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Contents

EN

General Court

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COURT OF JUSTICE OF THE EUROPEAN UNION

Last publications of the Court of Justice of the European Union in the *Official Journal of the European Union*

(2020/C 87/01)

Last publication

OJ C 77, 9.3.2020

Past publications

OJ C 68, 2.3.2020

OJ C 61, 24.2.2020

OJ C 54, 17.2.2020

OJ C 45, 10.2.2020

OJ C 36, 3.2.2020

OJ C 27, 27.1.2020

These texts are available on:

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

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Request for a preliminary ruling from the Tribunale di Potenza (Italy) lodged on 26 July 2019 — OM v Ministero dell'Istruzione, dell'Università e della Ricerca and Others

(Case C-569/19)

(2020/C 87/02)

Language of the case: Italian

Referring court

Tribunale di Potenza

Parties to the main proceedings

Applicant: OM

Defendants: Ministero dell'Istruzione, dell'Università e della Ricerca, Ministero dell'Economia e delle Finanze, and Presidenza del Consiglio dei Ministri

By order of 7 November 2019, the Court (Ninth Chamber) declared the request for a preliminary ruling lodged by the Tribunale di Potenza manifestly inadmissible.

Request for a preliminary ruling from the Amtsgericht Hamburg (Germany) lodged on 13 November 2019 — XY v KLM Cityhopper BV

(Case C-829/19)

(2020/C 87/03)

Language of the case: German

Referring court

Amtsgericht Hamburg

Parties to the main proceedings

Applicant: XY

Defendant: KLM Cityhopper BV

The case was removed from the Register of the Court of Justice by order of the Court of 17 January 2020.

Request for a preliminary ruling from the Verwaltungsgericht Gera (Germany) lodged on 18 November 2019 — Toropet Ltd. v Landkreis Greiz

(Case C-836/19)

(2020/C 87/04)

Language of the case: German

Referring court

Verwaltungsgericht Gera

Parties to the main proceedings

Applicant: Toropet Ltd.

Defendant: Landkreis Greiz

Questions referred

1. Is Article 10(a) of Regulation No 1069/2009 ([1]) to be interpreted as meaning that the original classification as Category 3 material is lost if fitness for human consumption no longer applies due to decomposition and spoilage?

2. Is Article 10(f) of Regulation No 1069/2009 to be interpreted as meaning that the original classification as Category 3 material for products of animal origin, or foodstuffs containing products of animal origin, is lost if a risk to public or animal health arises from the material as a result of later decomposition or spoilage processes?

3. Is the provision of Article 9(d) of Regulation No 1069/2009 to be interpreted restrictively as meaning that material mixed with foreign bodies such as sawdust is only to be categorised as Category 2 material when the material is to be processed and is destined for feeding purposes?

([1]) 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 (OJ 2009 L 300, p. 1).

Request for a preliminary ruling from the Verwaltungsgericht Köln (Germany) lodged on 22 November 2019 — Vodafone GmbH v Federal Republic of Germany

(Case C-854/19)

(2020/C 87/05)

Language of the case: German

Referring court

Verwaltungsgericht Köln

Parties to the main proceedings

Applicant: Vodafone GmbH

Defendant: Federal Republic of Germany

Questions referred

1. (a) In a case where a mobile communications tariff which customers can use abroad and which provides a monthly inclusive data volume for mobile data traffic, after the consumption of which the transmission speed is reduced, can be extended by a free tariff option on the basis of which certain services of partner companies of the telecommunications company can be used domestically without the data volume consumed through the use of those services being offset against the monthly inclusive data volume of the mobile communications tariff, whereas abroad the data volume in question is offset against the monthly inclusive data volume of the mobile communications tariff, is the concept of the regulated data roaming service within the meaning of Article 6a in conjunction with Article 2 (2)(m) of Regulation No 531/2012 ([1]) to be understood as meaning that the mobile communications tariff and the tariff option are to be jointly qualified as a single regulated data roaming service with the result that a non-offsetting of the data volume consumed through the use of the services of partner companies against the monthly inclusive data volume is impermissible only domestically?

   (b) If Question 1 (a) is to be answered in the affirmative: In a situation such as that in question in the present proceedings, is Article 6a of Regulation No 531/2012 to be interpreted as meaning that the offsetting of the data volume consumed through the use of the services of partner companies against the monthly inclusive data volume of the mobile communications tariff abroad is to be qualified as the charging of an additional fee?

   (c) If Question 1 (a) and Question 1 (b) are to be answered in the affirmative: Does this also apply if, in a situation such as that in question in the present proceedings, a fee is demanded for the tariff option?

2. (a) If Question 1 (a) is to be answered in the affirmative: In a situation such as that in question in the present proceedings, is the first subparagraph of Article 6b(1) of Regulation No 531/2012 to be interpreted as meaning that a fair use policy for the use of regulated roaming services at retail level can also be provided for the tariff option as such?

   (b) If Question 1 (a) is to be answered in the affirmative and Question 2 (a) is to be answered in the negative: In a situation such as that in question in the present proceedings, is the first subparagraph of Article 6b(1) of Regulation No 531/2012 to be understood as meaning that a common fair use policy for the use of regulated roaming services at retail level can be provided both for the mobile communications tariff and the tariff option with the result that the overall domestic retail price of the mobile communications tariff and/or the sum of the overall domestic retail prices of the mobile communications tariff and the tariff option is to form the basis of the calculation of the data volume to be provided within the scope of a common fair use policy?

   (c) If Question 1 (a) is to be answered in the affirmative and Question 2 (a) and Question 2 b) are to be answered in the negative: In a situation such as that in question in the present proceedings, is the first subparagraph of Article 6b(1) of Regulation No 531/2012 in conjunction with the first subparagraph of Article 4(2) of Implementing Regulation No 2016/2286 ([2]) applicable by analogy in such a way that a fair use policy can be provided for the tariff option as such?

3. (a) If Question 2 (a) or (c) is to be answered in the affirmative: Is the concept of the open data bundle for the purpose of the first subparagraph of Article 6b(1) of Regulation No 531/2012 in conjunction with the first subparagraph of Article 4(2) and Article 2(2)(c) of Implementing Regulation No 2016/2286 to be interpreted as meaning that a tariff option for which a fee is demanded is to be qualified in itself as an open data bundle?

   (b) If Question 3 (a) is to be answered in the affirmative: In a situation such as that in question in the present proceedings, does this also apply if no fee is demanded for the tariff option?

4. If Question 2 (a) or (c) is to be answered in the affirmative and Question 3 (a) or (b) is to be answered in the negative: In a situation such as that in question in the present proceedings, is the first subparagraph of Article 6b(1) of Regulation No 531/2012 in conjunction with the first subparagraph of Article 4(2) of Implementing Regulation No 2016/2286 to be interpreted as meaning that the overall domestic retail price of the mobile communications tariff is also to be used for calculating the volume which must be provided to roaming customers within the scope of a fair use policy based in isolation on the tariff option as such?

([1]) Regulation (EU) No 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union (OJ 2012 L 172, p. 10).

([2]) Commission Implementing Regulation (EU) 2016/2286 of 15 December 2016 laying down detailed rules on the application of fair use policy and on the methodology for assessing the sustainability of the abolition of retail roaming surcharges and on the application to be submitted by a roaming provider for the purposes of that assessment (OJ 2016 L 344, p. 46).

Request for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 28 November 2019 — L v Banco de Caja España de Inversiones, Salamanca y Soria, S.A.U.

(Case C-869/19)

(2020/C 87/06)

Language of the case: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Applicant: L

Defendant: Banco de Caja España de Inversiones, Salamanca y Soria, S.A.U.

Question referred

Does Article 6(1) of Directive 93/13/EEC ([1]) preclude the application of the procedural principles of delimitation of the subject matter of an action by the parties, correlation between the claims put forward in the action and the rulings contained in the operative part and prohibition of *reformatio in peius* that prevent the court seised of the appeal lodged by the bank against a judgment that placed a temporal limit on repayment of the amounts overpaid by the consumer under a 'floor clause' subsequently declared void from ordering repayment in full of the said overpayments, thereby placing the appellant in a worse position, because the consumer has not appealed against the said limit?

([1]) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).

Request for a preliminary ruling from the Schleswig-Holsteinisches Verwaltungsgericht (Germany) lodged on 29 November 2019 — Deutsche Umwelthilfe e.V. v Bundesrepublik Deutschland

(Case C-873/19)

(2020/C 87/07)

Language of the case: German

Referring court

Schleswig-Holsteinisches Verwaltungsgericht

Parties to the main proceedings

Applicant: Deutsche Umwelthilfe e.V.

Defendant: Bundesrepublik Deutschland

Joined party: Volkswagen AG

Questions referred

1. Is Article 9(3) of the Convention on access to information, public participation in decision-making and access to justice in environmental matters ([1]) — signed in Aarhus on 25 June 1998 and approved on behalf of the European Community by Council Decision 2005/370/EC of 17 February 2005 — in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union, to be interpreted as meaning that it must in principle be possible for environmental associations to challenge before the courts a decision approving the manufacture of diesel passenger cars with defeat devices that are potentially in breach of Article 5(2) of Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information ([2])?

2. If Question 1 is answered in the affirmative:

   (a) Is Article 5(2) of Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information to be interpreted as meaning that the yardstick for determining whether the need for a defeat device is justified in terms of protecting the engine against damage or accident and for safe operation of the vehicle is, in principle, the state of the art, in the sense of what is technically feasible at the time when the EC type approval is granted?

   (b) In addition to the state of the art, should account be taken of other circumstances which may lead to the permissibility of a defeat device, even though, according to the current state of the art alone, the 'need' for such a device would not be 'justified' within the meaning of Article 5(2)(a) of Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information?

([1]) Council Decision of 17 February 2005 on the conclusion, on behalf of the European Community, of the Convention on access to information, public participation in decision-making and access to justice in environmental matters (OJ 2005 L 124, p. 1).
([2]) OJ 2007 L 171, p. 1.

Request for a preliminary ruling from the Amtsgericht Düsseldorf (Germany) lodged on 3 December 2019 — VZ and Others v Eurowings GmbH

(Case C-880/19)

(2020/C 87/08)

Language of the case: German

Referring court

Amtsgericht Düsseldorf

Parties to the main proceedings

Applicants: VZ and Others

Defendant: Eurowings GmbH

Questions referred

1. Is Article 5(1)(c)(iii) of Regulation (EC) No 261/2004 ([1]) to be interpreted as meaning that the re-routing referred to therein which allows the passenger to depart no more than one hour before the scheduled time of departure is to be carried out from the same airport of departure as that of the booked flight or could a departure from another airport also be considered?

2. In the case where a departure from another airport could also be considered, is it solely decisive whether the departure takes place no more than one hour before the scheduled time of departure, irrespective of how far the passenger travels to the airport or is the difference in timing also to be taken into account in connection with the passenger's journey to the airport?

([1]) Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ 2004 L 46, p. 1).

Request for a preliminary ruling from the Audiencia Provincial de Barcelona (Spain) lodged on 3 December 2019 — Sumal, S.L. v Mercedes Benz Trucks España, S.L.

(Case C-882/19)

(2020/C 87/09)

Language of the case: Spanish

Referring court

Audiencia Provincial de Barcelona

Parties to the main proceedings

Applicant: Sumal, S.L.

Defendant: Mercedes Benz Trucks España, S.L.

Questions referred

(A) Does the doctrine of the single economic unit developed by the Court of Justice provide grounds for extending liability from the parent company to the subsidiary, or does the doctrine apply solely in order to extend liability from subsidiaries to the parent company?

(B) In the context of *intra*-group relationships, should the concept of single economic unit be extended solely on the basis of issues of control, or can it also be extended on the basis of other criteria, including the possibility that the subsidiary may have benefited from the infringing acts?

(C) If it is possible to extend liability from the parent company to the subsidiary, what would be required in order for it to be possible?

(D) If the answers to the earlier questions support the extension of subsidiaries' liability to cover acts of the parent company, would a provision of national law such as Article 71(2) of the Ley de Defensa de la Competencia (Law on the Protection of Competition), which provides only for liability incurred by the subsidiary to be extended to the parent company, and then only where the parent company exercises control over the subsidiary, be compatible with that Community doctrine?

Request for a preliminary ruling from the Verwaltungsgerichtshof Baden-Württemberg (Germany) lodged on 10 December 2019 — CF, DN v Bundesrepublik Deutschland

(Case C-901/19)

(2020/C 87/10)

Language of the case: German

Referring court

Verwaltungsgerichtshof Baden-Württemberg

Parties to the main proceedings

Applicants: CF, DN

Defendant: Bundesrepublik Deutschland

Questions referred

1. Do Article 15(c) and Article 2(f) of Directive 2011/95/EU ([1]) preclude the interpretation and application of a provision of national law whereby a serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of armed conflict (in the sense that a civilian would, solely on account of his presence in the relevant region, face a real risk of being subject to such a threat), in cases in which that person is not specifically targeted by reason of factors particular to his personal circumstances, can only exist where a minimum number of civilian casualties (killed and injured) has already been established?

2. If the answer to Question 1 is in the affirmative: Must the assessment as to whether a threat exists in that sense be conducted on the basis of a comprehensive appraisal of all the circumstances of the individual case? If not: Which other requirements of EU law apply to that assessment?

([1]) 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 (OJ 2011 L 337, p. 9).

Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 11 December 2019 — Q-GmbH v Z Tax Office

(Case C-907/19)

(2020/C 87/11)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: Q-GmbH

Defendant: Z Tax Office

Question referred

Does a service related to insurance and reinsurance transactions that is performed with exemption from tax by insurance brokers and insurance agents within the meaning of Article 135(1)(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ([1]) exist if a taxable person who carries out intermediary work for an insurance company also provides that insurance company with the mediated insurance product?

([1]) OJ 2006 L 347, p. 1.

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 12 December 2019 — Ministero della Giustizia, in the person of the Minister currently responsible v GN

(Case C-914/19)

(2020/C 87/12)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellant: Ministero della Giustizia, in the person of the Minister currently responsible

Respondent: GN

Intervening parties: HM, JL, JJ

Question referred

Do Article 21 of the Charter of Fundamental Rights of the European Union, Article 10 TFEU and Article 6 of Council Directive 2000/78/EC [1] of 27 November 2000, in so far as they prohibit discrimination on the basis of age for access to employment, preclude a Member State from imposing an age limit on access to the profession of notary?

[1] Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ 2000 L 303, p. 16).

Request for a preliminary ruling from the Najvyšší súd Slovenskej republiky (Slovak Republic) lodged on 16 December 2019 — Criminal proceedings against X.Y.

(Case C-919/19)

(2020/C 87/13)

Language of the case: Slovak

Referring court

Najvyšší súd Slovenskej republiky

Parties to the main proceedings

Generálna prokuratúra Slovenskej republiky, X.Y.

Questions referred

1. Is Article 4(1)(a) of the Framework Decision [1] to be interpreted to the effect that the criteria set out therein are satisfied only when the sentenced person has, in the Member State of his nationality, such family, social, professional or other links that it is possible to reasonably assume from those links that enforcement in that State of the sentence may facilitate his social rehabilitation, and as therefore precluding national legislation such as Paragraph 4(1)(a) of Zákon č. 549/2011 Z.z. [Law No 549/2011] (in the version in force until 31 December 2019) which, in such cases, enables a judgment to be recognised and enforced in the event of merely formally recorded habitual residence in the executing State, regardless of whether the sentenced person has concrete links in that State which could enhance his social rehabilitation?

2. If that question is answered in the affirmative, is Article 4(2) of the Framework Decision to be interpreted to the effect that the competent authority of the issuing State is required also in the situation provided for in Article 4(1)(a) of the Framework Decision to satisfy itself, even before forwarding the judgment and certificate, that enforcement of the sentence by the executing State would serve the purpose of facilitating the social rehabilitation of the sentenced person and is, furthermore, required to provide the information gathered for that purpose in section (d), point 4, of the certificate specifically, where the sentenced person claims in the statement of his opinion provided for in Article 6(3) of the Framework Decision that he has concrete family, social or professional links in the issuing State?

3. If question 1 is answered in the affirmative, must Article 9(1)(b) of the Framework Decision be interpreted to the effect that where, in the situation set out in Article 4(1)(a) of the Framework Decision, despite the consultation under Article 4 (1)(3) of that Decision and any provision of other necessary information, it is not proven that there are such family, social or professional links from which it could reasonably be assumed that the enforcement in the executing State of the sentence may facilitate the social rehabilitation of the sentenced person, there is still a ground for refusing to recognise and enforce the judgment?

(1) Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (OJ 2008 L 327, p. 27), as amended by Council Framework Decision 2009/299/JHA of 26 February 2009 (OJ 2009 L 81, p. 24).

Request for a preliminary ruling from the Bundesfinanzgericht (Austria) lodged on 20 December 2019 — Titanium Ltd

(Case C-931/19)

(2020/C 87/14)

Language of the case: German

Referring court

Bundesfinanzgericht

Parties to the main proceedings

Appellant: Titanium Ltd

Respondent authority: Finanzamt Wien 1/23

Question referred (1)

Is the term 'fixed establishment' to be interpreted as meaning that the existence of human and technical resources is always necessary and therefore that the service provider's own staff must be present at the establishment, or can — in the specific case of the letting, subject to tax, of a property situated in national territory, which constitutes only a passive tolerance of an act or situation — that property, even without human resources, be regarded as a 'fixed establishment'?

(1) On the interpretation of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1), as amended by Directive 2008/8/EC (OJ 2008 L 44, p. 11), and Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112 (OJ 2011 L 77, p. 1).

Appeal brought on 20 December 2019 by Autostrada Wielkopolska S.A. against the judgment of the General Court (Ninth Chamber) delivered on 24 October 2019 in Case T-778/17, Autostrada Wielkopolska S.A. v Commission

(Case C-933/19 P)

(2020/C 87/15)

Language of the case: English

Parties

Appellant: Autostrada Wielkopolska S.A. (represented by: O. Geiss, Rechtsanwalt, T. Siakka, dikigoros)

Other parties to the proceedings: European Commission, Republic of Poland

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal;

— annul the Commission Decision (EU) 2018/556 of 25 August 2017 on the State aid SA.35356 (2013/C) (ex 2013/NN, ex 2012/N) implemented by Poland for Autostrada Wielkopolska S.A or, in the alternative, refer the case back to the General Court; and, in any event,

— order the Commission to pay the Appellant's costs of the appeal and of the procedure in case T-778/17 before the General Court.

Pleas in law and main arguments

In support of the action, the Applicant relies on the following four grounds.

First Ground: the General Court manifestly erred in law in dismissing the first plea of the Appellant's application because, after correctly finding that the Commission should have given the Appellant the opportunity to comment again during the administrative procedure (a finding not challenged in this appeal), it applied a wrong legal test (requiring a potential effect on the decision is established) and distorted the content of the contested decision and failed to provide adequate reasoning when finding that the (wrong test) was not met.

Second Ground: the General Court's manifest errors in law include the failure to assess the Commission's application of the private investor test against the correct legal standard in breach of Article 107 (1) TFEU, exceeding its powers of review by substituting its reasoning for that in the contested decision, reversing the burden of proof, inadequate reasoning, distortion of evidence, failure to adhere to the rules of evidence (in relation to its own findings and its obligation to assess whether the Commission's assessment against the applicable legal standard) and breach of the fundamental principle of the supremacy of EU law. More specifically, the errors relate to the finding that the Commission was not obliged to take into account and assess the shift in inflation and exchange rate risk, the General Court's reliance on the Law of 28 July 2005 as a limitation of the private investor test, the finding that the Commission was not obliged to take into account and assess the termination and litigation risk and errors in relation to the General Court's assessment of the third element in recital 152.

Third Ground: in dismissing the second part of the second plea, the General Court manifestly erred in law by misapplying the applicable test, impermissibly substituting its own reasoning for that of the of the Commission, reversing of the burden of proof, inadequate reasoning and failing to adhere to the rules of evidence.

Fourth Ground: in dismissing the first ground of the fifth plea, the General Court erred in law by distorting the clear sense of the evidence and by providing inadequate reasoning.

Appeal brought on 20 December 2019 by Algebris (UK) Ltd, Anchorage Capital Group LLC against the order of the General Court (Eighth Chamber) delivered on 10 October 2019 in Case T-2/19, Algebris (UK) and Anchorage Capital Group v SRB

(Case C-934/19 P)

(2020/C 87/16)

Language of the case: English

Parties

Appellants: Algebris (UK) Ltd, Anchorage Capital Group LLC (represented by: T. Soames, avocat, N. Chesaites, advocaat, R. East, Solicitor, D. Mackersie, Barrister)

Other party to the proceedings: Single Resolution Board ('SRB')

Form of order sought

The appellants claim that the Court should:

— set aside paragraph 1 of the operative part of the order under appeal;

— set aside paragraph 2 of the operative part of the order under appeal and order the SRB to bear their own costs and to pay the costs of the appellants, relating to both the proceedings at first instance and to this appeal, and

— grant the appellants standing to seek annulment of the contested decision contested before the General Court.

Pleas in law and main arguments

By the first plea in law, the appellants contend that by ruling that the appellants lack direct concern, the General Court committed an error of law by misinterpreting Article 20(11), first subparagraph, of Regulation (EU) 806/2014 ([1]) ('SRMR'), as well as a violation of the appellants' property rights.

The General Court's interpretation led it to erroneously conclude that in circumstances such as the present: (1) expropriated parties such as the appellants will only have standing to challenge the failure to undertake an ex-post definitive valuation where they can obtain compensation under Article 20(11), second subparagraph, (b) SRMR; (2) compensation is only due under Article 20(11), second subparagraph, (b), where the resolution scheme applied makes use of either the bail-in tool under Article 27 SRMR, the bridge institution tool under Article 25 SRMR, or the asset separation tool under Article 26 SRMR; (3) therefore, creditors (and shareholders) will have no standing. As a consequence, in circumstances such as the present, where it is difficult to conceive of any party other than expropriated shareholders and creditors who would have standing to challenge the failure of the SRB to carry out an ex-post definitive valuation, the SRB is permitted to rely on deeply flawed, highly unreliable provisional valuations. The appellants have a direct concern in the decision not to conduct a definitive valuation because it is very likely that a definitive ex-post valuation 1 and 2 would confirm that the Bank had been valued incorrectly, requiring the SRB to consider whether to compensate the appellants through a write back of creditors' claims and/or an increase in the consideration paid by Santander under Article 20(12) SRMR. If the SRB exercised its discretion not to compensate, that decision would also be subject to challenge and an action for damages.

The General Court's interpretation of Article 20(11) also violates the right to property, enshrined in Article 17 of the Charter of Fundamental Rights, because an ex-post definitive valuation is necessary to ensure that: (1) the expropriation of the appellants' AT1 and T2 bonds is conducted under the conditions provided for by law, and (2) fair compensation is paid, i.e. by determining the Bank's value on the basis of a definitive ex-post valuation.

2. By the second plea in law, the appellants claim that, in any event, the General Court committed an error of law in concluding that the appellants would not be entitled to compensation under Article 20(12)(a) SRMR, thereby misinterpreting that provision and violating the principle of non-discrimination.

The Appellants submit that in the context of bank resolution, Article 20(12)(a) should include circumstances in which relevant capital instruments (i.e., AT1 and T2 bonds) are written down by 100 % (as in the present case), whether they are written down under Article 22(1) SRMR, or under the bail-in tool, for two reasons. First, this approach is consistent with the fact that a 100 % 'bail-in' and a 100 % 'write-down' / 'conversion' of AT1 and T2 bonds are effectively and in substance the same thing (with the same economic effects), as they both write down debt owed by a bank to its creditors, or convert it to equity. Second, it would be discriminatory and perverse if creditors / shareholders whose debt instruments were written down and converted under Article 22(1) SRMR could not obtain compensation, while those subject to a bail-in under Article 27 SRMR could obtain compensation, despite the fact that: (1) the legal mechanism for and practical effect of a write down and conversion under Article 21 SRMR and a bail-in under Article 27 SRMR is the same, and (2) both measures were informed by the same provisional valuation.

(1) Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ 2014, L 225, p. 1).

Appeal brought on 23 December 2019 by Carmen Liaño Reig against the order of the General Court (Eighth Chamber) delivered on 24 October 2019 in Case T-557/17, Liaño Reig v SRB

(Case C-947/19 P)

(2020/C 87/17)

Language of the case: Spanish

Parties

Appellant: Carmen Liaño Reig (represented by: F. López Antón, abogado)

Other party to the proceedings: Single Resolution Board

Form of order sought

The appellant claims that the Court should:

(i) allow the present appeal and set aside the order of the General Court (Eighth Chamber) of 24 October 2019, *Liaño Reig* v *SRB* (T-557/17, not published, EU:T:2019:771) dismissing the appellant's action before the General Court as inadmisible and ordering the appellant to pay the costs of the SRB, set out in paragraphs 1 and 3, respectively, of the operative part of the order, and

(ii) under the first paragraph of Article 61 of the Statute of the Court of Justice of the European Union give final judgment in the case brought by the appellant before the General Court, allowing all the claims set out in the application before the General Court, if it considers that the state of the proceedings so permits, or, if not, refer the case back to the General Court for judgment, reserving the decision on costs.

Pleas in law and main arguments

A. **As regards the plea that the action is inadmissible based on the General Court's conclusion that the partial annulment of the resolution decision requested by the appellant cannot be separated from the other elements of the resolution scheme without altering the substance of the resolution decision**

Plea 1: the argument put forward in paragraph 40 of the order under appeal is vitiated by a failure to state reasons.

Plea 2: the assertion in paragraph 40 of the order under appeal is incorrect and unfounded as it does not take into account data concerning the amounts of the Tier 2 instruments referred to in Article 6(1)(d) of the resolution decision which were converted into shares in Banco Popular.

Plea 3: the order under appeal does not take into account the Court's case-law in accordance with which the alteration of the substance of an act must be assessed on the basis of an objective criterion.

Plea 4: paragraphs 30 and 35 of the order under appeal are vitiated by a failure to state reasons concerning the alleged need to convert all the Tier 2 instruments as a necessary prerequisite for the implementation of the resolution tool consisting of the sale of the business.

Plea 5: the order under appeal is wrong in law as it is based on the bid presented by Banco Santander, which does not form part of the documents on the file.

Plea 6: the General Court erred in law by not taking into account, in paragraphs 31 and 32 of the order under appeal, the appellant's contentions concerning the effectiveness of valuation 2 and by not assessing the documents on the file which substantiate those contentions.

Plea 7: paragraph 42 of the order under appeal contains an error of law on account of a failure to state reasons.

Plea 8: the order under appeal does not take into account the appellant's claim concerning the application of Article 21(1)(c) of Regulation No 806/2014 concerning compliance with the condition of severability and, therefore, the reasoning in paragraph 42 of the order under appeal is incorrect.

B) **As regards the plea that the action is inadmissible on the basis that the order under appeal held that the partial annulment of the resolution decision requested by the appellant is contrary to the principle of equal treatment of creditors of the same class**

Plea 9: paragraphs 48 and 51 of the order under appeal contain an error of assessment in respect of the appellant's claims.

Plea 10: the General Court erred in law, in paragraphs 45 and 46 of the order under appeal, by wrongly applying, to the BPEF bonds, the general resolution principle provided for in Article 15(1)(f) of Regulation No 806/2014.

Plea 11: the General Court erred in law, in paragraphs 44 to 46 and 51 of the order under appeal, by wrongly applying the principle of equal treatment in respect of the BPEF bonds and, in addition, set out an incorrect statement of reasons.

C) **As regards the inadmissibility of the application for annulment of valuations 1 and 2**

Plea 12: the General Court (paragraph 55 of the order under appeal) substantiates the inadmissibility of the application for annulment of valuations 1 and 2 on the sole basis of the inadmissibility of the application for partial annulment of the resolution decision brought by the appellant.

D) **As regards the inadmissibility of the application for compensation**

Plea 13: the General Court (paragraph 66 of the order under appeal) gives as the only reason for the inadmissibility of the appellant's application for compensation, the inadmissibility of the application for annulment concerning the conversion of the BPEF bonds into shares in Banco Popular.

Request for a preliminary ruling from the Tallinna Ringkonnakohus (Estonia) lodged on 7 January 2020 — Sotsiaalministeerium v Innove SA

(Case C-6/20)

(2020/C 87/18)

Language of the case: Estonian

Referring court

Tallinna Ringkonnakohus

Parties to the main proceedings

Appellant: Sotsiaalministeerium

Respondent: Innove SA

Questions referred

1. Are Articles 2 and 46 of Directive 2004/18/EC ([1]) of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts to be interpreted as precluding national legislation — such as Paragraph 41(3) of the Riigihangete seadus (Estonian Law on public procurement; 'the RHS') — pursuant to which, if specific requirements for the activities to be carried out under a public contract are laid down by law, the contracting authority must specify in the tender notice which registrations or activity licences are required to qualify the tenderer, must require the tenderer to submit evidence of the activity licence or registration for the purpose of verifying compliance with the special statutory requirements in the tender notice, and must refuse the tenderer as unqualified if the latter does not possess the relevant activity licence or registration?

2. Read together, are Articles 2 and 46 of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts to be interpreted as precluding the contracting authority, in the case of a food aid procurement contract that exceeds the international threshold, from setting a selection criterion for the tenderers according to which all tenderers, irrespective of where they were previously established, must already hold an activity licence or be registered in the country of the food aid operations at the time of submission of the tenders, even if the tenderer has not previously been established in that Member State?

3. If the preceding questions are answered in the affirmative:

   (a) Are Articles 2 and 46 of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts to be regarded as provisions that are so unambiguous that the principle of the protection of legitimate expectations cannot be invoked against them?

   (b) Are Articles 2 and 46 of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts to be interpreted as meaning that a situation in which the contracting authority in a public tender for food aid requires, pursuant to the national law on foodstuffs, that the tenderers already hold an activity licence at the time of submission of the tender may be regarded as constituting a manifest infringement of the rules in force, as negligence or as an irregularity precluding reliance on the principle of the protection of legitimate expectations?

([1]) Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ 2004 L 134, p. 114).

Request for a preliminary ruling from the Schleswig-Holsteinisches Verwaltungsgericht (Germany) lodged on 9 January 2020 — L.R. v Federal Republic of Germany

(Case C-8/20)

(2020/C 87/19)

Language of the case: German

Referring court

Schleswig-Holsteinisches Verwaltungsgericht

Parties to the main proceedings

Applicant: L.R.

Defendant: Federal Republic of Germany

Question referred

Is a national provision according to which an application for international protection can be rejected as an inadmissible subsequent application compatible with Article 33(2)(d) and Article 2(q) of Directive 2013/32/EU [1] if the unsuccessful initial asylum procedure was not conducted in a Member State of the EU, but in Norway?

[1] Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ 2013 L 180, p. 60).

Request for a preliminary ruling from the Cour d'appel de Bruxelles (Belgium) lodged on 14 January 2020 — Top System SA v Belgian State

(Case C-13/20)

(2020/C 87/20)

Language of the case: French

Referring court

Cour d'appel de Bruxelles

Parties to the main proceedings

Applicant: Top System SA

Defendant: Belgian State

Questions referred

1. Is Article 5(1) of Council Directive 91/250/EEC [1] of 14 May 1991 on the legal protection of computer programs to be interpreted as permitting the lawful purchaser of a computer program to decompile all or part of that program where such decompilation is necessary to enable that person to correct errors affecting the operation of the program, including where the correction consists in disabling a function that is affecting the proper operation of the application of which the program forms a part?

2. In the event that that question is answered in the affirmative, must the conditions referred to in Article 6, or any other conditions, also be satisfied?

[1] OJ 1991, L 122, p. 42.

Action brought on 17 January 2020 — European Commission v Kingdom of Sweden

(Case C-22/20)

(2020/C 87/21)

Language of the case: Swedish

Parties

Applicant: European Commission (represented by: E. Manhaeve, C. Hermes, E. Ljung Rasmussen and K. Simonsson)

Defendant: Kingdom of Sweden

Form of order sought

The applicant claims that the Court should:

— declare that the Kingdom of Sweden has failed to fulfil its obligations under Article 4(3) of the Treaty on European Union by not providing the Commission with the information necessary for it to assess the accuracy of the claims that the agglomerations Habo and Töreboda satisfy the requirements of Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment, ([1])

— declare that the Kingdom of Sweden has failed to fulfil its obligations under Article 4 in conjunction with Articles 10 and 15 of Directive 91/271/EEC by not ensuring that, before it is discharged, urban waste water from the agglomerations Lycksele, Malå, Mockfjärd, Pajala, Robertsfors and Tänndalen is subject to secondary treatment or an equivalent treatment in accordance with the requirements of the directive;

— declare that the Kingdom of Sweden has failed to fulfil its obligations under Article 5 in conjunction with Articles 10 and 15 of Directive 91/271/EEC by not ensuring that, before it is discharged, urban waste water from the agglomerations Borås, Skoghall, Habo and Töreboda is subject to more stringent treatment than that described in Article 4 of the directive in accordance with the requirements of the same directive, and

— order the Kingdom of Sweden to pay the costs.

Pleas in law and main arguments

— Member States are, according to Article 4(1) of Council Directive 91/271/EEC, to ensure that urban waste water from agglomerations of a certain size is before discharge subject to secondary treatment or an equivalent treatment.

— Member States are moreover, according to Article 5 of the directive, obliged to ensure that waste water from agglomerations of a certain size is before discharge into sensitive areas subject to more stringent treatment than that described in Article 4.

— Article 4(3) in conjunction with point B.2 and Table 1 of Annex I to the directive — as well as Article 5(3) in conjunction with point B.3 and Table 2 of Annex I to the directive for cases of discharges from agglomerations of more than 10 000 population equivalents — sets out the requirements applicable for discharges of treated waste water ('discharge requirements'). These requirements establish, in so far as is relevant to this case, limit values for biochemical oxygen demand (BOD), chemical oxygen demand (COD) and nitrogen.

— Article 15 in conjunction with point D of Annex I to the directive sets out the requirements that apply for the monitoring and assessment of conformity with the discharge requirements. Those requirements specify the number of annual samples and sample collection intervals ('control requirements').

— Article 10 of the directive sets out the requirements that apply for design, construction, operation and maintenance of the plants that are built to comply with the discharge requirements.

— The Commission considers, after assessing the information that Sweden has submitted, that Sweden does not satisfy the requirements of Article 4 in conjunction with Articles 10 and 15 of the directive in question in the case of six agglomerations in so far as the discharge requirements and/or control requirements are not fulfilled.

— The Commission also considers, after assessing the information that Sweden has submitted, that Sweden does not satisfy the requirements of Article 5 in conjunction with Articles 10 and 15 of the directive in the case of an additional four agglomerations in so far as the discharge requirements are not fulfilled.

— Sweden contends, in respect of two of the agglomerations, that the discharge requirements for nitrogen are satisfied on the basis of natural retention. Sweden has not, however, provided the Commission with the information necessary for it to assess the accuracy of Sweden's claims about the extent of the natural retention and conformity with the directive's requirement of nitrogen removal on that basis. The Commission considers Sweden to have thereby violated the principle of loyal cooperation enshrined in Article 4(3) TEU.

([1]) OJ 1991 L 135, p. 40.

Action brought on 29 January 2020 — European Commission v Hellenic Republic

(Case C-51/20)

(2020/C 87/22)

Language of the case: Greek

Parties

Applicant: European Commission (represented by: A. Bouchagiar and B. Stromsky)

Defendant: Hellenic Republic

Form of order sought

The applicant claims that the Court should:

— declare that, by failing to take all the measures necessary to comply with the judgment of the Court of 9 November 2017 in Case C-481/16 *Commission* v *Greece* EU:C:2017:845, the Hellenic Republic has failed to fulfil its obligations under that judgment and under Article 260(1) TFEU,

— order the Hellenic Republic to pay the Commission a penalty payment of EUR 26 697,89 for each day's delay in complying with the judgment of the Court of 9 November 2017 in Case C-481/16, for the period from the day on which judgment in the present case is delivered until the day on which the judgment of 9 November 2017 has been complied with in full,

— order the Hellenic Republic to pay the Commission a lump sum, the amount of which results from the multiplication of a daily amount of EUR 3 709,23 by the number of days elapsed from delivery of the judgment of 9 November 2017 until the day of delivery of the judgment in the present case,

— order Hellenic Republic to pay the costs.

Pleas in law and main arguments

In accordance with the European Commission's decision of 27 March 2014 in Case SA.34572, the Hellenic Republic should have recovered the incompatible aid granted to Larco within four months and informed the Commission to the requisite legal standard that it had taken the necessary measures to that end. The aid consisted of State guarantees to Larco for 2008, 2010 and 2011 and public participation in the company's capital increase in 2009.

On 2 September 2016, the Commission brought an action before the Court for infringement of Article 108(2) TFEU (Case C-481/16). The Court ruled, on 9 November 2017, that, by failing to adopt, within the prescribed period, all the measures necessary to implement the Commission's decision and by failing to inform the Commission of the measures adopted pursuant to that decision, the Hellenic Republic had failed to fulfil its obligations under Articles 3 to 5 of that decision and the Treaty on the Functioning of the European Union.

By failing to take measures to comply with the judgment of the Court of 9 November 2017, the Hellenic Republic failed to fulfil its obligations under that decision and Article 260(1) of the Treaty on the Functioning of the European Union.

Action brought on 4 February 2020 — European Commission v Federal Republic of Germany

(Case C-57/20)

(2020/C 87/23)

Language of the case: German

Parties

Applicant: European Commission (represented by: R. Pethke and J. Jokubauskaitė, acting as Agents)

Defendant: Federal Republic of Germany

Form of order sought

The applicant claims that the Court should:

— declare that, by applying the flat-rate scheme to all farmers as a rule regardless of whether the application of the normal VAT arrangements or the special scheme for small enterprises would give rise to difficulties for them, and by applying a flat-rate compensation tax rate which leads to a structural over-compensation of the input tax paid, the Federal Republic of Germany has infringed its obligations under Articles 296(1) and 299 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax; ([1])

— order the Federal Republic of Germany to pay the costs of the proceedings.

Pleas in law and main arguments

First plea in law — Infringement of Article 296(1) of Directive 2006/112/EC

By its first plea in law, the Commission claims that, by applying the flat-rate scheme to all farmers regardless of any difficulties encountered by them in applying the normal VAT arrangements or the special scheme for small enterprises, the Federal Republic of Germany infringed Article 296(1) of Directive 2006/112.

According to Article 296 of Directive 2006/112, farmers who could benefit from the flat-rate scheme must be selected appropriately. Accordingly, as an eligibility criterion, eligible farmers would have to encounter difficulties in applying the normal VAT arrangements or the special scheme under Chapter 1. The Federal Republic of Germany failed to select eligible farmers on the basis of that eligibility criterion.

By its second plea in law, the Commission claims that the Federal Republic of Germany infringed Article 299 of Directive 2006/112 in that the flat-rate compensation tax rate applied by it results in a structural over-compensation of the input tax actually paid by flat-rate farmers.

In the calculation, the agricultural services provided by commercial contractors are deducted from the turnover of the whole agricultural sector, on the one hand, whilst only the input tax burden on farmers subject to the normal VAT arrangements, and not the input tax burden on commercial contractors, is deducted from the input tax burden on the whole agricultural sector, on the other. This leads to a structural over-compensation due to the reimbursement at a flat rate of the flat-rate farmers' input tax.

([1]) OJ 2006 L 347, p. 1.

GENERAL COURT

Order of the President of the General Court of 12 December 2019 — KF v SatCen

(Case T-619/19 R)

(Decision to launch administrative investigation — Application for suspension of a decision — Application for interim measures — Inadmissibility — No urgency)

(2020/C 87/24)

Language of the case: English

Parties

Applicant: KF (represented by: Ms A. Kunst, lawyer, and Mr N. Macaulay, Barrister)

Defendant: European Union Satellite Centre (represented by: A. Guillerme, acting as Agent)

Re:

Application pursuant to Articles 278 and 279 TFEU seeking the suspension of the operation of the decision of the Director of SatCen of 3 July 2019 to reopen an administrative investigation against KF.

Operative part of the order

1. The application for interim measures is dismissed;

2. The costs are reserved.

Action brought on 11 December 2019 — Multi-Service v Commission

(Case T-873/19)

(2020/C 87/25)

Language of the case: Polish

Parties

Applicant: Multi-Service S.A. (Kwidzyn, Poland) (represented by: P. Jankowski, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Decision ARES (2019) 6103796 of 3 October 2019 concerning registration in the registry in accordance with Commission Implementing Regulation (EU) 2019/661, Registry ID 9920, and re-registration of the undertaking in the registry;

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

— admit as evidence the letter of 23 October 2019.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law.

The applicant alleges that the defendant infringed Article 17 of Regulation No 517/2014, in conjunction with Article 6 of Implementing Regulation 2019/661, in so far as it wrongly removed the registration of the applicant undertaking from the registry for hydrofluorocarbons (HFC).

Action brought on 31 December 2019 — GABO:mi v Commission

(Case T-881/19)

(2020/C 87/26)

Language of the case: English

Parties

Applicant: GABO:mi Gesellschaft für Ablauforganisation:milliarium mbH & Co. KG (Munich, Germany) (represented by: C. Mayer, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— order the defendant to pay EUR 1 680 681,82 plus interest of EUR 76 552,60 to the applicant;

— order the defendant to bear all costs of the proceedings.

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 that eligible costs must be reimbursed by the defendant.

— The applicant conducted its services under FP6 and FP7 grant agreements. Be-tween 1 August 2015 and 30 April 2016, the applicant was working in a total of 37 research projects. From 1 May 2016 until 30 June 2016, the applicant conducted its services in a total of 38 research projects. All costs incurred during these timespans fulfil the eligibility criteria stipulated in the grant agreements entered into by the parties (Article II.14.1). These costs have not yet been reimbursed by the defendant. The defendant is obliged to reimburse these costs according to the grant agreements.

2. Second plea in law, alleging that the set-offs during the period from August 2015 to April 2016 are ineffective.

— The set-offs during the period from August 2015 to April 2016 are ineffective pursuant to German insolvency law. Regarding a partial amount of EUR 274 248,27, the ineffectiveness of the set-offs against the claims of the applicant follows from Section 95 (1) 3 of the German Insolvency Code (InsO). As far as the set-offs concern the remaining amount of EUR 1 144 394,33 pursuant to the judgment of 25 September 2018 in *GABO:mi Gesellschaft für Ablauforganisation:milliarium mbH & Co. KG* v *Commission* (Case T-10/16, EU:T:2018:600), set-off is deemed ineffective pursuant to section 96 (1) 3 InsO, in conjunction with section 133 (1) InsO (former version).

3. Third plea in law, alleging that the set-offs during the preliminary insolvency proceedings (May to June 2016) are ineffective

— The set-offs of the defendant during the period from May to June 2016 are ineffective pursuant to section 96 (1) 3 InsO, in conjunction with section 130 (1) No. 2 InsO. Section 96 (1) 3 InsO provides for insolvency-related ineffectiveness of such set-offs that were declared before opening of insolvency proceedings or thereafter where the right of set-off was obtained in a voidable manner.

Action brought on 3 January 2020 — Sieć Badawcza Łukasiewicz — Port Polski Ośrodek Rozwoju Technologii v Commission

(Case T-4/20)

(2020/C 87/27)

Language of the case: English

Parties

Applicant: Sieć Badawcza Łukasiewicz — Port Polski Ośrodek Rozwoju Technologii (Wrocław, Poland) (represented by: Ł. Stępkowski, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare that the defendant's contractual claim set out in a letter of 13 November 2019 (ref. Ares (2019)6993009), dated 12 November 2019, and in six debit notes issued by the defendant accompanied by a cover letter for the aggregate amount of EUR 180 893,90 consisting in the amount of EUR 164 449 as to the principal amount, and in the amount of EUR 16 444,90 liquidated damages, is non-existent; and, as a consequence:

— declare that the personnel costs subject to the action are eligible costs payable by the defendant; and

— order the defendant to pay the amount of EUR 180 893,90 to the applicant, plus statutory default interest under Belgian law of 8 % per annum from 24 December 2019 inclusive, until the date of payment of the principal sum; and

— as a subsidiary form of order, to the extent that the defendant's letter of 13 November 2019 (ref. Ares (2019)6993009) constitutes a challengeable act, annul the Commission's decision contained in that letter.

— in any case, order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First primary plea in law, alleging breach of contract: breach of Article II.14(1)(a)(b), read together with Articles II.6(6), II.22(6) and II.24(1) of Annexes II to the grant agreements nos. 248577-C2POWER, 257626-ACROPOLIS and 215669-EUWB.

2. Second primary plea in law, alleging breach of applicable law, i.e. the law of Belgium: breach of Articles 1134, 1135 and 1315 of the Belgian Civil Code.

3. Third primary plea in law, alleging breach of applicable law, i.e. the law of Poland: breach of Articles 11^3, 18§ 2 and 140 of the Polish Labour Code.

4. Fourth primary plea in law, alleging that statutory interest is due from the defendant on the basis of a general principle of Union law on default interest and under Belgian law.

5. Fifth primary plea in law, alleging breach of the principle of legitimate expectations, in that the defendant offered precise and unconditional assurances which were breached.

6. Sixth primary plea in law, relating to costs, arguing that the defendant be ordered to pay the costs as an unsuccessful party.

7. First subsidiary plea in law, alleging breach of the rights of defence, in that the defendant did not produce evidence and did not hear the applicant.

8. Second subsidiary plea in law, alleging manifest error of assessment, in that the defendant committed errors of fact and did not produce a consistent body of evidence.

9. Third subsidiary plea in law, alleging a breach of the obligation to state reasons, in that the defendant did not offer a statement of reasons and refused to explain its position.

10. Fourth subsidiary plea in law, alleging a breach of the principle of legitimate expectations, in that the defendant offered precise and unconditional assurances which were breached.

11. Fifth subsidiary plea in law, relating to costs, arguing that the defendant be ordered to pay the costs as an unsuccessful party.

Action brought on 7 January 2020 — Global Translation Solutions v Parliament

(Case T-7/20)

(2020/C 87/28)

Language of the case: English

Parties

Applicant: Global Translation Solutions ltd. (Valletta, Malta) (represented by: C. Mifsud-Bonnici, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul the defendant's decision of 28 October 2019 to reject the applicant's bid submitted for Lot 15 in connection with procurement procedure TRA/EU19/2019 ([1]);

— in the alternative, annul the defendant's decision of 5 December 2019 to award Lot 15 in connection with procurement procedure TRA/EU19/2019 to only one single economic operator; and,

— order the defendant to pay 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 that the defendant's decision of 28 October 2019 to reject the applicant's bid submitted for Lot 15 in connection with procurement procedure TRA/EU19/2019 was unlawful on the basis that it is founded on an erroneous determination of fact, namely, that the file format '.doc' did not satisfy the terms of the procurement documents on the basis that:

   — that the procurement documents were not drafted in sufficiently clear precise and unequivocal terms; and/or,

— that the file format '.doc' is functionally equivalent to the file format '.docx'.

2. Second plea in law, alleging that the defendant's decision of 28 October 2019 to reject the applicant's bid submitted for Lot 15 in connection with procurement procedure TRA/EU19/2019 was unlawful on the basis that:

— that the defendant's conduct was in breach of the law inter alia Article 106(3) the Commission Implementing Regulation ([2]) and contrary to the general principles of Union law, including, public procurement inter alia proportionality; and/or,

— that the defendant's conduct was in breach of the law inter alia Article 96(2) of the Financial Regulation ([3]) and general principles of Union law, including, sound administration inter alia duty to act with care.

3. Third plea in law, alleging that the defendant's decision of 5 December 2019 to award Lot 15 in connection with procurement procedure TRA/EU19/2019 to only one single economic operator on the basis that is contrary to the general principles of Union law, including, public procurement and contrary to the terms of the procurement procedure.

([1]) OJ 2019/S 54-123613
([2]) Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ 2012 L 362, p. 1)
([3]) Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ 2012 L 298, p. 1)

Action brought on 20 January 2020 — West End Drinks v EUIPO — Pernod Ricard (The King of SOHO)

(Case T-31/20)

(2020/C 87/29)

Language of the case: English

Parties

Applicant: West End Drinks Ltd (London, United Kingdom) (represented by: C. Hawkes, Solicitor and C. Hall, Barrister)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Pernod Ricard SA (Paris, France)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union figurative mark The King of SOHO in the colours golden, dark yellow, light yellow and cream — Application for registration No 11 539 103

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 16 October 2019 in Case R 1543/2018-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— annul the decision of the Opposition Division;

— order EUIPO to pay the costs.

Pleas in law

— Infringement of Article 42(3) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

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

Action brought on 27 January 2020 — AV and AW v Parliament

(Case T-43/20)

(2020/C 87/30)

Language of the case: French

Parties

Applicants: AV and AW (represented by: L. Levi and S. Rodrigues, lawyers)

Defendant: European Parliament

Form of order sought

The applicants claim that the Court should:

— declare the present action admissible and well founded;

— annul the contested decisions and remind the defendant, if necessary, of its obligation to draw all the consequences in respect of the applicants, pursuant to Article 266 TFEU, in particular in terms of remuneration and promotion;

— order the defendant to pay all the costs.

Pleas in law and main arguments

In support of their action against the decisions of 21 June 2019 by which the Parliament imposed on them a disciplinary penalty of downgrading by 4 grades and by 2 grades, respectively, the applicants put forward five pleas in law.

1. First plea, alleging infringement of the right to be heard, on the ground that the applicants were not heard by the competent authority.

2. Second plea, alleging infringement of the rights of the defence and the principle of good administration.

3. Third plea, alleging irregularities in the preparatory measures for the contested decisions. The applicants rely in that regard on the irregularity of the investigation report drawn up by the European Anti-Fraud Office (OLAF) and the opinion of the Disciplinary Board.

4. Fourth plea, alleging infringement of Articles 4 and 16 of Annex IX to the Staff Regulations of Officials of the European Union (the 'Staff Regulations') and the principle of conferral of powers and the principle of procedural autonomy of the Member States. The applicants submit that the Disciplinary Board and the appointing authority were required to verify the validity, in the light of Portuguese law, of the mandate of the lawyer at the hearing on 20 February 2018. They add that, in any event, once alerted to the fact that the mandate was invalid, the Disciplinary Board and the appointing authority should have drawn the necessary consequences for the disciplinary procedure, in particular as regards the applicants' lack of acquiescence to the conduct complained of and the findings of OLAF and the investigators.

5. Fifth plea, alleging infringement of Article 10 of the Annex to the Staff Regulations, in so far as the penalties were not proportionate to the seriousness of the misconduct.

Action brought on 28 January 2020 — Sahaj Marg Spirituality Foundation v EUIPO (Heartfulness)

(Case T-48/20)

(2020/C 87/31)

Language of the case: English

Parties

Applicant: Sahaj Marg Spirituality Foundation (Manapakkam, India) (represented by: E. Manresa Medina, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: International registration designating the European Union in respect of the figurative mark Heartfulness — Application for registration No 1 433 232

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 26 November 2019 in Case R 1266/2019-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay for all expenses of this procedure.

Pleas in law

— Infringement of Article 7(1)(c) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 7(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 7(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 29 January 2020 — Rothenberger v EUIPO — Paper Point (ROBOX)

(Case T-49/20)

(2020/C 87/32)

Language of the case: English

Parties

Applicant: Rothenberger AG (Kelkheim, Germany) (represented by: V. von Bomhard and J. Fuhrmann, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Paper Point Snc di Daria Fabbroni e Simone Borghini (Arezzo, Italy)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union word mark ROBOX — Application for registration No 16 462 971

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 31 October 2019 in Case R 210/2019-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order that the costs of the proceedings be borne by EUIPO, and, in case the other party to the proceedings before the Board of Appeal joins the proceedings, the intervener.

Plea in law

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

Action brought on 31 January 2020 — Mélin v Parliament

(Case T-51/20)

(2020/C 87/33)

Language of the case: French

Parties

Applicant: Joëlle Mélin (Aubagne, France) (represented by: F. Wagner, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— declare the plea of illegality admissible and rule that Article 33(1) and (2) and Article 68(1) and (2) of the IMSM (Implementing Measures for the Statute for Members) are unlawful;

— find, therefore, that there is no legal basis for the Secretary-General's decision of 17 December 2019 and annul that decision;

— in the alternative, find that Article 68(2) of the IMSM was infringed by the Secretary-General and annul the decision of 17 December 2019;

in the main proceedings:

— find that Joëlle Mélin has adduced evidence of the work of her assistant in accordance with Article 33(1) and (2) of the IMSM and the case-law of the Court of Justice of the European Union;

consequently,

— annul the decision of the Secretary-General of the European Parliament of 17 December 2019, notified by letter No D202484 dated 18 December 2019, taken pursuant to Article 68 of Decision 2009/C 159/01 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' as amended, finding a debt on the part of the applicant amounting to EUR 130 339,35 in respect of amounts wrongly paid in connection with the parliamentary assistance allowance and giving reasons for its recovery;

— annul debit note No 2019-2081 informing the applicant that a debt on the part of the applicant had been found following the decision of Secretary-General of 17 December 2019, *recovery of the sums wrongly paid as parliamentary assistance allowance, application of Article 68 of the IMS and Articles 98 to 101 of the Financial Regulation*;

— order the European Parliament to pay all the costs.

Pleas in law and main arguments

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

1. First plea in law, raising a plea of illegality due to infringement of the principles of legal certainty and legitimate expectations by Articles 33 and 68 of the Implementing Measures for the Statute for Members of the European Parliament ('the Implementing Measures') adopted by decision of 19 May and 9 July 2008 of the Bureau of the European Parliament, on account, inter alia, of their lack of clarity and specificity. The applicant submits that the lack of specificity of the contested regulations requires a judicial interpretation of the legality of the Implementing Measures. However, the detail required for proof of the work of a parliamentary assistant was established by the *Montel* case-law only in 2017, as the *Gorostiaga* case-law of 2005 concerned only evidence of the payment of salaries through third-party payments. Thus, from 2008 the contested provisions presented elements of uncertainty and lack of clarity. The applicant adds that, despite the risks of legal uncertainty, the European Parliament did not clearly and specifically regulate the procedure for monitoring parliamentary assistance, or formalise the duty to create and preserve records on the part of the Member of the European Parliament or even the rules on acceptable, identifiable and dated evidence.

2. Second plea in law, alleging infringement of an essential procedural requirement and of the rights of the defence. The applicant submits that the Secretary-General dispensed with any hearing and any proceedings prior to his new decision, that he did not request any explanation from her and that the file that he considered did not take into account additional documents submitted by her in support of her application of 7 December 2018. In addition, she considers that by not complying with the procedure laid down by Article 68(2) of the Implementing Measures, the Secretary-General deprived her of the opportunity to submit those additional documents to him and thus exposed her to the risk that those documents would be rejected by the Court on the basis that they were not submitted for the Secretary-General's approval at the start of the recovery procedure.

Action brought on 3 February 2020 — Bezos Family Foundation v EUIPO — SNCF Mobilités (VROOM)

(Case T-56/20)

(2020/C 87/34)

Language of the case: English

Parties

Applicant: Bezos Family Foundation (Seattle, Washington, United States) (represented by: A. Klett and M. Schaffner, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: SNCF Mobilités, établissement public à caractère industriel et commercial (Saint-Denis, France)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union word mark VROOM — Application for registration No 17 569 997

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 20 November 2019 in Case R 1288/2019-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— reject the opposition No B 3 051 050;

— authorize the registration of the European Union trade mark application 'VROOM' No 17 569 997;

— order EUIPO to pay the costs of the proceedings before the General Court and before the EUIPO (Board of Appeal and Opposition Division) including the necessary expenses of the applicant in those proceedings.

Plea in law

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

Action brought on 3 February 2020 — Group v EUIPO — Iliev (GROUP Company TOURISM & TRAVEL)

(Case T-57/20)

(2020/C 87/35)

Language in which the application was lodged: Bulgarian

Parties

Applicant: Group EOOD (Sofia, Bulgaria) (represented by: D. Dragiev and A. Andreev, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Kosta Iliev (Sofia, Bulgaria)

Details of the proceedings before EUIPO

Applicant: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Application for the EU figurative mark 'GROUP Company TOURISM & TRAVEL' in the colours purple, grey, black, violet, orange, red, and yellow — Application for registration No 10 640 449

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 8 November 2019 in Case R 2059/2018-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO, and the intervener, if any, to pay the costs.

Plea in law

— Infringement of Article 8(4) of Regulation (EU) No 2017/1001 of the European Parliament and of the Council.

Action brought on 3 February 2020 — Sonova v EUIPO — Digitmarket (B-Direct)

(Case T-61/20)

(2020/C 87/36)

Language in which the application was lodged: German

Parties

Applicant: Sonova AG (Stäfa, Switzerland) (represented by: A. Sabellek, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Digitmarket — Sistemas de lnformação SA (Maia, Portugal)

Details of the proceedings before EUIPO

Applicant for the trade mark at issue: Applicant

Trade mark at issue: International registration of the word mark B-Direct designating the European Union — International registration No 1 342 390 designating the European Union

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 28 November 2019 in Case R 88/2019-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

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

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