producer groups which are members of that committee, even though first, the CEBI is not one of the eight economic agricultural committees referred to in that decision and, second, that aid, unlike the financing mechanism described in that decision, was financed only by subsidies from ONIFLHOR and not also by voluntary contributions from producers.

([1]) OJ C 364, 8.10.2018.

Judgment of the Court (Grand Chamber) of 27 May 2019 (request for a preliminary ruling from the Supreme Court, High Court (Ireland) — Ireland) — Proceedings relating to the execution of European arrest warrants issued in respect of OG (C-508/18), PI (C-82/19 PPU)

(Joined Cases C-508/18 and C-82/19 PPU) ([1])

(Reference for a preliminary ruling — Urgent preliminary ruling procedure — Police and judicial cooperation in criminal matters — European arrest warrant — Framework Decision 2002/584/JHA — Article 6(1) — Concept of 'issuing judicial authority' — European arrest warrant issued by a public prosecutor's office of a Member State — Legal position — Whether subordinate to a body of the executive — Power of a Ministry of Justice to issue an instruction in a specific case — No guarantee of independence)

(2019/C 263/26)

Language of the case: English

Referring court

Supreme Court, High Court (Ireland)

Parties to the main proceedings

Applicant: OG (C-508/18) and PI (C-82/19 PPU)

Operative part of the judgment

1. Cases C-508/18 and C-82/19 PPU are joined for the purposes of the judgment.

2. The concept of an 'issuing judicial authority', within the meaning of Article 6(1) of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, as amended by Council Framework Decision 2009/299/JHA of 26 February 2009, must be interpreted as not including public prosecutors' offices of a Member State which are exposed to the risk of being subject, directly or indirectly, to directions or instructions in a specific case from the executive, such as a Minister for Justice, in connection with the adoption of a decision to issue a European arrest warrant.

([1]) OJ C 364, 8.10.2018.
OJ C 122, 1.4.2019.

Judgment of the Court (Grand Chamber) of 27 May 2019 (request for a preliminary ruling from the Supreme Court — Ireland) — Execution of a European arrest warrant issued in respect of PF

(Case C-509/18) ([1])

(Reference for a preliminary ruling — Police and judicial cooperation in criminal matters — European arrest warrant — Framework Decision 2002/584/JHA — Article 6(1) — Concept of 'issuing judicial authority' — European arrest warrant issued by the Prosecutor General of a Member State — Legal position — Guarantee of independence)

(2019/C 263/27)

Language of the case: English

Referring court

Supreme Court

Party to the main proceedings

PF

Operative part of the judgment

The concept of an 'issuing judicial authority', within the meaning of Article 6(1) of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, as amended by Council Framework Decision 2009/299/JHA of 26 February 2009, must be interpreted as including the Prosecutor General of a Member State who, whilst institutionally independent from the judiciary, is responsible for the conduct of criminal prosecutions and whose legal position, in that Member State, affords him a guarantee of independence from the executive in connection with the issuing of a European arrest warrant.

([1]) OJ C 364, 8.10.2018.

Request for a preliminary ruling from the Tribunalul București (Romania) lodged on 3 January 2019 — Wilo Salmson France SAS v Agenția Națională de Administrare Fiscală — Direcția Generală Regională a Finanțelor Publice București and Agenția Națională de Administrare Fiscală — Direcția Generală Regională a Finanțelor Publice București — Administrația Fiscală pentru Contribuabili Nerezidenți

(Case C-10/19)

(2019/C 263/28)

Language of the case: Romanian

Referring court

Tribunalul București

Parties to the main proceedings

Applicant: Wilo Salmson France SAS

Defendants: Agenția Națională de Administrare Fiscală — Direcția Generală Regională a Finanțelor Publice București and Agenția Națională de Administrare Fiscală — Direcția Generală Regională a Finanțelor Publice București — Administrația Fiscală pentru Contribuabili Nerezidenți

By Order of 5 June 2019, the Court (Tenth Chamber) declared the request for a preliminary ruling manifestly inadmissible.

Appeal brought on 19 February 2019 by Dovgan GmbH against the judgment of the General Court (First Chamber) delivered on 13 December 2018 in Case T-830/16 Monolith Frost GmbH v European Union Intellectual Property Office (EUIPO)

(Case C-142/19 P)

(2019/C 263/29)

Language of the case: German

Parties

Appellant: Dovgan GmbH (represented by: C. Rohnke, Rechtsanwalt)

Other parties to the proceedings: European Union Intellectual Property Office (EUIPO), Monolith Frost GmbH

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court (First Chamber) of the European Union of 13 December 2018 in Case T-830/16;

— further, dismiss the action at first instance.

Grounds of appeal and main arguments

The appellant invokes errors in law in the form of infringements of EU law and distortion of the clear sense of the evidence.

1. Distortion of the clear sense of the evidence

Contrary to the statement of the General Court in paragraph 55 of the judgment under appeal, the Amtsgericht Köln (Local Court, Cologne, Germany) did not find that a significant proportion of the population of Germany speaks Russian.

Contrary to the statement of the General Court in paragraph 64 of the judgment under appeal, the Board of Appeal did call into question the decision of the Cancellation Division of EUIPO to the effect that 'пломбир' ('plombir') was used in the former USSR as a name of a type of ice cream.

2. Infringement of Article 85(3) of the Rules of Procedure of the General Court

The General Court infringed Article 85(3) of its Rules of Procedure as it wrongly failed to take into consideration the decision of the Bundesgerichtshof (Federal Court of Justice, Germany) of 6 July 2017 put before it by the intervener. The fact that the decision was put before the General Court only during the oral procedure was justified by the date of that decision. In addition, this constituted evidence in rebuttal under Article 92(7) of the Rules of Procedure of the General Court.

3. Infringement of Article 85(1) of the Rules of Procedure of the General Court

In paragraph 69 of the judgment under appeal, the General Court wrongly made reference to the applicant's Annexes K16 and K17. The applicant put those annexes before the General Court out of time and therefore, under Article 85(1) of the Rules of Procedure, they should not have been allowed to be taken into consideration.

4. Infringement of the obligation to state reasons

The judgment under appeal does not contain sufficient reasoning as to why the General Court accepted the assertion that in the Baltic states a significant proportion of citizens know the meaning of the Russian word 'пломбир'. In particular, there is a lack of a finding that it is a basic vocabulary word that is also understood by those for whom Russian is not their mother tongue.

The judgment under appeal (in particular paragraphs 64 and 65) also contains insufficient reasoning as to why 'пломбир' did not refer to a fancy name or trade mark for a product in the former USSR.

Finally, the judgment under appeal (paragraph 66) provided no justification as to why the mere mention of a term in the GOST set of technical standards should allow it to be assumed that it is a 'common word' in Russian and why this set of standards should be known by the relevant public in the European Union.

Request for a preliminary ruling from the Trgovački sud u Zagrebu (Croatia) lodged on 28 March 2019 — PARKING d.o.o. v SAWAL d.o.o.

(Case C-267/19)

(2019/C 263/30)

Language of the case: Croatian

Referring court

Trgovački sud u Zagrebu

Parties to the main proceedings

Applicant: PARKING d.o.o.

Defendant: SAWAL d.o.o.

Questions referred

1. Is a provision of national law, namely Article 1 of the Ovršni zakon (Law on enforcement) (published in the Narodne novine No 112/12, 25/13, 93/14, 55/16 and 73/17), which gives notaries the power to enforce the recovery of debts based on an authentic document by issuing a writ of execution, as an enforcement order, without the express agreement of the debtor who is a legal person established in the Republic of Croatia, compatible with Article 6(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms and Article 18 of the Treaty on the Functioning of the European Union, in the light of the judgments of the Court of Justice of the European Union in Cases C-484/15 and C-551/15?

2. Can the interpretation given in the Court's judgments of 9 March 2017, *Zulfikarpašić* (C-484/15, EU:C:2017:199) and *Pula Parking* (C-551/15, EU:C:2017:193), be applied to Case Povrv-1614/2018, described above, brought before the referring court, and, specifically, is Regulation No 1215/2012 to be interpreted as meaning that, in Croatia, notaries, acting within the framework of the powers conferred on them by national law in enforcement proceedings based on an 'authentic document', in which the parties against whom enforcement is sought are legal persons established in other EU Member States, do not fall within the concept of 'court' within the meaning of that regulation?

Request for a preliminary ruling from the Visoki trgovački sud Republike Hrvatske (Croatia) lodged on 11 April 2019 — Obala i lučice d.o.o. v NLB Leasing d.o.o.

(Case C-307/19)

(2019/C 263/31)

Language of the case: Croatian

Referring court

Visoki trgovački sud Republike Hrvatske

Parties to the main proceedings

Appellant: Obala i lučice d.o.o.

Respondent: NLB Leasing d.o.o.

Questions referred

1. Are notaries authorised to effect service of documents under Regulation (EC) No 1393/2007 ([1]) of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters when they serve notice of their decisions in cases in which Regulation No 1215/2012 ([2]) does not apply, bearing in mind that, in Croatia, notaries acting within the framework of the powers conferred on them by national law in enforcement proceedings based on an 'authentic document' do not fall within the concept of 'court' within the meaning of Regulation No 1215/2012? In other words, given that notaries do not fall within the concept of 'court' for the purposes of Regulation No 1215/2012, are they able, when acting within the framework of the powers conferred on them by national law in enforcement proceedings based on an 'authentic document', to apply the rules governing service of documents established in Regulation (EC) No 1393/2007?

2. Can parking in the street and on the public highway, where the right to collect payment is conferred by the Zakon o sigurnosti prometa na cestama (Law on Road Safety) and the legislation governing the performance of municipal activities as public authority activities, be considered a civil matter within the meaning of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast), which governs the question of the jurisdiction of the courts and the recognition and enforcement of judgments in civil and commercial matters, especially having regard to the fact that, where a vehicle is found without a parking ticket or with an invalid ticket, it is immediately subject to a requirement to pay for a daily ticket, as though it had been parked for the whole day, regardless of the precise length of time for which it was parked, meaning that this daily parking charge has a punitive effect, and that in some Member States this type of parking constitutes a traffic offence?

3. In court proceedings of the type referred to above concerning parking in the street and on the public highway, where the right to collect payment is conferred by the Law on Road Safety and the legislation governing the performance of municipal activities as public authority activities, can the courts effect service of a document on the defendants in another Member State under Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters?

If, based on the above questions, this type of parking is ruled to be a civil matter, the following further questions are referred:

4. In the present case, there is a presumption that a contract is concluded in respect of the aforesaid on-street parking in a space designated by horizontal and/or vertical markings; in other words, by parking there one is deemed to enter into a contract, and if one fails to pay the correct hourly parking charge one has to pay for a daily ticket. The question is therefore raised as to whether that presumption, that parking gives rise to a contract and entails consent to pay for a daily ticket if one does not buy a ticket in accordance with the hourly parking tariff or if the parking period on the ticket has expired, is contrary to the basic stipulations on the provision of services in Article 56 of the Treaty on the Functioning of the European Union and to the other provisions in the EU *acquis*.

5. In the present case the parking took place in Zadar, Croatia, and there is therefore a connection between that contract and the Croatian courts. But does this parking constitute a 'service' within the meaning of Article 7(1) of Regulation (EU) No 1215/2012, bearing in mind that the concept of service implies that the party who provides the service carries out a particular activity, that is, that the said party carries out that particular activity in return for remuneration. The question is therefore whether the activity carried out by the appellant is sufficient for it to be considered a service. If the Croatian courts do not have special jurisdiction under Article 7(1) of Regulation (EU) No 1215/2012, jurisdiction to hear the case would lie with the court of the respondent's domicile.

6. Can parking in the street and on the public highway, where the right to collect payment is conferred by the Law on Road Safety and the legislation governing the performance of municipal activities as public authority activities, and charges are levied only during a specified period during the day, be considered a tenancy agreement for immovable property under Article 24(1) of Regulation (EU) No 1215/2012?

7. If the aforementioned presumption that the parking entails the conclusion of a contract (fourth question referred) cannot be applied in this case, can this type of parking, where authority to collect parking charges is conferred by the Law on Road Safety and a daily ticket must be purchased if a ticket for the parking period is not purchased in advance or if the parking ticket has expired, be deemed to constitute a matter relating to tort, delict or quasi-delict within the meaning of Article 7(2) of Regulation (EU) No 1215/2012?

8. In the present case, the parking took place before Croatia joined the European Union, specifically at 13.02 on 30 June 2012. Therefore, the question is asked whether the regulations governing applicable law, namely Regulation No 593/2008 ([3]) or Regulation No 864/2007, ([4]) apply in the present case, having regard to their temporal validity.

If the Court of Justice of the European Union has jurisdiction to provide a response on the application of the material law, the following question is referred:

9. Is the presumption that this type of parking gives rise to a contract and entails consent to pay for a daily ticket if one does not pay the hourly parking charges or if the ticket expires, contrary to the basic stipulations on the provision of services in Article 56 TFEU and to the other provisions of the *acquis*, irrespective of whether the owner of the vehicle is a natural or a legal person? In other words, for the purposes of determining the material law, can the provisions of Article 4 of Regulation No 593/2008 apply in this case (given that there is no evidence in the proceedings to show that the parties came to an agreement on the applicable law)?

— If a contract is held to exist, would it be a contract for the provision of services in the present case, that is to say, can the parking contract be considered a service within the meaning of Article 4(1)(b) of Regulation No 593/2008?

— In the alternative, could the parking be considered to constitute a tenancy agreement in accordance with Article 4(1)(c) of Regulation No 593/2008?

— In the alternative, if the parking comes under the provisions of Article 4(2) of Regulation No 593/2008, the question arises as to what constitutes the characteristic performance in the present case, bearing in mind that, in essence, the appellant merely marks the parking area on the roadway and collects parking charges, while the respondent parks and pays for the parking. In practice, if the characteristic performance is considered to be that of the appellant, Croatian law would apply, whereas if the characteristic performance is that of the respondent, Slovenian law would apply. However, given that in this case the right to collect parking charges is regulated by Croatian law, with which, therefore, the contract is more closely connected, can the provisions of Article 4([3]) of Regulation No 593/2008 nevertheless also apply?

— If the case is considered to involve a non-contractual obligation within the terms of Regulation No 864/2007, could this non-contractual obligation be considered to constitute damage, meaning that the applicable law would be determined in accordance with Article 4(1) of Regulation No 864/2007?

— In the alternative, could this type of parking be considered to constitute unjust enrichment, meaning that the applicable law would be determined in accordance with Article 10(1) of Regulation No 864/2007?

— In the alternative, could this type of parking be considered to constitute *negotiorum gestio*, in which case the applicable law would be determined in accordance with Article 11(1) of Regulation No 864/2007?

— In the alternative, could this type of parking be considered to constitute liability on the part of the respondent for *culpa in contrahendo*, in which case the applicable law would be determined in accordance with Article 12(1) of Regulation No 864/2007?

([1]) Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000 (OJ 2007 L 324, p. 79).

([2]) Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2012 L 351, p. 1).

([3]) Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) (OJ 2008 L 177, p. 6).

([4]) Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II) (OJ 2007 L 199, p. 40).

Request for a preliminary ruling from the Înalta Curte de Casație și Justiție (Romania) lodged on 15 April 2019 — Consiliul Concurenței v Whiteland Import Export SRL

(Case C-308/19)

(2019/C 263/32)

Language of the case: Romanian

Referring court

Înalta Curte de Casație și Justiție

Parties to the main proceedings

Appellant: Consiliul Concurenței

Respondent: Whiteland Import Export SRL

Question referred

Must Articles 4(3) TEU and 101 TFEU be interpreted as requiring the courts of the Member States to interpret the provisions of national law governing the time-limit on the Competition Authority's right to impose administrative penalties in accordance with the provisions of Article 25(3) of Regulation (EC) No 1/2003 ([1]) and as precluding the interpretation of a provision of national law as meaning that an action interrupting the limitation period means only the formal action of initiating the investigation into an anti-competitive practice, without the subsequent actions taken for the purpose of such investigation falling within the same scope of the actions interrupting the limitation period?

([1]) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ 2003 L 1, p. 1).

Appeal brought on 15 April 2019 by Asociación de fabricantes de morcilla de Burgos against the order of the General Court (Fifth Chamber) delivered on 14 February 2019 in Case T-709/18, Asociación de fabricantes de morcilla de Burgos v Commission

(Case C-309/19 P)

(2019/C 263/33)

Language of the case: Spanish

Parties

Appellant: Asociación de fabricantes de morcilla de Burgos (represented by: J. J. Azcárate Olano and E. Almarza Nantes, abogados)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should set aside the order under appeal in its entirety and, consequently, declare admissible the action for annulment brought by the appellant under Article 263 TFEU against Commission Implementing Regulation (EU) 2018/1214 of 29 August 2018 entering a name in the register of protected designations of origin and protected geographical indications ('Morcilla de Burgos'(PGI)) ([1]) in order, thereafter, moving on to the substance of the case, to give judgment declaring Commission Implementing Regulation (EU) 2018/1214 of 29 August 2018 null and void, and order any party opposing that action to pay the costs.

Grounds of appeal and main arguments

The present appeal is based on the irregularity of the proceedings before the General Court of the European Union, which harms the appellant's interests, stemming from an error of law in the form of an infringement of Article 73(1) and related provisions of the Rules of Procedure of the General Court and the case-law which interprets it, on the following legal grounds:

— The order under appeal incorrectly finds, in essence, that the application contained '*only scanned signatures*' of the appellant's representatives, when it in fact contained qualified electronic signatures, with a qualified certificate from the Autoridad de Certificatión de la Abogacíá (Advocacy Certification Authority, 'ACA'), which have the equivalent legal effect of a handwritten signature.

— Those qualified electronic signatures are recognised and provided for in Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014. ([2])

— Qualified electronic signatures with qualified ACA certificates are entirely consistent with the spirit and rationale of Article 73(1) of the Rules of Procedure of the General Court: '*for reasons of legal certainty, to ensure the authenticity of the procedural document and to eliminate the risk that that document is not in fact the work of the author authorised for that purpose*', as recalled in the order under appeal.

— Article 73(1) of the Rules of Procedure of the General Court was repealed by Decision of the General Court of 11 July 2018, that change entering into force on 1 December 2018 (two days after the application was lodged), the application of the most favourable rule constituting a universal and fundamental principle in the law on penalties of western legal orders.

— The case-law referred to in the order under appeal to justify the inadmissibility of the action brought by the appellant primarily relates to scanned signatures. However, the specific case of the present proceedings (an application with a qualified electronic signature and ACA certification) has not been dealt with by the Courts of the European Union.

— Rules must be interpreted in connection with the social context of the time when they have to be applied, having particular regard to their spirit and purpose.

([1]) OJ 2018 L 224, p. 3
([2]) Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing 1999/93/EC (OJ 2014 L 257, p.73).

Request for a preliminary ruling from the Trgovački sud u Zagrebu (Croatia) lodged on 18 April 2019 — Interplastics s.r.o. v Letifico d.o.o.

(Case C-323/19)

(2019/C 263/34)

Language of the case: Croatian

Referring court

Trgovački sud u Zagrebu

Parties to the main proceedings

Applicant: Interplastics s.r.o.

Defendant: Letifico d.o.o.

Questions referred

1. Is a provision of national law, namely Article 1 of the Ovršni zakon (Law on enforcement) (published in the Narodne novine Nos 112/12, 25/13, 93/14, 55/16 and 73/17), which gives notaries the power to enforce the recovery of debts based on an authentic document by issuing a writ of execution, as an enforcement order, without the express agreement of the debtor who is a legal person established in the Republic of Croatia, compatible with Article 6(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms and Article 18 of the Treaty on the Functioning of the European Union, in the light of the judgments of the Court of Justice of the European Union in Cases C-484/15 and C-551/15?

2. Can the interpretation given in the judgments of the Court of Justice of 9 March 2017, *Zulfikarpašić* (C-484/15, EU:C:2017:199), and *Pula Parking* (C-551/15, EU:C:2017:193), be applied to Case Povrv-752/19, described above, and, specifically, is Regulation No 1215/2012 to be interpreted as meaning that, in Croatia, notaries, acting within the framework of the powers conferred on them by national law in enforcement proceedings based on an 'authentic document', in which the parties seeking enforcement are legal persons established in other EU Member States, do not fall within the concept of 'court' within the meaning of that regulation?

Request for a preliminary ruling from the Vrhovno sodišče Republike Slovenije (Slovenia) lodged on 2 May 2019 — D.J. v Radiotelevizija Slovenija

(Case C-344/19)

(2019/C 263/35)

Language of the case: Slovenian

Referring court

Vrhovno sodišče Republike Slovenije

Parties to the main proceedings

Applicant: D.J.

Defendant: Radiotelevizija Slovenija

Questions referred

1. Must Article 2 of Directive 2003/88 ([1]) be interpreted as meaning that, in circumstances such as those in the present case, stand-by duty, during which a worker performing his work at a radio and television transmission station must during the period he is not at work (when his physical presence at the workplace is not necessary) be contactable when called and, where necessary, be at his workplace within one hour, is to be considered working time?

2. Is the definition of the nature of stand-by duty in circumstances such as those of the present case affected by the fact that the worker resides in accommodation provided at the site where he performs his work (radio and television transmission station), since the geographical characteristics of the site make it impossible (or more difficult) to return home ('down the valley') each day?

3. Must the answer to the two preceding questions be different where the site involved is one where the opportunities for pursing leisure activities during free time are limited on account of the geographical characteristics of the place or where the worker encounters greater restrictions on the management of his free time and pursuit of his own interests (than if he lived at home)?

([1]) Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ 2003 L 299, p. 9).

Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 2 May 2019 — Bundeszentralamt für Steuern v Y-GmbH

(Case C-346/19)

(2019/C 263/36)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Appellant: Bundeszentralamt für Steuern

Respondent: Y-GmbH

Questions referred

1. Is Article 8(2)(d) of Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, ([1]) provided for in Directive 2006/112/EC, ([2]) to taxable persons not established in the Member State of refund but established in another Member State, according to which the refund application is to set out, for each Member State of refund and for each invoice, inter alia, the number of the invoice, to be interpreted as meaning that it is also sufficient to state the reference number of an invoice, which is shown on an invoice document as an additional classification criterion alongside the invoice number?

2. If the above question is to be answered in the negative: Is a refund application in which the reference number of an invoice has been indicated instead of the invoice number to be considered formally complete and submitted within the deadline for the purpose of the second sentence of Article 15(1) of Directive 2008/9?

3. Should consideration be given, when answering Question 2, to the fact that the taxable person not established in the Member State of refund was, from the point of view of a reasonable applicant, and given the design of the electronic portal in the State of establishment and the form provided by the Member State of refund, entitled to assume that, for the application to have been properly made, or in any event to be formally complete and timely, entering an indicator other than the invoice number is sufficient for the purpose of identifying the invoice to which the refund application relates?

([1]) OJ 2008 L 44, p. 23.
([2]) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).

Request for a preliminary ruling from the Državna revizijska komisija za revizijo postopkov oddaje javnih naročil (Slovenia) lodged on 8 May 2019 — Ministrstvo za notranje zadeve v Tax-Fin-Lex d. o. o.

(Case C-367/19)

(2019/C 263/37)

Language of the case: Slovenian

Referring court

Državna revizijska komisija za revizijo postopkov oddaje javnih naročil

Parties to the main proceedings

Contracting authority: Ministrstvo za notranje zadeve

Applicant for review: Tax-Fin-Lex d. o. o.

Questions referred

1. Is there a 'contract for pecuniary interest' as part of a public contract within the meaning of Article 2(1)(5) of Directive 2014/24, ([1]) where the contracting authority is not required to provide any consideration but, by performing the public contract, the economic operator obtains access to a new market and references?

2. Is it possible or necessary to interpret Article 2(1)(5) of Directive 2014/24 in such a way that it constitutes a basis for rejecting a bid with a price of EUR 0.00?

([1]) Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ 2014 L 94, p. 65).

Request for a preliminary ruling from the Riigikohus (Estonia) lodged on 29 May 2019 — Maksu- ja Tolliamet v Heavyinstall OÜ

(Case C-420/19)

(2019/C 263/38)

Language of the case: Estonian

Referring court

Riigikohus

Parties to the main proceedings

Applicant: Maksu- ja Tolliamet

Defendant: Heavyinstall OÜ

Question referred

Is Article 16 of Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures ([1]) to be interpreted as meaning that the court of the Member State which has received the request for precautionary measures, when ruling on that request on the basis of national law (which is possible for the requested court under the first sentence of Article 16), is bound to the view taken by the court of the State of establishment of the applicant in relation to the necessity and possibility of the precautionary measure when a document containing that view has been submitted to the court (last sentence of the second subparagraph of Article 16[(1)], according to which this document shall not be subject to any recognition, supplementing or replacement in the requested Member State)?

([1]) OJ 2010 L 84, p. 1.

Appeal brought on 13 June 2019 by Deutsche Lufthansa AG against the judgment of the General Court (Fourth Chamber, Extended Composition) delivered on 12 April 2019 in Case T-492/15 Deutsche Lufthansa AG v European Commission

(Case C-453/19 P)

(2019/C 263/39)

Language of the case: German

Parties

Appellant: Deutsche Lufthansa AG (represented by: A. Martin-Ehlers, Rechtsanwalt)

Other parties to the proceedings: European Commission, Land Rheinland-Pfalz, Ryanair DAC

Form of order sought

The appellant claims that the Court should:

— declare that the action was admissible and well founded in so far as the appellant challenged Measure 12 (payment into the capital reserve of FFHG ([1])) on the basis that that measure granted operating aid to FFHG;

— further, set aside the judgment of the General Court of 12 April 2019 in Case T-492/15;

— grant the form of order sought at first instance and annul Commission Decision SA.21121 of 1 October 2014 ([2]) (with the exception of Measure 12 in so far as it is used to pay operating aid for FFHG) that forms the subject of that action;

— in the alternative, refer the case back to the General Court of the European Union for judgment;

— order the Commission to pay the costs of the proceedings.

Grounds of appeal and main arguments

In its appeal the appellant relies, in essence, on the following grounds of appeal:

Individual aid awards for which an investigation procedure was launched

— In accordance with the judgment in *COFAZ* alone, ([3]) the appellant is individually concerned and therefore has capacity to sue. The basis of this lies in the fact that the Commission failed to take into consideration essential factual information and additional advantages, despite these measures being brought to its attention by the appellant. The Commission thus infringed the appellant's procedural rights.

— In the alternative, if the case-law in *Mory* ([4]) is to be applied, then the first alternative would have to be applied. Due to the infringement of the appellant's procedural rights, the Commission cannot be considered to have carried out a proper investigation procedure. In this case the appellant was also individually concerned and therefore has capacity to sue.

— In the further alternative, the action is also to be held admissible if the second alternative in the case-law in *Mory* is found to be applicable, according to which the appellant must prove that its position on the market has been substantially affected by the aid. In this case the appellant's burden of proof is reversed or at least lowered since the Commission has arbitrarily ignored facts known to it that were relevant for its decision. It is to be stated purely in the alternative that the appellant did in fact demonstrate that it had been substantially affected. The General Court's alternative legal assessment departs from the case-law of the Court of Justice and is based upon a misunderstanding of the relevant market that constitutes an error in law. In this respect the General Court distorts and summarises the facts put forward by the appellant and the Commission, changes the content of the decision at issue and infringes the rules on the burden of proof.

Aid schemes

— The appellant argues that the case should also have been found to be admissible with regard to aid schemes on the basis of the judgment delivered in the *Montessori* case. ([5])

Individual aid award without investigation procedure

— Where an individual aid award was made without an investigation procedure, the action should, in any case, have been found to be admissible in accordance with the first alternative in the case-law in *Mory* since the Commission failed to launch an in-depth investigation procedure.

([1]) Flughafen Frankfurt-Hahn GmbH.

([2]) Decision (EU) 2016/789 on the State aid SA.21121 (C29/08) (ex NN 54/07) implemented by Germany concerning the financing of Frankfurt Hahn airport and the financial relations between the airport and Ryanair (OJ 2016 L 134, p. 46).

([3]) Judgment of the Court of Justice of 12 July 1990, *Société CdF Chimie azote et fertilisants SA and Société chimique de la Grande Paroisse (SCGP) SA* v *Commission* (C-169/84, EU:C:1990:301).

([4]) Judgment of the Court of Justice of 17 September 2015, *Mory and Others* v *Commission* (C-33/14 P, EU:C:2015:609).

([5]) Judgment of the Court of Justice of 6 November 2018, *Scuola Elementare Maria Montessori and Others* (C-622/16 P to C-624/16 P, EU:C:2018:873).

Appeal brought on 14 June 2019 by ClientEarth against the judgment of the General Court (Fifth Chamber) delivered on 4 April 2019 in Case T-108/17: ClientEarth v Commission

(Case C-458/19 P)

(2019/C 263/40)

Language of the case: English

Parties

Appellant: ClientEarth (represented by: A. Jones, barrister)

Other parties to the proceedings: European Commission, European Chemicals Agency

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court in Case T-108/17;

— refer the case back to the General Court for consideration; or, alternatively

— set aside the judgment of the General Court in Case T-108/17, and

— declare the application for annulment admissible and well-founded and consequently annul the contested decision, and, in any event,

— order the Commission to pay the costs, including the costs incurred by the intervening parties, at first instance and in appeal.

Pleas in law and main arguments

First Ground: Error of law in declaring that the action before the General Court 'can concern only the legality of the decision on the request for internal review and not the sufficiency or otherwise of the application for authorisation' and that 'the pleas and arguments raised before the General Court in an action for annulment of a decision rejecting a request for internal review can be regarded only in so far as those pleas and arguments have already been presented by the applicant in the request for internal review,' and in rejecting as inadmissible certain parts of the appellants' application for annulment on these bases.

Second Ground: Error of law in applying too high a standard of evidence on Non-Governmental Organisations (NGOs) bringing challenges under Articles 10 and 12 of the Aarhus Regulation ([1]).

Third Ground: Error of law in ruling that reducing the amount of a virgin SVHC ([2]) produced or used by using instead the recycled version of the SVHC, may constitute a function in conformity with the REACH Regulation ([3]) and the basis for a relevant analysis of alternative.

Fourth Ground: Error of law in interpreting the conformity assessment provided under Article 60(7) of the REACH Regulation as purely formal without requiring to verify whether the information provided by an application actually fulfills the requirements of Article 62 and Annex I.

Fifth Ground: Error of law in interpreting Article 60(4) as allowing to conclude on the balance between risks and benefits without information on the risk fulfilling the requirements of Annex I.

Sixth Ground: Error of law in ruling that 'in light of Article 60(2) and Article 62(4)(d) of Regulation No 1907/2006, it should be concluded that only data relating to the intrinsic properties of a substance that have been included in Annex XIV to Regulation No 1907/2006 are relevant for the risk assessment referred to in the first sentence of Article 60(4)'.

Seventh Ground: Error of law in the General Court's interpretation of the precautionary principle.

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(1) Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ 2006, L 264, p. 13).
(2) Substance of very high concern.
(3) Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ 2006, L 396, p. 1).

Appeal brought on 18 June 2019 by Qualcomm, Inc., Qualcomm Europe, Inc. against the judgment of the General Court (Second Chamber) delivered on 9 April 2019 in Case T-371/17: Qualcomm and Qualcomm Europe v Commission

(Case C-466/19 P)

(2019/C 263/41)

Language of the case: English

Parties

Appellants: Qualcomm, Inc., Qualcomm Europe, Inc. (represented by: M. Pinto de Lemos Fermiano Rato, advogado, M. Davilla, dikigoros)

Other party to the proceedings: European Commission

Form of order sought

The appellants claim that the Court should:

— set aside the judgment under appeal;

— annul Commission Decision C(2017) 2258 final of 31 March 2017 relating to a proceeding pursuant to Article 18(3) and to Article 24(1)(d) of Council Regulation (EC) No 1/2003 (1) in Case AT.39711 — Qualcomm (Predation) (the 'Decision');

— in the alternative, refer the case back to the General Court for determination in accordance with the judgment of the Court of Justice, and

— order the European Commission to pay the appellant's costs before the Court of Justice and the General Court.

Pleas in law and main arguments

First plea in law: the General Court failed to address arguments raised by the appellant.

Second plea in law: the finding that the Decision was adequately reasoned is based on manifest errors of fact, of law and inadequate reasoning.

Third plea in law: the finding that the information requested by the Decision was necessary is based on manifest errors of law and fact, a distortion of the evidence, inadequate reasoning, and a failure to consider all the relevant evidence.

Fourth plea in law: the finding that the information requested by the Decision was proportionate is based on manifest errors of fact, a distortion of the evidence, and inadequate reasoning.

Fifth plea in law: the General Court misapplied the rules governing the burden of proof regarding alleged infringements of Article 102 TFEU.

Sixth plea in law: the General Court made findings that infringe the right to avoid self-incrimination.

([1]) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ 2003, L 1, p. 1).

GENERAL COURT

Judgment of the General Court of 11 June 2019 — Frank v Commission

(Case T-478/16) ([1])

(Research and technological development — Framework Programme for Research and Innovation (2014-2020) — Calls for proposals and related activities under the ERC Work Programme for the year 2016 — ERCEA decision rejecting a grant application as ineligible — Administrative appeal before the Commission — Implied rejection decision — Inadmissible in part — Express rejection decision — Right to effective judicial protection)

(2019/C 263/42)

Language of the case: German

Parties

Applicant: Regine Frank (Bonn, Germany) (represented by: S. Conrad, lawyer)

Defendant: European Commission (represented by: R. Lyal, L. Mantl and B. Conte, acting as Agents)

Re:

Application brought under Article 270 TFEU, seeking annulment, first, of the Commission's decision of 17 June 2016 and, secondly, of the Commission's decision of 16 September 2016, which respectively rejected, implicitly and explicitly, the applicant's administrative appeal pursuant to Article 22(1) of Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes (OJ 2003 L 11, p. 1).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders each party to bear its own costs.*

([1]) OJ C 475, 19.12.2016.

Judgment of the General Court of 12 June 2019 — RV v Commission

(Case T-167/17) ([1])

(Civil service — Officials — Article 42c of the Staff Regulations — Leave in the interests of the service — Automatic retirement — Measure not open to challenge — Partial inadmissibility — Scope of the law — Court acting of its own motion — Literal, contextual and teleological interpretation)

(2019/C 263/43)

Language of the case: French

Parties

Applicant: RV (represented by: initially, J.-N. Louis and N. de Montigny, subsequently, J.-N. Louis, lawyers)

Defendant: European Commission (represented by: G. Berscheid and D. Martin, acting as Agents)

Intervener(s) in support of the defendant(s): European Parliament (represented by: initially, J. Steele and D. Nessaf, subsequently, J. Steele and M. Rantala, and finally, J. Steele and C. González Argüelles, acting as Agents) and Council of the European Union (represented by: M. Bauer and R. Meyer, acting as Agents)

Re:

Application pursuant to Article 270 TFEU seeking annulment of the Commission's decision of 21 December 2016 to place the applicant on leave in the interests of the service pursuant to Article 42c of the Staff Regulations of Officials of the European Union and simultaneously to retire the applicant automatically pursuant to the fifth paragraph thereof.

Operative part of the judgment

The Court:

1. *Annuls the decision of the European Commission of 21 December 2016 to place RV on leave in the interests of the service and simultaneously to retire RV automatically;*

2. *Dismisses the remainder of the action;*

3. *Orders the Commission to bear its own costs and to pay those incurred by RV, including those incidental to the proceedings for interim measures;*

4. *Orders the European Parliament and the Council of the European Union to bear their own costs.*

([1]) OJ C 144 of 8.5.2017.

Judgment of the General Court of 13 June 2019 — CC v Parliament

(Case T-248/17 RENV) ([1])

(Liability — Civil service — Recruitment — Open Competition EUR/A/151/98 — Errors committed by the European Parliament in the management of the reserve list — Material loss)

(2019/C 263/44)

Language of the case: French

Parties

Applicant: CC (represented by: G. Maximini and C. Hölzer, lawyers)

Defendant: European Parliament (represented by: M. Ecker and E. Despotopoulou, acting as Agents)

Re:

Application under Article 270 TFEU seeking compensation for the damage allegedly suffered by the applicant as a result of various errors committed by the Parliament in the management of the reserve list of Open Competition EUR/A/151/98.

Operative part of the judgment

The Court:

1. *Orders the European Parliament to pay CC the sum of EUR 6 000;*

2. *Dismisses the action as to the remainder;*

3. *Orders the Parliament to pay the costs.*

([1]) OJ C 133, 5.5.2012 (case initially registered before the Civil Service Tribunal of the European Union under number F-9/12 and transferred to the General Court of the European Union on 1.9.2016).

Judgment of the General Court of 11 June 2019 — TO v EEA

(Case T-462/17) ([1])

(Civil service — Contract staff — Contract for a fixed period — Dismissal during sick leave — Article 16 of the CEOS — Article 48(b) of the CEOS — Article 26 of the Staff Regulations — Processing of personal data — Article 84 of the CEOS — Psychological harassment)

(2019/C 263/45)

Language of the case: French

Parties

Applicant: TO (represented by: N. Lhoëst, lawyer)

Defendant: European Environment Agency (represented by: O. Cornu, acting as Agent, assisted by B. Wägenbaur, lawyer)

Intervener in support of the defendant: European Parliament (represented by: initially, D. Nessaf and J. Van Pottelberge, and subsequently, J. Van Pottelberge and J. Steele, acting as Agents) and the Council of the European Union (represented by: M. Bauer and R. Meyer, acting as Agents)

Re:

Application pursuant to Article 270 TFEU seeking, on the one hand, annulment, first, of the decision of the Executive Director of the EEA of 22 September 2016 terminating the applicant's employment as a member of the contract staff and, secondly, that director's decision of 20 April 2017 rejecting the complaint brought by the applicant against the decision of 22 September 2016 and, on the other hand, compensation for the damage allegedly sustained by the applicant.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Executive Director of the European Environmental Agency (EEA) of 22 September 2016 terminating TO's employment as a member of the contract staff;*

2. *Orders the EEA to pay to TO a sum equal to one month's salary in lieu of notice and to one third of TO's basic salary per month of probation completed, less the dismissal allowance already received by TO;*

3. *Orders EEA to pay to TO an amount of EUR 6 000;*

4. *Dismisses the remainder of the action*

5. *Orders the EEA to bear its own costs and to pay those incurred by TO;*

6. *Orders the European Parliament and the Council of the European Union to bear their own costs.*

([1]) OJ C 347 of 16.10.2017.

Judgment of the General Court of 12 June 2019 — EOS Deutscher Inkasso-Dienst v EUIPO — IOS Finance EFC (IOS FINANCE)

(Case T-583/17) ([1])

(EU trade mark — Opposition proceedings — Application for the EU figurative mark IOS FINANCE — Earlier national figurative mark EOS — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

(2019/C 263/46)

Language of the case: English

Parties

Applicant: EOS Deutscher Inkasso-Dienst GmbH (Hamburg, Germany) (represented by: B. Sorg, lawyer)

Defendant: European Union Intellectual Property Office (represented by: A. Söder, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: IOS Finance EFC, SA (Barcelona, Spain) (represented by: J.L. Rivas Zurdo, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 6 June 2017 (Case R 2262/2016-2), relating to opposition proceedings between EOS Deutscher Inkasso-Dienst and IOS Finance EFC.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders EOS Deutscher Inkasso-Dienst GmbH to pay the costs.*

([1]) OJ C 338, 9.10.2017.

Judgment of the General Court of 13 June 2019 — Visi/one v EUIPO — EasyFix (Door hanger for vehicles)

(Case T-74/18) ([1])

(Community design — Invalidity proceedings — Registered Community design representing a door hanger for vehicles — Earlier design — Proof of the disclosure — Article 7 of Regulation (EC) No 6/2002 — Ground for invalidity — Lack of individual character — Informed user — Degree of freedom of the designer — No different overall impression — Article 6 and Article 25(1)(b) of Regulation No 6/2002)

(2019/C 263/47)

Language of the case: German

Parties

Applicant: Visi/one GmbH (Remscheid, Germany) (represented by: H. Bourree and M. Bartz, acting as Agents)

Defendant: European Union Intellectual Property Office (represented by: S. Hanne and D. Walicka, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO: EasyFix GmbH (Vienna, Austria)

Re:

Action brought against the decision of the Third Board of Appeal of EUIPO of 4 December 2017 (Case R 1424/2016-3) relating to invalidity proceedings between EasyFix and Visi/one.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Visi/one GmbH and the European Union Intellectual Property Office (EUIPO) to bear their own costs.*

([1]) OJ C 112, 26.3.2018.

Judgment of the General Court of 13 June 2019 — MPM-Quality v EUIPO — Elton Hodinářská (MANUFACTURE PRIM 1949)

(Case T-75/18) ([1])

(EU trade mark — Revocation proceedings — EU figurative mark MANUFACTURE PRIM 1949 — Genuine use of the mark — Obligation to state reasons)

(2019/C 263/48)

Language of the case: Czech

Parties

Applicant: MPM-Quality v.o.s. (Frýdek-Místek, Czech Republic) (represented by: M. Kyjovský, lawyer)

Defendant: European Union Intellectual Property Office (represented by: D. Gája, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Elton Hodinářská a.s. (Nové Město nad Metují, Czech Republic) (represented by: T. Matoušek, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 5 December 2017 (Case R 556/2017-4) relating to revocation proceedings between MPM-QUALITY and ELTON hodinářská.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders MPM-QUALITY v.o.s. to bear its own costs and pay the costs incurred by the European Union Intellectual Property Office (EUIPO);*

3. *Orders ELTON hodinářská, a.s. to bear its own costs.*

([1]) OJ C 122, 26.3.2018.

Judgment of the General Court of 11 June 2019 — De Esteban Alonso v Commission

(Case T-138/18) ([1])

(Civil Service — Former officials — OLAF investigation — 'Eurostat' case — Forwarding to the national judicial authorities of information relating to matters liable to result in criminal proceedings — Failure to notify potentially concerned officials beforehand — Harm allegedly suffered on account of the conduct of OLAF and the Commission during the proceedings — Material, non-material and physical harm — Causal link)

(2019/C 263/49)

Language of the case: French

Parties

Applicant: Fernando De Esteban Alonso (Saint-Martin-de-Seignanx, France) (represented by: C. Huglo, lawyer)

Defendant: European Commission (represented by: R. Striani and J. Baquero Cruz, acting as Agents)

Re:

Application under Article 270 TFEU for compensation for the material, non-material and physical harm which the applicant claims to have suffered.

Operative part of the judgment

The Court:

1. *Orders the European Commission to pay Mr Fernando De Esteban Alonso EUR 62 000 by way of compensation for the non-material harm suffered;*

2. *Dismisses the action as to the remainder;*

3. *Orders the Commission to bear its own costs and to pay those incurred by Mr De Esteban Alonso.*

([1]) OJ C 190, 4.6.2018.

Judgment of the General Court of 12 June 2019 — Biedermann Technologies v EUIPO (Compliant Constructs)

(Case T-291/18) ([1])

(EU trade mark — Application for EU word mark Compliant Constructs — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EU) 2017/1001)

(2019/C 263/50)

Language of the case: German

Parties

Applicant: Biedermann Technologies GmbH & Co. KG (Donaueschingen, Germany) (represented by: A. Jacob, lawyer)

Defendant: European Union Intellectual Property Office (represented by: W. Schramek and M. Fischer, acting as Agents)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 5 March 2018 (Case R 1626/2017-4) relating to an application for registration of the word sign Compliant Constructs as an EU trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Biedermann Technologies GmbH & Co. KG to pay the costs.*

([1]) OJ C 231, 2.7.2018.

Judgment of the General Court of 12 June 2019 — Advance Magazine Publishers v EUIPO — Enovation Brands (VOGUE)

(Case T-346/18) ([1])

(EU trade mark — Opposition proceedings — Application for EU word mark VOGUE — Earlier EU word mark VOGA — Suspension of the administrative procedure — Rule 20(7)(c) of Regulation (EC) No 2868/95 (now Article 71(1) of Delegated Regulation (EU) 2018/625) — Rule 50(1) of Regulation No 2868/95)

(2019/C 263/51)

Language of the case: English

Parties

Applicant: Advance Magazine Publishers, Inc. (New York, New York, United States) (represented by: T. Alkin, Barrister, and N. Hine, Solicitor)

Defendant: European Union Intellectual Property Office (represented by: D. Gája and H. O'Neill, Agents)

Other party to the proceedings before the Board of Appeal of EUIPO: Enovation Brands, Inc. (Aventura, Florida, United States) (represented by: R. Almaraz Palmero, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 27 March 2018 (Case R 259/2017-4) concerning opposition proceedings between Enovation Brands and Advance Magazine Publishers.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 27 March 2018 (Case R 259/2017-4).*

2. *Orders EUIPO to bear its own costs and to pay the costs incurred by Advance Magazine Publishers, Inc.*

3. *Orders Enovation Brands, Inc. to bear its own costs.*

([1]) OJ C 268, 30.7.2018.

Judgment of the General Court of 13 June 2019 — Luz Saúde v EUIPO — Clínica La Luz (HOSPITAL DA LUZ)

(Case T-357/18) ([1])

(EU trade mark — Opposition proceedings — Application for registration of EU figurative mark HOSPITAL DA LUZ — Earlier national figurative mark clínica LALUZ — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2019/C 263/52)

Language of the case: Portuguese

Parties

Applicant: Luz Saúde, SA (Lisbon, Portugal) (represented by: G. Gentil Anastácio, P. Guerra e Andrade, M. Barros Silva and G. Moreira Rato, lawyers)

Defendant: European Union Intellectual Property Office (represented by: J. Crespo Carrillo, I. Ribeiro da Cunha and H. O'Neill, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Clínica La Luz, SL (Madrid, Spain) (represented by: I. Temiño Ceniceros, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 4 April 2018 (Case R 2084/2017-4), relating to opposition proceedings between Clínica La Luz and Luz Saúde.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Luz Saúde, SA to pay the costs.*

([1]) OJ C 268, 30.7.2018.

Judgment of the General Court of 13 June 2019 — Innocenti v EUIPO —Gemelli (Innocenti)

(Case T-392/18) ([1])

(EU trade mark — Opposition proceedings — Application for EU work mark Innocenti — Earlier national figurative mark i INNOCENTI — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2019/C 263/53)

Language of the case: Italian

Parties

Applicant: Innocenti SA (Lugano, Switzerland) (represented by: N. Ferretti, lawyer)

Defendant: European Union Intellectual Property Office (represented by: L. Rampini, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Filippo Gemelli (Turin, Italy) (initially represent by: C. Renna, and subsequently by F. Canu, lawyers)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 19 April 2018 (Case R 2336/2010-5), relating to opposition proceedings between Mr Gemelli and Innocenti.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Innocenti SA to bear its own costs and to pay those incurred in the present proceedings by the European Union Intellectual Property Office (EUIPO) and by Mr Filippo Gemelli.*

([1]) OJ C 285, 13.8.2018.

Judgment of the General Court of 13 June 2019 — Pielczyk v EUIPO — Thalgo TCH (DERMÆPIL SUGAR EPIL SYSTEM)

(Case T-398/18) ([1])

(EU trade mark — Invalidity proceedings — EU figurative mark DERMÆPIL sugar epil system — Earlier national figurative mark dermépil — Relative ground for refusal — Genuine use of the mark — Article 57(2) and (3) of Regulation (EC) No 207/2009 (now Article 64 (2) and (3) of Regulation (EU) 2017/1001) — Likelihood of confusion — Article 53(1)(a) of Regulation No 207/2009 (now Article 60(1)(a) of Regulation 2017/1001) read in conjunction with Article 8(1)(b) of that regulation (now Article 8(1)(b) of Regulation 2017/1001) — Comparison of the goods)

(2019/C 263/54)

Language of the case: English

Parties

Applicant: Radoslaw Pielczyk (Klijndijk, Netherlands) (represented by: K. Kielar, lawyer)

Defendant: European Union Intellectual Property Office (represented by: H. O'Neill and K. Kompari, Agents)

Other party to the proceedings before the Board of Appeal of EUIPO: Thalgo TCH (Roquebrune-sur-Argens, France) (represented by: C. Bercial Arias, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 13 April 2018 (Joined Cases R 979/2017-4 and R 1070/2017-4) concerning invalidity proceedings between Thalgo TCH and Mr Pielczyk

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Radoslaw Pielczyk to pay the costs.*

([1]) OJ C 285, 13.8.2018.

Judgment of the General Court of 6 June 2019 — Ortlieb Sportartikel v EUIPO (Representation of an octagon)

(Case T-449/18) ([1])

(EU trade mark — Application for EU figurative mark representing an octagon — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EU) 2017/1001)

(2019/C 263/55)

Language of the case: German

Parties

Applicant: Ortlieb Sportartikel GmbH (Heilsbronn, Germany) (represented by: A. Wulff and K. Schmidt-Hern, lawyers)

Defendant: European Union Intellectual Property Office (represented by: M. Fischer, acting as Agent)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 27 April 2018 (Case R 1634/2017-1) concerning an application for registration of a figurative sign representing an octagon as an EU trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Ortlieb Sportartikel GmbH to pay the costs.*

([1]) OJ C 311, 3.9.2018.

Action brought on 24 June 2019 — VK v Council

(Case T-151/18)

(2019/C 263/56)

Language of the case: French

Parties

Applicant: VK (represented by: K. Lara, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2018/141 of 29 January 2018 amending Decision 2011/72/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia (OJ 2018 L 25, p. 38) and Council Decision (CFSP) 2019/135 of 28 January 2019 amending Decision 2011/72/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia (OJ 2019 L 25, p. 23), in so far as those decisions concern the applicant;

— order the Council to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Articles 31, 46 and 55 of the United Nations Convention against Corruption. The applicant claims in that regard that, in accordance with those provisions, a protective freezing and confiscation measure must be based on either a decision of the requesting State Party or a statement of relevant facts made by that same State Party with a description of the measures requested. According to the applicant, the restrictive measures were ordered and extended without even a brief statement of the facts complained of. In addition, Tunisia does not seek the maintenance of the restrictive measures at issue.

2. Second plea in law, alleging that the Council made a manifest error of assessment when it considered that it did not have to take into account the evidence produced by the applicant and the arguments developed by him or make further enquiries of the Tunisian authorities, whereas that evidence and those arguments were such as to raise legitimate questions regarding the reliability of the information provided.

3. Third plea in law, alleging misuse of powers by the Council in that it is complicit with the Tunisian authorities the sole purpose of which is to justify the unfair and unlawful dispossession of the applicant's property without the applicant having been able to defend himself and without any means of redress.

Action brought on 23 May 2019 — AMVAC Netherlands v Commission

(Case T-317/19)

(2019/C 263/57)

Language of the case: English

Parties

Applicant: AMVAC Netherlands BV (Amsterdam, Netherlands) (represented by: C. Mereu, M. Grunchard and S. Englebert, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Implementing Regulation (EU) 2019/344 of 28 February 2019; ([1])

— order the defendant to pay all the costs.

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 that the contested regulation was adopted further to a manifest error of assessment.

2. Second plea in law, alleging that the contested regulation results from a procedure during which the applicant's rights of defence were not respected.

3. Third plea in law, alleging that the contested regulation was adopted in breach of the principle of legal certainty.

4. Fourth plea in law, alleging that the contested regulation was adopted in breach of the proportionality principle.

5. Fifth plea in law, alleging that the contested regulation was adopted in breach of the precautionary principle.

([1]) Commission Implementing Regulation (EU) 2019/344 of 28 February 2019 concerning the non-renewal of approval of the active substance ethoprophos, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011 (OJ 2019 L 62, p. 7).

Action brought on 6 June 2019 — UE v Commission

(Case T-338/19)

(2019/C 263/58)

Language of the case: English

Parties

Applicant: UE (represented by: S. Rodrigues and A. Champetier, avocats)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission decision dated 1 August 2018 rejecting the applicant's request to recognise an occupational disease;

— if needed, annul the Commission decision dated 5 March 2019 rejecting the applicant's complaint dated 5 November 2018;

— order the reimbursement of the applicant's incurred costs.

Pleas in law and main arguments

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

1. First plea in law, alleging a manifest error of interpretation of the reasonableness of the period of time in which the occupational disease request has been lodged.

2. Second plea in law, alleging the misuse of power.

3. Third plea in law, alleging the breach of the rights of defence and of the duty to state reasons.

Action brought on 10 June 2019 — Santini v Parliament

(Case T-345/19)

(2019/C 263/59)

Language of the case: Italian

Parties

Applicant: Giacomo Santini (Trento, Italy) (represented by: M. Paniz, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul the communiqué of the European Parliament Directorate-General for Finance implementing Resolution No 14/2018 of 12 July 2018 of the Office of the President of the Italian Chamber of Deputies and/or Resolution No 6/2018 of the Presidential Council of the Senate of the Italian Republic, and, in any event,

— annul the redetermination and recalculation of the life annuity disbursed by the European Parliament;

— accordingly, declare that the applicant is entitled to the maintenance of the life annuity in question in so far as it was accrued and is being accrued on the basis of the legislation in force prior to Resolution No 14/2018 of the Office of the President of the Italian Chamber [of Deputies] and/or Resolution No 6/2018 of the Presidential Council of the Senate of the Italian Republic, and order the European Parliament to pay him all the sums unduly withheld, adjusted for inflation, together with statutory interest from the date of withholding until the date of payment;

— order the European Parliament to implement the judgment and immediately to restore in full the original amount of the life annuity, and to pay compensation for all damages if and to the extent that damages are payable to the applicant; and

— in any event, order the Parliament to pay all costs, lawyers' fees, plus VAT, taxes, duties and flat-rate charges.

Pleas in law and main arguments

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

1. First plea in law, alleging encroachment on the powers reserved to the Bureau of the European Parliament.

   The applicant claims that the recalculation of the European life annuity is unlawful inasmuch as it was carried out unilaterally, retroactively and permanently on the basis of an alleged (non-existent) automatic application of Resolution No 14/2018 of the [Office of the President of the] Italian Chamber of Deputies, in the absence of an earlier specific resolution of the Bureau of the European Parliament, to which all powers in such matters are reserved (under Article 25 of the Rules of Procedure of the European Parliament).

2. Second plea in law, alleging infringement of the internal rules of the European Parliament.

   The applicant claims that the recalculation of the European life annuity is unlawful inasmuch as it contravenes Article 1 of Annex III to the Rules governing the payment of expenses and allowances to Members of the European Parliament in force prior to 2009. When the MEP completed his term of office, his social security position was definitively dealt with under the conditions then in force for national Italian MPs. Any amendments to those conditions, introduced several years later, may not have a retroactive effect on a situation already defined and resolved by the European Parliament in accordance with the conditions in force at the time the right was acquired, since the Italian Chamber of Deputies no longer has any authority in the matter after that point.

3. Third plea in law, alleging infringement of Article 28 of the Statute for Members.

   The applicant claims that the recalculation of the European life annuity is unlawful inasmuch as it contravenes Article 28 of the Statute for Members of the European Parliament and Articles 75 and 76 of the Implementing Measures for that statute, which establish that rights acquired prior to the entry into force of the new statute will be definitively maintained and will be honoured in accordance with the conditions laid down at the time. According to the applicant, it is not possible to derogate from those safeguard clauses, still less by a mere retroactive and permanent resolution of the Office of the President of the Italian Chamber of Deputies, without infringing those clauses and the legitimate expectations of the persons concerned that their life annuity and the amount thereof will not be altered to their detriment, especially not retroactively and as the result of the application of a different, arbitrarily-introduced calculation system.

4. Fourth plea in law, alleging that the reductive measure is punitive and alleging infringement of the principles of legality, non-retroactivity and non-discrimination.

   The applicant claims that the recalculation of the life annuity is unlawful inasmuch as (i) it is punitive and discriminates against a single class of persons (Italian former MEPs) and represents a purely symbolic political intervention devoid of any objective aim to save money and (ii) the recalculation of the life annuity carried out retroactively using different methods and having permanent effects entails an unjustified difference in treatment in comparison with former MEPs from other Member States, MEPs elected after 2009 and all other citizens in general, who are not subject to any such reductive treatment.

5. Fifth plea in law, alleging infringement of Article 1 of the First Additional Protocol to the European Convention on Human Rights.

According to the applicant, a life annuity is an economic disbursement which has become part of the individual assets of members of parliament who receive it or who have become eligible to receive it in the future. The sudden reduction in that annuity, especially where it is the result of a recalculation carried out retroactively using different validation criteria set unilaterally and arbitrarily by the Italian Chamber of Deputies, is tantamount to a tax on the individual assets of members of parliament which, as such, may only be provided for by a Law and which, in any event, should have been justified by a specific public interest which has not been invoked in the present case and in any event does not exist, given that that redetermination of life annuities will not give rise to any tangible savings.

6. Sixth plea in law, alleging failure to observe the principles of legitimate expectations, legal certainty and the protection of acquired rights.

The applicant alleges unlawfulness on the grounds of manifest failure to observe the principles of regulatory certainty, certainty in legal relations, legitimate expectations and the protection of acquired rights. In his view, the recalculation of the life annuity has retroactive effect, imposing a different method for determining the annuity resulting in a significant definitive and permanent reduction (in the present case, 50 %) after the beneficiary has acquired the right to that annuity well before the adoption of the resolution at issue, thereby radically betraying the natural and legitimate expectation of recipients regarding the effectiveness and stability over time of the life annuity without providing any reasoning to justify such a radical and permanent effect on positions which have already been established and settled for some time.

7. Seventh plea in law, alleging failure to observe the principles of reasonableness, equal treatment, non-discrimination and solidarity.

The applicant claims that the intervention is unlawful inasmuch as it was adopted without any statement of the reasons therefor or the purposes thereof, exceeding the limits of exceptionality and consentaneity, and ultimately is manifestly at odds with the principles of substantive equality and reasonableness.

8. Eighth plea in law, alleging further grounds of infringement of the principles of reasonableness, proportionality, equal treatment, non-discrimination and solidarity.

The applicant claims that the intervention in question is unlawful inasmuch as it is at odds with the principles of reasonableness, proportionality, solidarity and equal treatment, given that it: (i) retroactively imposes the contributory system on persons to whom the annuity was disbursed long before Resolution No 14/2018 of the [Office of the President of the] Italian Chamber of Deputies, if not well before the contributory system entered into force via the 'Dini' Reform (1996); (ii) alters the legal status of the contributions received from the former member of parliament, while remaining silent, however, on the subject of the fees deducted directly by the Italian Chamber [of Deputies] as a withholding tax; (iii) imposes the retroactive application of a contributory system which, however, is in no way contributory in terms of either its form or its aims; (iv) irrationally and incorrectly applies probabilistic conversion ratios and calculation criteria, referring to the already known past and not to the future; and (v) reveals a clear desire to treat life annuities in the same way as pension rights for public sector employees when these are in reality emoluments of a different nature.

Action brought on 10 June 2019 — Ceravolo v Parliament

(Case T-346/19)

(2019/C 263/60)

Language of the case: Italian

Parties

Applicant: Domenico Ceravolo (Noventa Padovana, Italy) (represented by: M. Paniz, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul the communiqué of the European Parliament Directorate-General for Finance implementing Resolution No 14/2018 of 12 July 2018 of the Office of the President of the Italian Chamber of Deputies and/or Resolution No 6/2018 of the Presidential Council of the Senate of the Italian Republic, having established that it is unlawful on the grounds of failure to observe the principles of legitimate expectations, the protection of acquired rights, reasonableness, proportionality and legality, and infringement of Articles 6 and 14 of the European Convention on Human Rights and Article 1 of the First Additional Protocol thereto, as well as Articles 27 and 28 of the Statute for Members of the European Parliament and Articles 75 and 76 of the Implementing Measures for that statute, and, in any event, annul the redetermination and recalculation of the life annuity disbursed by the European Parliament;

— accordingly, declare that the applicant is entitled to the maintenance of the life annuity disbursed by the European Parliament in so far as it was accrued and is being accrued on the basis of the legislation in force prior to Resolution No 14/2018 of the Office of the President of the Italian Chamber [of Deputies] and/or Resolution No 6/2018 of the Presidential Council of the Senate of the Italian Republic, and order the European Parliament to pay him all the sums unduly withheld, adjusted for inflation, together with statutory interest from the date of withholding until the date of payment, and order the European Parliament to implement the judgment and immediately to restore in full the original amount of the life annuity, and to pay compensation for all damages if and to the extent that damages are payable; and

— in any event, order the Parliament to pay all costs, lawyers' fees, plus VAT, taxes, duties and flat-rate charges.

Pleas in law and main arguments

The pleas in law and main arguments are those relied on in Case T-345/19, *Santini* v *Parliament*.

Action brought on 10 June 2019 — Falqui v Parliament

(Case T-347/19)

(2019/C 263/61)

Language of the case: Italian

Parties

Applicant: Enrico Falqui (Florence, Italy) (represented by: F. Sorrentino and A. Sandulli, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should annul the contested note and order the European Parliament to pay him the sums unduly withheld while the proceedings are pending.

Pleas in law and main arguments

The present action has been brought against Note D (2019) 14406 of 11 April 2019 of the European Parliament Directorate-General for Finance, concerning the redetermination of the pension which the applicant receives as a former Member of the European Parliament.

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

1. First plea in law, alleging infringement of the decision of the Bureau of the European Parliament of 19 May and 9 July 2008 concerning 'implementing measures for the Statute for Members of the European Parliament'.

   — The applicant claims in this regard that, since, pursuant to Article 75(2) of the decision of 19 May and 9 July 2008 concerning 'implementing measures for the Statute for Members of the European Parliament', the old-age pension rights acquired prior to the date of entry into force of the Statute 'shall be maintained', the previous reference by the 'SID' (Regolamentazione sulle Spese ed Indennità dei Deputati) (Rules governing the payment of expenses and allowances to Members of the European Parliament) to national legislation must be understood as a cross-reference (to the legislation in force at that time), as the pension rights acquired by former MEPs prior to the entry into force of the Statute cannot be altered under subsequent legislation.

2. Second plea in law, alleging that the European Parliament failed to disapply invalid national legislation.

   — The applicant claims in this regard that the legislation introduced by Resolution No 14/2018 of the Office of the President of the Italian Chamber of Deputies is — when compared with the Italian legal system — invalid.

   — The Italian Chamber of Deputies claimed to be recalculating the life annuities enjoyed by former members of parliament by also applying a 'contributory' system to the share of those annuities accrued in periods prior to 2012, which for all public and private sector employees is disbursed using a pro-rata system, and even periods prior to 1996, which for all public and private sector employees is disbursed using a 'sistema retributivo secco' (purely remunerative system). In order to apply retroactively a contributory system even in relation to periods in which that system did not exist in Italy, it adopted a distorted and irrational calculation system with no actuarial basis.

   — The reform in question would also be unlawful inasmuch as the matter of MPs' life annuities must be regulated, at least as regards its key aspects, by means of a Law and not by means of Rules of Procedure (Article 69 of the Italian Constitution).

   — Furthermore, that reform is prejudicial to the legitimate expectation of former members of parliament that their own pension entitlement will remain stable, contrary to the principle of the protection of legitimate expectations, which is also a general principle of Italian law.

3. Third plea in law, alleging that the European Parliament unlawfully applied national legislation which is contrary to the fundamental principles of the EU legal system and in particular the principle of the protection of legitimate expectations, and alleging that it failed to observe the principle of the primacy of EU law.

   — The applicant claims in this regard that the reform of the life annuities of former Italian members of parliament re-determined the amount of those annuities ex post in a way that was completely unforeseeable, was not gradual and did not include adequate safeguard clauses, and therefore seriously infringes the principle of legitimate expectations, which is one of the fundamental principles of EU law.

   — For that reason, that reform could not be implemented by the European Parliament: indeed, according to the general principles governing relations between legal systems, the transposing of rules from one legal system to another as a result of a reference (whether a dynamic reference or a cross-reference) comes up against a specific countercheck: the reference may not operate where the rule from the legal system of origin is contrary to the fundamental principles of the receiving legal system. Furthermore, because of the primacy of EU law — which is a key principle of the European Union — if national legislation is contrary to a provision of EU legislation it must be disapplied in order to ensure the uniform protection of citizens under EU law throughout the European Union.

Action brought on 10 June 2019 — Poggiolini v Parliament

(Case T-348/19)

(2019/C 263/62)

Language of the case: Italian

Parties

Applicant: Danilo Poggiolini (Rome, Italy) (represented by: F. Sorrentino and A. Sandulli, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should annul the contested note and order the European Parliament to pay him the sums unduly withheld while the proceedings are pending.

Pleas in law and main arguments

The present action has been brought against Note D (2019) 14435 of 11 April 2019 of the European Parliament Directorate-General for Finance, concerning the redetermination of the pension which the applicant receives as a former Member of the European Parliament.

The pleas in law and main arguments are similar to those relied on in Case T-347/19, *Falqui* v *European Parliament*.

Action brought on 6 June 2019 — Chypre v EUIPO — Filotas Bellas & Yios (Halloumi Vermion grill cheese M BELAS PREMIUM GREEK DAIRY SINCE 1927)

(Case T-351/19)

(2019/C 263/63)

Language of the case: English

Parties

Applicant: Republic of Cyprus (represented by: S. Malynicz, QC, S. Baran, Barrister and V. Marsland, Solicitor)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Filotas Bellas & Yios AE (Alexandreia Imathias, Greece)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Application for European Union figurative mark Halloumi χαλλούμι Vermion grill cheese M BELAS PREMIUM GREEK DAIRY SINCE 1927 — Application for registration No 12 172 276

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 9 April 2019 in Case R 2297/2017-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to bear its own costs and pay those of the Applicant for Annulment.

Pleas in law

— Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 59(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 14 June 2019 — Italy v Commission

(Case T-357/19)

(2019/C 263/64)

Language of the case: Italian

Parties

Applicant: Italian Republic (represented by: P. Gentili, avvocato dello Stato and G. Palmieri, Agent)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should annul Commission Implementing Decision C(2019) 2652 final of 3 April 2019, notified on 4 April 2019, approving the 'Grande Progetto Nazionale Banda Ultra Larga — Aree Bianche' ('Major National Ultra-broadband Project — White Areas'; GP BUL) for an eligible cost of EUR 941 022 670, in so far as it excludes from the European Regional Development Fund (ERDF) contribution the costs incurred by the recipient in respect of VAT, hold that those costs must, on the other hand, be included in the contribution and order the European Commission to pay the costs of the proceedings.

Pleas in law and main arguments

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

1. By its first plea in law, the applicant alleges infringement of Article 69(3)(c) of Regulation No 1303/2013 ([1]) since none of the three reasons for excluding costs on account of VAT corresponds with the VAT being recoverable under national VAT legislation.

2. By its second plea in law, the applicant alleges (i) infringement of the rules on VAT taxpayers (Articles 9 and 13 of Directive 2006/112/EC ([2])) and on the VAT tax authority (Articles 206 and 250 of Directive 2006/112/EC), (ii) failure to comply with national constitutions and the fundamental structures of the Member States (Article 4(2) TEU) and (iii) infringement of Article 69(3)(c) of Regulation No 1303/2013. The applicant submits in this respect that it is not lawful to consider input VAT paid by the Ministry of Economic Development, as recipient of the ERDF contribution, as recoverable because a different Ministry (the Ministry of Finance) received those sums as tax revenue.

3. By its third plea in law, the applicant alleges infringement of Articles 9, 11, 13 and 28 of Directive 2006/112/EC. According to the applicant, the fact that Infratel is an in-house company of the Ministry of Economic Development does not preclude VAT being charged on transfers of goods and services from that company to that ministry.

4. By its fourth plea in law, the applicant alleges infringement of Articles 61(8) and 69(3)(c) of Regulation No 1303/2013. The applicant submits that the project in question is being co-funded by the ERDF by way of State aid. It cannot, therefore, be considered a revenue-generating project.

([1]) Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ 2013 L 347, p. 320).

([2]) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).

Action brought on 14 June 2019 — Daimler v Commission

(Case T-359/19)

(2019/C 263/65)

Language of the case: German

Parties

Applicant: Daimler AG (Stuttgart, Germany) (represented by: N. Wimmer, C. Arhold and G. Ollinger, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the contested decision of the defendant of 3 April 2019 — C(2019) 2359 — ('the contested decision') pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council, ([1]) in particular pursuant to Article 8(5)(2) thereof, in so far as in Article 1(1) of the decision, in conjunction with tables 1 and 2 of Annex I, average specific emissions of CO2 were entered in column D and CO2 savings and eco-innovation were entered in column I; and

— order the defendant to pay the costs of the proceedings.

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 an infringement of Article 12(1)(2) of Implementing Regulation (EU) No 725/2011 ([2]) in conjunction with Article 1(3) of Implementing Decision (EU) 2015/158 ([3])

   Within the context of the first plea in law, it is claimed that the defendant infringed Article 12(1)(2) of Implementing Regulation (EU) No 725/2011 in conjunction with Article 1(3) of Implementing Decision (EU) 2015/158, since in the context of the verification of CO2 savings it diverged from the authorised procedure in so far as it applied an inaccurate Willans' factor.

2. Second plea in law, alleging an infringement of Article 12(1)(2) of Implementing Regulation (EU) No 725/2011 in conjunction with Article 1(3) of Implementing Decision (EU) 2015/158 in conjunction with Article 6(1) of Implementing Regulation (EU) No 725/2011

   Within the context of the second plea in law, it is claimed that the defendant infringed Article 12(1)(2) of Implementing Regulation (EU) No 725/2011 in conjunction with Article 1(3) of Implementing Decision (EU) 2015/158 in conjunction with Article 6(1) of Implementing Regulation (EU) No 725/2011, since in the context of the verification procedure adopted by it for the ad-hoc review it disregarded the essential specific preconditions.

3. Third plea in law, alleging an infringement of Article 12(2) of Implementing Regulation (EU) No 725/2011

   Within the context of the third plea in law, it is claimed that the defendant infringed Article 12(2) of Implementing Regulation (EU) No 725/2011, in so far as it ordered the exclusion of eco-innovation with respect to the previous year (2017), although the regulations expressly permits a decision on exclusion only with respect to the subsequent year.

4. Fourth plea in law, alleging an infringement of the right to be heard

   Within the context of the fourth plea in law, it is claimed that the applicant's right to be heard in accordance with the requirements of the general legal principle of observance of the rights of the defence and those of Article 41(2)(a) of the Charter of Fundamental Rights was infringed. The defendant authorised an exchange of legal positions, but thereby adopted the contested decision.

5. Fifth plea in law, alleging a breach of the obligation to state reasons

Within the context of the fifth plea in law, it is claimed that the decision is not duly justified in accordance with the requirements of Article 296(2) TFEU and Article 41(2)(c) of the Charter of Fundamental Rights. In the contested decision, the defendant merely vaguely referred to discrepancies in the testing methodology, but failed to take a position on the decisive question whether and to what extent the testing methodology required a specific preconditioning and whether the defendant approved such a testing methodology in Implementing Decision (EU) 2015/158.

([1]) Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO 2 emissions from light-duty vehicles (OJ 2009 L 140, p. 1).

([2]) Commission Implementing Regulation (EU) No 725/2011 of 25 July 2011 establishing a procedure for the approval and certification of innovative technologies for reducing CO 2 emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council (OJ 2011 L 194, p. 19).

([3]) Commission Implementing Decision (EU) 2015/158 of 30 January 2015 on the approval of two Robert Bosch GmbH high efficient alternators as the innovative technologies for reducing CO 2 emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council (OJ 2015 L 26, p. 31).

Action brought on 14 June 2019 — Jalkh v Parlement

(Case T-360/19)

(2019/C 263/66)

Language of the case: French

Parties

Applicant: Jean-François Jalkh (Gretz-Armainvilliers, France) (represented by: F. Wagner, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul the European Parliament's legislative resolution of 16 April 2019 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU, Euratom) No 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF)) as regards cooperation with the European Public Prosecutor's Office and the effectiveness of OLAF investigations (COM(2018)0338 C8-0214/2018 2018J0170(COD);

— order the European Parliament to pay all the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Articles 7 and 8 of the Charter of Fundamental Rights of the European Union, in so far as the contested resolution grants the European Anti-Fraud Office (OLAF) access to personal information, which is contrary to the right to the protection of private life and the right to the protection of personal data.

2. Second plea in law, alleging infringement of Articles 8 and 9 of the Protocol (No 7) on the privileges and immunities of the European Union, in so far as the contested resolution allows OLAF to circumvent the parliamentary immunity of Members of Parliament.

3. Third plea in law, alleging infringement of Article 5 of the European Parliament's Rules of Procedure and Article 4 of the Statute for Members of the European Parliament. The applicant claims that the contested resolution allows OLAF to circumvent the parliamentary immunity of Members of Parliament and to access documents that are not documents of the European Parliament.

4. Fourth plea in law, alleging infringement of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, in so far as the contested resolution violates the rights of defence of Members of Parliament.

Action brought on 16 June 2019 — CF v Parliament

(Case T-361/19)

(2019/C 263/67)

Language of the case: French

Parties

Applicant: CF (represented by: A. Daoût, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— Annul the contested decisions;

— Order compensation of the pecuniary and non-pecuniary harm caused by the contested decisions or award the applicant a provisional amount of EUR 50 000;

— Order the European Parliament to pay all the costs.

Pleas in law and main arguments

In support of the action seeking annulment of the two decisions of the President of the Parliament of 16 April 2019 finding that the applicant was guilty of psychological harassment against her former accredited parliamentary assistant and issuing a reprimand against her, the applicant relies on four pleas in law.

1. First plea in law, alleging misinterpretation of the legal definition of harassment in Article 12a of the Staff Regulations of the Officials of the European Union, on the ground that the President of the European Parliament failed to take account of the constituent elements of the concept of psychological harassment laid down by statutory law and case-law.

2. Second plea in law, alleging a failure to state reasons in the contested act. The applicant maintains that the President of the Parliament gave reasons for his first decision based on the incomplete report of the Advisory Committee and that his second decision does not meet the criteria laid down in Article 166 of the Rules of Procedure of the European Parliament.

3. Third plea in law, alleging infringement of the right to good administration and of the rights of defence. According to the applicant, the administration failed to comply with its duty of care, to observe the principle of reasonable time, to comply with the rules governing the confidentiality of the investigation, the rights of defence, the presumption of innocence and the right of access to the disciplinary file.

4. Fourth plea in law, alleging infringement of the principle of legal certainty and the non-retroactivity of coercive rules, in that the President of the Parliament and the Advisory Committee applied a coercive rule to events prior to its adoption.

The applicant seeks, in addition, compensation for the pecuniary and non-pecuniary damage sustained. She claims that the way in which the investigation was conducted had the effect of tarnishing her reputation and caused her to lose the opportunity to stand as a candidate in the European elections.

Action brought on 12 June 2019 — United Kingdom v Commission

(Case T-363/19)

(2019/C 263/68)

Language of the case: English

Parties

Applicant: United Kingdom of Great Britain and Northern Ireland (represented by: S. Brandon, Agent, P. Baker QC and T. Johnston, Barrister)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul European Commission Decision C(2019) 2526 of 2 April 2019 on the State aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption;

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging manifest error of assessment: identification of the wrong reference system.

   — The applicant argues that the Commission erred when it held that the Controlled Foreign Company (CFC) rules provide the proper framework for an examination of comparability (Recital 107 in the preamble to the contested decision).

   — The UK operates a largely territorial corporation tax (CT) system: in general, only profits derived from the UK are taxable. The relevant starting point, therefore, is that no tax is payable in respect of the profits of any overseas subsidiaries. The CFC legislation deviates from this position and establishes a number of exceptional circumstances in which a CFC charge may be payable. The proper reference system, therefore, is the framework of CT as a whole. The applicant argues that the Commission erred when it selected an artificially narrow reference framework

2. Second plea in law, alleging that the exemptions contained in Chapter 9 of the Taxation (International and Other Provisions) Act 2010 are not derogations.

— The objective of the CFC rules is to impose a CFC charge in respect only of those arrangements that pose a high risk of abuse/artificial diversion. The UK selected a legislative technique whereby it: (i) began with a broad and inclusive definition of CFCs, and (ii) excluded the overwhelming majority of profits derived from CFCs, in order to identify only the narrow category of profits that present a risk of abuse/artificial diversion. Chapters 5 and 9 of the Taxation (International and Other Provisions) Act 2010 operate together to identify those arrangements that present a high risk of abuse/artificial diversion.

— It is further argued that the Commission manifestly erred when it held that the said Chapter 9 Exemptions are a derogation, because it focused on the legislative technique employed, not the underlying objectives of the measure.

— In the applicant's view, the Commission also held — wrongly — that there was no relevant distinction between Qualifying Loan Relationships (QLRs) and non-QLRs. The UK Government is uniquely well placed to determine which kinds of arrangements present a high risk of abuse/artificial diversion. The Commission, it is alleged:

a. erred in law when it failed to grant the UK Government a suitable margin of appreciation when assessing that issue; and

b. manifestly erred in its assessment of the arrangements in question.

3. Third plea in law, alleging a manifest error of assessment regarding selectivity.

— The Commission was wrong to find that the United Kingdom should have relied only on a 'significant people functions' (SPF) test, as opposed to the said Chapters 5 and 9 operating together. It was also wrong to reject the assessment that an SPF-based approach alone was equally complex to administer as an approach based on capital investment from the UK.

— The applicant further maintains that the Commission also erred when it rejected the position of the UK that the said Chapter 9 exemptions were an appropriate, proportionate and administratively workable response to the judgment of the Grand Chamber in *Cadbury Schweppes plc and Cadbury Schweppes Overseas* Ltd. v. *Commissioners of Inland Revenue*, (Case C-196/04, EU:C:2006:544).

4. Fourth plea in law, alleging that there is no effect on intra-EU trade.

— The applicants argue, finally, that the Commission erred when it held that the said Chapter 9 Exemptions granted a 'benefit' to any company so as to affect intra-EU trade. Rather they provide, in the applicant's view, a mechanism by which a CFC charge is imposed on UK-resident companies in a small number of cases. At the relevant time (2013) there was no Union-wide obligation to levy tax on the profits of CFCs, and the Commission has failed to demonstrate that the said Chapter 9 Exemptions provided any advantage, when compared to the obligations imposed in other Member States, so as to affect intra-EU trade.

Action brought on 17 June 2019 — Moretti v Parliament

(Case T-364/19)

(2019/C 263/69)

Language of the case: Italian

Parties

Applicant: Luigi Moretti (Nembro, Italy) (represented by: M. Paniz, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul the communiqué of the European Parliament Directorate-General for Finance implementing Resolution No 14/2018 of 12 July 2018 of the Office of the President of the Italian Chamber of Deputies and/or Resolution No 6/2018 of the Presidential Council of the Senate of the Italian Republic, and, in any event,

— annul the redetermination and recalculation of the life annuity disbursed by the European Parliament;

— accordingly, declare that the applicant is entitled to the maintenance of the life annuity in question in so far as it was accrued and is being accrued on the basis of the legislation in force prior to Resolution No 14/2018 of the Office of the President of the Italian Chamber [of Deputies] and/or Resolution No 6/2018 of the Presidential Council of the Senate of the Italian Republic, and order the European Parliament to pay him all the sums unduly withheld, adjusted for inflation, together with statutory interest from the date of withholding until the date of payment;

— order the European Parliament to implement the judgment and immediately to restore in full the original amount of the life annuity, and to pay compensation for all damages if and to the extent that damages are payable to the applicant; and

— in any event, order the Parliament to pay all costs, lawyers' fees, plus VAT, taxes, duties and flat-rate charges.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those relied on in Case T-345/19, *Santini* v *Parliament*.

Action brought on 17 June 2019 — Capraro v Parliament

(Case T-365/19)

(2019/C 263/70)

Language of the case: Italian

Parties

Applicant: Patrizia Capraro (Rome, Italy) (represented by: M. Paniz, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul the communiqué of the European Parliament Directorate-General for Finance implementing Resolution No 14/2018 of 12 July 2018 of the Office of the President of the Italian Chamber of Deputies and/or Resolution No 6/2018 of the Presidential Council of the Senate of the Italian Republic, and, in any event,

— annul the redetermination and recalculation of the life annuity disbursed by the European Parliament;

— accordingly, declare that the applicant is entitled to the maintenance of the life annuity in question in so far as it was accrued and is being accrued on the basis of the legislation in force prior to Resolution No 14/2018 of the Office of the President of the Italian Chamber [of Deputies] and/or Resolution No 6/2018 of the Presidential Council of the Senate of the Italian Republic, and order the European Parliament to pay her all the sums unduly withheld, adjusted for inflation, together with statutory interest from the date of withholding until the date of payment;

— order the European Parliament to implement the judgment and immediately to restore in full the original amount of the life annuity, and to pay compensation for all damages if and to the extent that damages are payable to the applicant; and

— in any event, order the Parliament to pay all costs, lawyers' fees, plus VAT, taxes, duties and flat-rate charges.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those relied on in Case T-345/19, *Santini* v *Parliament*.

Action brought on 18 June 2019 — Sboarina v Parliament

(Case T-366/19)

(2019/C 263/71)

Language of the case: Italian

Parties

Applicant: Gabriele Sboarina (Verona, Italy) (represented by: M. Paniz, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul the communiqué of the European Parliament Directorate-General for Finance implementing Resolution No 14/2018 of 12 July 2018 of the Office of the President of the Italian Chamber of Deputies and/or Resolution No 6/2018 of the Presidential Council of the Senate of the Italian Republic, and, in any event,

— annul the redetermination and recalculation of the life annuity disbursed by the European Parliament;

— accordingly, declare that the applicant is entitled to the maintenance of the life annuity in question in so far as it was accrued and is being accrued on the basis of the legislation in force prior to Resolution No 14/2018 of the Office of the President of the Italian Chamber [of Deputies] and/or Resolution No 6/2018 of the Presidential Council of the Senate of the Italian Republic, and order the European Parliament to pay him all the sums unduly withheld, adjusted for inflation, together with statutory interest from the date of withholding until the date of payment;

— order the European Parliament to implement the judgment and immediately to restore in full the original amount of the life annuity, and to pay compensation for all damages if and to the extent that damages are payable to the applicant; and

— in any event, order the Parliament to pay all costs, lawyers' fees, plus VAT, taxes, duties and flat-rate charges.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those relied on in Case T-345/19, *Santini* v *Parliament*.

Action brought on 19 June 2019 — Spain v Commission

(Case T-370/19)

(2019/C 263/72)

Language of the case: Spanish

Parties

Applicant: Kingdom of Spain (represented by: M. García-Valdecasas Dorrego, acting as Agent)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the decision of the European Commission of 18 March 2019.

— order the Commission to pay the costs.

Pleas in law and main arguments

The present action is brought against the Commission Decision of 18 March 2019 on the participation of the National Regulatory Authority of Kosovo in the Body of European Regulators for Electronic Communications. ([1])

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

1. First plea, alleging infringement of Article 35 of Regulation (EU) 2018/1971 of the European Parliament and of the Council of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office), amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/2009, ([2]) in so far as that article permits only the Board of Regulators, the working groups and the Management Board to be open to the participation of regulatory authorities of third countries.

2. Second plea, alleging infringement of Article 35 of Regulation (EU) 2018/1971, in so far as there is no agreement as to the Regulatory Authority of Kosovo's participation in BEREC.

3. Third plea, alleging infringement of Article 35 of Regulation (EU) 2018/1971, in so far as the European Commission has deviated from the established procedure for participation of the regulatory authorities of third countries in BEREC. This also led to the adoption of a legal act with no legal basis whatsoever and created legal obligations in respect of third parties, without specific powers having been conferred to that effect.

([1]) OJ 2019 C 115, p. 26.
([2]) OJ 2018 L 321, p. 1.

Action brought on 18 June 2019 — Itinerant Show Room v EUIPO — Forest (FAKE DUCK)

(Case T-371/19)

(2019/C 263/73)

Language in which the application was lodged: Italian

Parties

Applicant: Itinerant Show Room Srl (San Giorgio in Bosco, Italy) (represented by: A. Visentin, M. Cartella and B. Cartella, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Forest Srl (Milan, Italy)

Details of the proceedings before EUIPO

Applicant for the trade mark at issue: Applicant before the General Court

Trade mark at issue: European Union figurative mark FAKE DUCK — Application for registration No 15 912 496

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 5 April 2019 in Case R 1117/2018-1

Form of order sought

The applicant claims that the Court should:

— declare the action to be well founded for the reasons set out in the application and, accordingly;

— annul the contested decision;

— order EUIPO to award EU trade mark No 015912496 also for Classes 18 and 25;

— order EUIPO to pay the costs.

Pleas in law

— Infringement of Article 8(1)(b) of Regulation EU 2017/1001 of the European Parliament and of the Council;

— Failure to carry out an assessment of the actual ways the goods are purchased.

Action brought on 20 June 2019 — Cellai v Parliament

(Case T-372/19)

(2019/C 263/74)

Language of the case: Italian

Parties

Applicant: Marco Cellai (Florence, Italy) (represented by: M. Paniz, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul the communiqué of the European Parliament Directorate-General for Finance implementing Resolution No 14/2018 of 12 July 2018 of the Office of the President of the Italian Chamber of Deputies and/or Resolution No 6/2018 of the Presidential Council of the Senate of the Italian Republic, and, in any event,

— annul the redetermination and recalculation of the life annuity disbursed by the European Parliament;

— accordingly, declare that the applicant is entitled to the maintenance of the life annuity in question in so far as it was accrued and is being accrued on the basis of the legislation in force prior to Resolution No 14/2018 of the Office of the President of the Italian Chamber [of Deputies] and/or Resolution No 6/2018 of the Presidential Council of the Senate of the Italian Republic, and order the European Parliament to pay him all the sums unduly withheld, adjusted for inflation, together with statutory interest from the date of withholding until the date of payment;

— order the European Parliament to implement the judgment and immediately to restore in full the original amount of the life annuity, and to pay compensation for all damages if and to the extent that damages are payable to the applicant; and

— in any event, order the Parliament to pay all costs, lawyers' fees, plus VAT, taxes, duties and flat-rate charges.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those relied on in Case T-345/19, *Santini* v *Parliament*.

Action brought on 20 June 2019 — Gatti v Parliament

(Case T-373/19)

(2019/C 263/75)

Language of the case: Italian

Parties

Applicant: Natalino Gatti (Nonantola, Italy) (represented by: M. Paniz, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul the communiqué of the European Parliament Directorate-General for Finance implementing Resolution No 14/2018 of 12 July 2018 of the Office of the President of the Italian Chamber of Deputies and/or Resolution No 6/2018 of the Presidential Council of the Senate of the Italian Republic, and, in any event,

— annul the redetermination and recalculation of the life annuity disbursed by the European Parliament;

— accordingly, declare that the applicant is entitled to the maintenance of the life annuity in question in so far as it was accrued and is being accrued on the basis of the legislation in force prior to Resolution No 14/2018 of the Office of the President of the Italian Chamber [of Deputies] and/or Resolution No 6/2018 of the Presidential Council of the Senate of the Italian Republic, and order the European Parliament to pay him all the sums unduly withheld, adjusted for inflation, together with statutory interest from the date of withholding until the date of payment;

— order the European Parliament to implement the judgment and immediately to restore in full the original amount of the life annuity, and to pay compensation for all damages if and to the extent that damages are payable to the applicant; and

— in any event, order the Parliament to pay all costs, lawyers' fees, plus VAT, taxes, duties and flat-rate charges.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those relied on in Case T-345/19, *Santini* v *Parliament*.

Action brought on 20 June 2019 — Wuhrer v Parliament

(Case T-374/19)

(2019/C 263/76)

Language of the case: Italian

Parties

Applicant: Lina Wuhrer (Brescia, Italy) (represented by: M. Paniz, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul the communiqué of the European Parliament Directorate-General for Finance implementing Resolution No 14/2018 of 12 July 2018 of the Office of the President of the Italian Chamber of Deputies and/or Resolution No 6/2018 of the Presidential Council of the Senate of the Italian Republic, and, in any event,

— annul the redetermination and recalculation of the life annuity disbursed by the European Parliament;

— accordingly, declare that the applicant is entitled to the maintenance of the life annuity in question in so far as it was accrued and is being accrued on the basis of the legislation in force prior to Resolution No 14/2018 of the Office of the President of the Italian Chamber [of Deputies] and/or Resolution No 6/2018 of the Presidential Council of the Senate of the Italian Republic, and order the European Parliament to pay her all the sums unduly withheld, adjusted for inflation, together with statutory interest from the date of withholding until the date of payment;

— order the European Parliament to implement the judgment and immediately to restore in full the original amount of the life annuity, and to pay compensation for all damages if and to the extent that damages are payable to the applicant; and

— in any event, order the Parliament to pay all costs, lawyers' fees, plus VAT, taxes, duties and flat-rate charges.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those relied on in Case T-345/19, *Santini* v *Parliament*.

Action brought on 24 June 2019 — El Corte Inglés v EUIPO — Big Bang (LTC latiendaencasa.es BIG BANG DAY)

(Case T-376/19)

(2019/C 263/77)

Language in which the application was lodged: Spanish

Parties

Applicant: El Corte Inglés, SA (Madrid, Spain) (represented by: J.L. Rivas Zurdo, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Big Bang, trgovina in storitve, d.o.o. (Ljubljana, Slovenia)

Details of the proceedings before EUIPO

Applicant for the trade mark at issue: Applicant before the General Court

Trade mark at issue: Application for the EU figurative mark LTC latiendaencasa.es BIG BANG DAY — Application for registration No 15 879 323

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 5 April 2019 in Case R 1684/2018-5

Form of order sought

The applicant claims that the Court should:

— Uphold the present action for annulment and, accordingly, annul the contested decision, which dismissed the applicant's appeal and confirmed the decision of the Opposition Division (opposition B 2 840 414) by which EU trade mark No 15 879 323 was refused only in respect of the goods and services in the Classes to which the opposition related (7, 9, 11, 16, 35 and 42) with the exception of the following goods in Class 7 which are also granted: 'machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; incubators for eggs; automatic vending machines'; and

— order the party or parties opposing this action to pay the costs.

Plea in law

Infringement of Article 8(1)(b) Regulation (EU) 2017/1001 of the European Parliament and of the Council.

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