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Information and Notices

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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Ninth Chamber) of 13 February 2020 — Hellenic Republic v European Commission, Kingdom of Spain

(Case C-252/18 P) ([1])

(Appeal — Guarantee Section of European Agricultural Guidance and Guarantee Fund (EAGGF), European Agricultural Guarantee Fund (EAGF) and European Agricultural Fund for Rural Development (EAFRD) — Expenditure excluded from EU funding — Expenditure incurred by the Hellenic Republic — Regulation (EC) No 1782/2003 — Regulation (EC) No 796/2004 — Area-related aid scheme — Definition of 'permanent pasture' — Flat-rate financial corrections)

(2020/C 103/02)

Language of the case: Greek

Parties

Appellant: Hellenic Republic (represented by: G. Kanellopoulos, E. Leftheriotou, A. Vasilopoulou and E. Chroni, acting as Agents)

Other parties to the proceedings: European Commission (represented by: D. Triantafyllou and A. Sauka, acting as Agents), Kingdom of Spain (represented by: S. Jiménez García, acting as Agent)

Operative part of the judgment

The Court:

1. Sets aside points 1 and 2 of the operative part of the judgment of the General Court of the European Union of 1 February 2018, Greece v Commission (T 506/15, not published, EU:T:2018:53), in that, first, the General Court dismissed the action brought by the Hellenic Republic against the flat-rate correction of 25 % imposed by Commission Implementing Decision 2015/1119/EU of 22 June 2015 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD), for the claim years 2009 to 2011, on the ground of deficiencies in the definition and control of permanent pasture; and, second, the General Court ruled on costs;

2. Dismisses the appeal as to the remainder;

3. Annuls Implementing Decision 2015/1119 in so far as it imposes on the Hellenic Republic a flat-rate financial correction of 25 % applied to area-related aid for the claim years 2009 to 2011, on the ground of deficiencies in the definition and control of permanent pasture;

4. Orders the Hellenic Republic and the European Commission each to bear their own costs relating to the proceedings at first instance and on appeal;

5. Orders the Kingdom of Spain to bear its own costs relating to the proceedings at first instance and on appeal.

(1) OJ C 190, 4.6.2018.

Judgment of the Court (Sixth Chamber) of 13 February 2020 (request for a preliminary ruling from the Spetsializiran nakazatelen sad — Bulgaria) — Criminal proceedings against TX, UW

(Case C-688/18) (1)

(Reference for a preliminary ruling — Judicial cooperation in criminal matters — Directive (EU) 2016/343 — Presumption of innocence and right to be present at the trial in criminal proceedings — Article 8(1) and (2) — Conditions laid down by national law in order to hold a trial in absentia — Non-appearance of accused persons at certain hearings for reasons either within or beyond their control — Right to fair legal process)

(2020/C 103/03)

Language of the case: Bulgarian

Referring court

Spetsializiran nakazatelen sad

Parties in the main proceedings

TX, UW

Operative part of the judgment

Article 8(1) and (2) of Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings must be interpreted as not precluding national legislation which provides, in a situation where the accused person has been informed, in due time, of his trial and of the consequences of not appearing at that trial, and where that person was represented by a mandated lawyer appointed by him, that his right to be present at his trial is not infringed where:

— he decided unequivocally not to appear at one of the hearings held in connection with his trial; or

— he did not appear at one of those hearings for a reason beyond his control if, following that hearing, he was informed of the steps taken in his absence and, with full knowledge of the situation, decided and stated either that he would not call the lawfulness of those steps into question in reliance on his non-appearance, or that he wished to participate in those steps, leading the national court hearing the case to repeat those steps, in particular by conducting a further examination of a witness, in which the accused person was given the opportunity to participate fully.

(1) OJ C 25, 21.1.2019.

Judgment of the Court (Fifth Chamber) of 12 February 2020 (request for a preliminary ruling from the Spetsializiran nakazatelen sad — Bulgaria) — Criminal proceedings against Nikolay Kolev and Others

(Case C-704/18) ([1])

(Reference for a preliminary ruling — Article 267 TFEU — Implementation of a preliminary ruling of the Court — Power of a higher court to impose an injunction relating to the detailed rules for implementation — Procedural autonomy of the Member States — Principle of effectiveness — Observance of the rights of the defence)

(2020/C 103/04)

Language of the case: Bulgarian

Referring court

Spetsializiran nakazatelen sad

Parties in the main proceedings

Nikolay Boykov Kolev, Stefan Georgiev Kostadinov, Nasko Dimitrov Kurdov, Plamen Georgiev Drenski, Georgi Atanasov Zlatanov, Dimitar Atanasov Dimitrov

Operative part of the judgment

In the light of the Court's interpretation of Article 6(3) and Article 7(3) 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 in point 2 of the operative part of the judgment of 5 June 2018, *Kolev and Others* (C-612/15, EU:C:2018:392), Article 267 TFEU must be interpreted as not precluding a provision of national procedural law which obliges the referring court in the case giving rise to that judgment to comply with an injunction, imposed on it by a higher court, to refer the case back to the prosecutor, after the termination of the trial phase of the criminal proceedings, for procedural irregularities committed during the pre-trial phase of those proceedings to be remedied, to the extent that those provisions of EU law, as interpreted by the Court in point 2 of the operative part of that judgment, are respected in the context of the pre-trial phase of the criminal proceedings or in that of the subsequent trial phase thereof.

([1]) OJ C 25, 21.1.2019.

Appeal brought on 9 August 2018 by PJ against the order of the General Court (Fourth Chamber) made on 30 May 2018 in Case T-664/16, PJ v European Union Intellectual Property Office (EUIPO)

(Case C-529/18 P)

(2020/C 103/05)

Language of the case: German

Parties

Appellant: PJ (represented by: J. Lipinsky and C. von Donat, Rechtsanwälte)

Other parties to the proceedings: European Union Intellectual Property Office, Erdmann & Rossi GmbH

Form of order sought

The appellant claims that the Court should:

1. set aside the operative part of the order of the General Court of the European Union of 30 May 2018 in Case T-664/16 and refer the case back to the General Court for judgment;

2. order the European Union Intellectual Property Office and the intervener to pay the costs of the proceedings.

Grounds of appeal and main arguments

In support of its appeal, the appellant relies on three grounds of appeal, alleging:

1. Infringement of Article 19(3) of the Statute of the Court of Justice (in conjunction with Article 51(1) of the Rules of Procedure of the General Court)

   The General Court infringed Article 19(3) of the Statute of the Court of Justice (in conjunction with Article 51(1) of the Rules of Procedure of the General Court), since it misapplied the parties' obligation laid down in that provision to be 'represented by a lawyer'. The General Court overestimates the requirements of the lawyer's independence. The wording and meaning of Article 19(3) of the Statute of the Court of Justice do not justify the General Court's interpretation. The General Court's interpretation also finds no basis in the case-law of the Court of Justice. It is not foreseeable and breaches the principle of legal certainty.

2. Infringement of Article 19(3) of the Statute of the Court of Justice (in conjunction with Article 51(1) of the Rules of Procedure of the General Court)

   The order under appeal also infringes Article 19(3) of the Statute of the Court of Justice (in conjunction with Article 51 (1) of the Rules of Procedure of the General Court), since the General Court, in finding that the appellant's lawyer lacked independence, relies on presumptions which are not substantiated by facts and clearly does not acknowledge undisputed facts. Therefore, the General Court clearly draws erroneous inferences from the facts of the dispute, or distorts them.

3. Infringement of Article 47 of the Charter of Fundamental Rights of the European Union

   The order under appeal infringes Article 47(1) and (2) of the Charter, since the General Court's broad interpretation of the concept of 'independence' of an applicant's lawyer, which cannot be inferred from the wording of Article 19(3) of the Statute of the Court of Justice, results in the appellant being denied effective judicial protection.

Appeal brought on 10 August 2018 by PC against the order of the General Court (Fourth Chamber) made on 30 May 2018 in Case T-664/16, PJ v European Union Intellectual Property Office (EUIPO)

(Case C-531/18 P)

(2020/C 103/06)

Language of the case: German

Parties

Appellant: PC (represented by: J. Lipinsky and C. von Donat, Rechtsanwälte)

Other parties to the proceedings: PJ, European Union Intellectual Property Office, Erdmann & Rossi GmbH

Form of order sought

The appellant claims that the Court should:

1. set aside the operative part of the order of the General Court of the European Union of 30 May 2018 in Case T-664/16 and refer the case back to the General Court for judgment;

2. order the European Union Intellectual Property Office and the intervener to pay the costs of the proceedings.

Grounds of appeal and main arguments

In support of its appeal, the appellant relies on three grounds of appeal, alleging:

1. Infringement of Article 19(3) of the Statute of the Court of Justice (in conjunction with Article 51(1) of the Rules of Procedure of the General Court)

   The conclusion reached in the order under appeal that there is no longer any need to adjudicate on the appellant's application for replacement is based on an error in law in finding that the action in Case T-664/16 was inadmissible and an error in law in finding that the relationship between the appellant and the applicant was relevant. The General Court dismissed the action in Case T-664/16 as inadmissible in breach of Article 19(3) of the Statute of the Court of Justice, since it misapplied the parties' obligation laid down in that provision to be 'represented by a lawyer'. The General Court overestimates the requirements of the lawyer's independence. The wording and meaning of Article 19(3) of the Statute of the Court of Justice do not justify the General Court's interpretation. The General Court's interpretation also finds no basis in the case-law of the Court of Justice. It is not foreseeable and breaches the principle of legal certainty.

2. Infringement of Article 19(3) of the Statute of the Court of Justice (in conjunction with Article 51(1) of the Rules of Procedure of the General Court)

   The order under appeal also infringes Article 19(3) of the Statute of the Court of Justice (in conjunction with Article 175 (3) of the Rules of Procedure of the General Court), since the General Court assumes, misapplying that provision, that the appellant was not represented by an independent lawyer when lodging the application for replacement and that its application was therefore inadmissible. The General Court's interpretation of the requirement of the lawyer's independence is not justified by the wording or the meaning of Article 19(3) of the Statute of the Court of Justice (in conjunction with Article 175(3) of the Rules of Procedure of the General Court).

3. Infringement of Article 47 of the Charter of Fundamental Rights of the European Union

   Lastly, the order under appeal infringes Article 47(1) and (2) of the Charter, since the General Court's broad interpretation of the concept of 'independence' of an applicant's lawyer, which cannot be inferred from the wording of Article 19(3) of the Statute of the Court of Justice, results in the appellant being denied effective judicial protection.

Request for a preliminary ruling from the Trgovački sud u Zagrebu (Croatia) lodged on 18 March 2019 — EOS Matrix d.o.o. v Entazis d.o.o.

(Case C-234/19)

(2020/C 103/07)

Language of the case: Croatian

Referring court

Trgovački sud u Zagrebu

Parties to the main proceedings

Applicant: EOS Matrix d.o.o.

Defendant: Entazis d.o.o.

By order of 6 November 2019, the Court declared that it manifestly lacks jurisdiction to answer the questions referred by the Trgovački sud u Zagrebu (Croatia).

Appeal brought on 29 May 2019 by Silgan Closures GmbH, Silgan Holdings, Inc. against the order of the General Court (Fifth Chamber) delivered on 15 March 2019 in Case T-410/18, Silgan Closures GmbH, Silgan Holdings, Inc. v European Commission

(Case C-418/19 P)

(2020/C 103/08)

Language of the case: German

Parties

Appellants: Silgan Closures GmbH, Silgan Holdings, Inc. (represented by: H. Wollmann, D. Seeliger, R. Grafunder and V. Weiss, lawyers)

Other party to the proceedings: European Commission

By order of 29 January 2020, the Court of Justice of the European Union (Tenth Chamber) dismissed the appeal as being in part manifestly inadmissible and in part manifestly unfounded and ordered the appellants to bear their own costs.

Request for a preliminary ruling from the Amtsgericht Hamburg (Germany) lodged on 12 August 2019 — Flightright GmbH v IBERIA LAE SA Operadora Unipersonal

(Case C-606/19)

(2020/C 103/09)

Language of the case: German

Referring court

Amtsgericht Hamburg

Parties to the main proceedings

Applicant: Flightright GmbH

Defendant: IBERIA LAE SA Operadora Unipersonal

By order of 13 February 2020, the Court of Justice of the European Union (Sixth Chamber) ruled that the second indent of Article 7(1)(b) 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 [1] must be interpreted as meaning that the 'place of performance', within the meaning of that provision, in respect of a flight consisting of a confirmed single booking for the entire journey and divided into several legs, can be the place of departure of the first leg of the journey where transport on those legs of the journey is performed by two separate air carriers and the claim for compensation brought on the basis of 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, [2] arises from the cancellation of the final leg of the journey and is brought against the air carrier in charge of that last leg.

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[1] OJ 2012 L 351, p. 1.
[2] OJ 2004 L 46, p. 1.

Appeal brought on 29 August 2019 by BS against the order of the General Court (First Chamber) delivered on 17 June 2019 in Case T-593/18, BS v Parliament

(Case C-642/19 P)

(2020/C 103/10)

Language of the case: French

Parties

Appellant: BS (represented by: M. Maes and J.-N. Louis, lawyers)

Other party to the proceedings: European Parliament

By order of 15 January 2020, the Court of Justice (Ninth Chamber) dismissed the appeal.

Request for a preliminary ruling from the Općinski sud u Velikoj Gorici (Croatia) lodged on 7 November 2019 — RE v Privredne banke Zagreb d.d.

(Case C-820/19)

(2020/C 103/11)

Language of the case: Croatian

Referring court

Općinski sud u Velikoj Gorici

Parties to the main proceedings

Applicant: RE

Defendant: Privredne banke Zagreb d.d.

By order of the Court of 6 December 2019, Case C-820/19 was removed from the register of the Court of Justice of the European Union

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Appeal brought on 11 November 2019 by ruwido austria GmbH against the order of the General Court (Sixth Chamber) delivered on 11 September 2019 in Case T-649/18 ruwido austria GmbH v European Union Intellectual Property Office

(Case C-823/19 P)

(2020/C 103/12)

Language of the case: German

Parties

Appellant: ruwido austria GmbH (represented by: A. Ginzburg, lawyer)

Other party to the proceedings: European Union Intellectual Property Office

By order of 13 February 2020, the Court of Justice of the European Union (Chamber determining whether appeals may proceed) did not allow the appeal to proceed and ordered the appellant to pay its own costs.

Appeal brought on 25 November 2019 by NHS, Inc. against the judgment of the General Court (Eighth Chamber) delivered on 19 September 2019 in Case T-378/18, NHS v EUIPO

(Case C-858/19 P)

(2020/C 103/13)

Language of the case: English

Parties

Appellant: NHS, Inc. (represented by: P. Olson, advokat)

Other party to the proceedings: European Union Intellectual Property Office

By order of 6 February 2020 the Court of Justice (Chamber determining whether appeals may proceed) held that the appeal is not allowed to proceed and that NHS, Inc. shall bear its own costs.

Request for a preliminary ruling from the Općinski sud u Osijeku (Croatia) lodged on 4 December 2019 — S.B. v Klinički bolnički centar Osijek

(Case C-889/19)

(2020/C 103/14)

Language of the case: Croatian

Referring court

Općinski sud u Osijeku

Parties to the main proceedings

Applicant: S.B.

Defendant: Klinički bolnički centar Osijek

By order of the Court of 6 December 2019, Case C-889/19 is removed from the register of the Court of Justice of the European Union.

Request for a preliminary ruling from the Rechtbank Den Haag, zittingsplaats's-Hertogenbosch (Netherlands) lodged on 16 December 2019 — LH v Staatssecretaris van Justitie en Veiligheid

(Case C-921/19)

(2020/C 103/15)

Language of the case: Dutch

Referring court

Rechtbank Den Haag, zittingsplaats's-Hertogenbosch

Parties to the main proceedings

Applicant: LH

Defendant: Staatssecretaris van Justitie en Veiligheid

Questions referred

1. Is the determination by a determining authority of a Member State that original documents can never constitute new elements or findings if the authenticity of those documents cannot be established compatible with Article 40(2) of the Procedures Directive, ([1]) read in conjunction with Article 4(2) of the Qualification Directive ([2]) and Articles 47 and 52 of the Charter of Fundamental Rights of the European Union? If not, does it make any difference if, in a subsequent application, copies of documents or documents originating from a non-objectively verifiable source are submitted by the applicant?

2. Must Article 40 of the Procedures Directive, read in conjunction with Article 4(2) of the Qualification Directive, be interpreted as allowing the determining authority of a Member State, when assessing documents and assigning probative value to documents, to distinguish between documents submitted in an initial application and those submitted in a subsequent application? Is it permissible for a Member State, when submitting documents in a subsequent application, no longer to comply with the obligation to cooperate if the authenticity of those documents cannot be established?

([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 (the Procedures Directive) (OJ 2013 L 180, p. 60).

([2]) 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 (the Qualification Directive) (OJ 2011 L 337, p. 9).

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 17 December 2019 — Stichting Waternet v MG

(Case C-922/19)

(2020/C 103/16)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: Stichting Waternet

Defendant: MG

Questions referred

1. Must Article 9 of the Distance Selling Directive ([1]) and Article 27 of the Consumer Rights Directive, ([2]) in conjunction with Article 5(5) and point 29 of Annex I to the Unfair Commercial Practices Directive, be interpreted as meaning that there is an unsolicited supply of drinking water within the meaning of those provisions if the commercial practice of the drinking water company consists of the following:

   (i) the drinking water company is, by law, (a) exclusively authorised and obliged to supply drinking water within its distribution area by means of pipes, and is (b) obliged to make an offer to connect to the public drinking water supply those making a request to that end and to make an offer to supply drinking water;

   (ii) the drinking water company maintains the connection between the consumer's home and the public drinking water supply as it existed before the consumer came into occupation of the dwelling, as a result of which there is pressure in the water pipes in the consumer's dwelling, and as a result of which the consumer, after performing an active and conscious act — consisting of turning on the tap or an equivalent act — can consume drinking water if desired, even after the consumer has indicated that he does not wish to enter into a contract for the supply of drinking water; and

(iii) the drinking water company charges costs in so far as the consumer has actually consumed drinking water by performing an active and conscious act, whereby the rates applied cover costs, are transparent and non-discriminatory and are monitored by the authorities?

2. Do Article 9 of the Distance Selling Directive and Article 27 of the Consumer Rights Directive, in conjunction with Article 5(5) and point 29 of Annex I to the Unfair Commercial Practices Directive, ([3]) preclude the assumption that a contract for the supply of drinking water is concluded between the drinking water company and the consumer if (i) the consumer, like the average consumer in the Netherlands, knows that there are costs associated with supplying drinking water, (ii) the consumer nevertheless consistently consumes drinking water over a long period of time, (iii) the consumer, even after receiving a welcome letter, invoices and reminders from the drinking water company, continues his water consumption, and (iv) the consumer, after judicial authorisation has been granted to terminate the dwelling's drinking water connection, lets it be known that he does in fact wish to have a contract with the drinking water company?

([1]) Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts — Statement by the Council and the Parliament re Article 6 (1) — Statement by the Commission re Article 3 (1), first indent (OJ 1997 L 144, p. 19).

([2]) Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ 2011 L 304, p. 64).

([3]) 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 ('Unfair Commercial Practices Directive') (OJ 2005 L 149, p. 22).

Request for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 17 December 2019 — Van Ameyde España S.A. v GES Seguros y Reaseguros S.A.

(Case C-923/19)

(2020/C 103/17)

Language of the case: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Applicant: Van Ameyde España S.A.

Defendant: GES Seguros y Reaseguros S.A.

Question referred

Does the final paragraph of Article 3 of Directive 2009/103/EC of the European Parliament and of the Council ([1]) of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability, read in conjunction with Article 1 of that directive, preclude an interpretation of national law (Article 5(2) of the Ley sobre responsabilidad civil y seguro en la circulación de vehículos a motor (Law on civil liability and insurance for the use of motor vehicles)) which, in cases such as that in the main proceedings, treats damage to the semi-trailer as being excluded from the cover provided by the compulsory insurance for the truck tractor or tractor unit, on the grounds that the semi-trailer is equated with items being transported in the truck tractor or tractor unit, or even that, for the purposes of damage to property, the semi-trailer forms a single vehicle with the truck tractor or tractor unit?

([1]) OJ 2009 L 263, p. 11.

Request for a preliminary ruling from the Verwaltungsgericht Berlin (Germany) lodged on 24 December 2019 — Energieversorgungscenter Dresden-Wilschdorf GmbH & Co. KG v Federal Republic of Germany

(Case C-938/19)

(2020/C 103/18)

Language of the case: German

Referring court

Verwaltungsgericht Berlin

Parties to the main proceedings

Applicant: Energieversorgungscenter Dresden-Wilschdorf GmbH & Co. KG

Defendant: Federal Republic of Germany

Questions referred

1. Is Article 2(1) of Directive 2003/87/EC ([1]) to be interpreted as meaning that a provision such as that in the first sentence of Paragraph 2(4) of the Treibhausgas-Emissionshandelsgesetz (Law on greenhouse gas emissions trading) (TEHG 2011), pursuant to which an installation authorised under the Bundesimmissionsschutzgesetz (Federal Law on emission control) is also subject to compulsory emissions trading to the extent that the authorisation also covers ancillary facilities that do not emit greenhouse gases, is compatible with that provision of the directive?

2. If the first question is answered in the affirmative:

   Does it follow from the rules for calculating the corrected eligibility ratio for heat imported from installations not subject to compulsory emissions trading, which are provided for in the template drawn up by the European Commission and are prescribed for the Member States, that that ratio is applicable to the total amount of heat produced in the installation subject to compulsory emissions trading even if the imported heat can be clearly attributed to one of several identifiable and separately recorded heat flows and/or heat consumptions inside the installation?

3. Is the third subparagraph of Article 6(1) of Commission Decision 2011/278/EU ([2]) to be interpreted as meaning that the relevant process of the heat benchmark sub-installation for this heat serves a sector or subsector deemed to be exposed to a significant risk of carbon leakage as determined by Commission Decision 2010/2/EU ([3]) where that heat is used to produce cooling and the cooling is consumed by an installation not subject to compulsory emissions trading in a sector or subsector which is exposed to a significant risk of carbon leakage?

   Is it relevant for the applicability of the third subparagraph of Article 6(1) of Commission Decision 2011/278/EU whether the production of cooling takes place within the boundaries of the installation subject to compulsory emissions trading?

([1]) Directive of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ 2003 L 275, p. 32).

([2]) Commission Decision of 27 April 2011 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (OJ 2011 L 130, p. 1).

([3]) Commission Decision of 24 December 2009 determining, pursuant to Directive 2003/87/EC of the European Parliament and of the Council (OJ 2010 L 1, p. 10), a list of sectors and subsectors which are deemed to be exposed to a significant risk of carbon leakage, repealed by Commission Decision 2014/746/EU (OJ 2014 L 308, p. 114).

Request for a preliminary ruling from the Tribunal Superior de Justicia de Aragón (Spain) lodged on 31 December 2019 — Servicio Aragonés de la Salud v LB

(Case C-942/19)

(2020/C 103/19)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de Aragón

Parties to the main proceedings

Appellant: Servicio Aragonés de la Salud

Respondent: LB

Questions referred

1. Must clause 4 of the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, annexed to Directive 1999/70/EC, ([1]) be interpreted as meaning that the right, derived from obtaining a post in the public sector, to the conferral of a particular administrative status in relation to the post — also in the public sector — which was held up until then is a *condition of employment* in respect of which temporary workers and permanent workers may not be treated differently?

2. Must clause 4 of the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, annexed to Directive 1999/70/EC, be interpreted as meaning that justification on objective grounds for the different treatment between fixed-term workers and permanent workers includes the aim of preventing serious failings and harm as regards the instability of workforces in a field as sensitive as the provision of healthcare, which falls under the constitutional right to the protection of health, such that it can serve as the basis for refusal to grant a particular type of leave of absence to those who obtain a temporary post but not to those who obtain a permanent post?

3. Does clause 4 of the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, annexed to Directive 1999/70/EC, preclude a rule such as that laid down in Article 15 of [Royal Decree 365/1995], which excludes posts held as a temporary civil servant or as a temporary staff member from being part of the posts which give entitlement to the status of on leave of absence by reason of employment in the public sector, when that status must be granted to those who take up a permanent post in the public sector and that status is more advantageous for a public servant than the other alternative administrative statuses which that public servant would have to request in order to be able to take up a new post to which he or she has been nominated?

([1]) Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP (OJ 1999 L 175, p. 43).

Request for a preliminary ruling from the Višje sodišče v Ljubljani (Slovenia) lodged on 20 January 2020 — ALPINE Bau GmbH, Salzburg —Celje branch — in liquidation

(Case C-25/20)

(2020/C 103/20)

Language of the case: Slovenian

Referring court

Višje sodišče v Ljubljani

Party to the main proceedings

Debtor: ALPINE Bau GmbH, Salzburg — Celje branch — in liquidation

Question referred

Is Article 32(2) of Regulation No 1346/2000 [1] to be interpreted as meaning that the rules on the time limits for lodging creditors' claims, and the consequences of lodging claims out of time under the law of the State in which the secondary proceedings are being conducted, apply to the lodgement of claims in secondary proceedings by the liquidator in the main insolvency proceedings?

[1] Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings (OJ 2000 L 160, p. 1).

Request for a preliminary ruling from the Korkein oikeus (Finland) lodged on 24 January 2020 — Syyttäjä v A

(Case C-35/20)

(2020/C 103/21)

Language of the case: Finnish

Referring court

Korkein oikeus

Parties to the main proceedings

Applicant: Syyttäjä

Defendant: A

Questions referred

1. Does EU law, in particular Article 4(1) of Directive 2004/38/EC [1] and Article 21 of Regulation (EC) No 562/2006 [2] (Schengen Borders Code), or [Or. 14] the right of EU citizens to move freely within the territory of the European Union, preclude the application of a national provision requiring a person (whether or not an EU citizen), under threat of criminal penalties, to carry a valid passport or other valid travel document when travelling from one Member State to another by pleasure boat via international waters without entering the territory of a third country?

2. Does EU law, in particular Article 5(1) of Directive 2004/38/EC and Article 21 of Regulation (EC) No 562/2006 (Schengen Borders Code), or the right of EU citizens to move freely within the territory of the European Union, preclude the application of a national provision requiring a person (whether or not an EU citizen), under threat of criminal penalties, to carry a valid passport or other valid travel document upon entering the Member State concerned from another Member State by pleasure boat via international waters without having entered the territory of a third country?

3. In so far as no obstacle within the meaning of Questions 1 and 2 arises under EU law: Is the penalty normally imposed in Finland in the form of daily fines for crossing the Finnish border without carrying a valid travel document compatible with the principle of proportionality that follows from Article 27(2) of Directive 2004/38/EC?

(1) Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (Text with EEA relevance) (OJ 2004 L 158, p. 77).

(2) Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ 2006 L 105, p. 1).

Request for a preliminary ruling from the Tribunal d'arrondissement (Luxembourg) lodged on 24 January 2020 — WM v Luxembourg Business Registers

(Case C-37/20)

(2020/C 103/22)

Language of the case: French

Referring court

Tribunal d'arrondissement

Parties to the main proceedings

Applicant: WM

Defendant: Luxembourg Business Registers

Questions referred

Question 1: concerning the concept of 'exceptional circumstances'

1(a) Can Article 30(9) of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, (1) as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and Directives 2009/138/EC and 2013/36/EU, (2) in so far as it makes the limiting of access to information concerning beneficial owners conditional upon '*exceptional circumstances to be laid down in national law*', be interpreted as allowing national law to define the concept of '*exceptional circumstances*' solely as being equivalent to '*disproportionate risk, risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation*', concepts now constituting a condition for applying the limitation of access through the wording of Article 30(9) cited above?

1(b) In the event that Question 1(a) is answered in the negative and in a situation where the transposing national law has not defined the concept of '*exceptional circumstances*' other than by a reference to the ineffective concepts of '*disproportionate risk, risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation*', must Article 30(9) cited above be interpreted as allowing a national court to disregard the condition of '*exceptional circumstances*', or must it make up for the national legislature's failure by using its own authority to determine the scope of the concept of '*exceptional circumstances*'? In the latter situation, since, according to the wording of Article 30(9) cited above, that is a condition whose content is to be determined by national law, is it possible for the Court of Justice of the European Union to give guidance to the national court in its task? In the event of the latter question being answered in the affirmative, what guidelines should the national court follow in determining the content of the concept of '*exceptional circumstances*'?

Question 2: concerning the concept of 'risk'

2(a) Must Article 30(9) of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and Directives 2009/138/EC and 2013/36/EU, in so far as it makes the limiting of access to information concerning beneficial owners conditional upon '*disproportionate risk, risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation*', be interpreted as referring to a group of eight cases, the first of which corresponds to a general risk subject to the disproportionality requirement and the other seven correspond to specific risks not subject to the disproportionality requirement, or as referring to a group of seven cases, each of which corresponds to a specific risk subject to the disproportionality requirement?

2(b) Must Article 30(9) of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and Directives 2009/138/EC and 2013/36/EU, in so far as it makes the limiting of access to information concerning beneficial owners conditional upon a '*risk*', be interpreted as limiting the assessment of the existence and extent of that risk solely to the relationship which the beneficial owner has with the legal entity with regard to which he seeks specifically to have access limited in respect of information concerning his status as beneficial owner or as involving taking into account the relationship which the beneficial owner concerned has with other legal entities? If it is necessary to take into account relationships with other legal entities, is it necessary to take into account only the status as beneficial owner in relation to other legal entities or is it necessary to take into account any relationship whatsoever with other legal entities? If it is necessary to take into account any relationship whatsoever with other legal entities, is the assessment of the existence and extent of the risk affected by the nature of that relationship?

2(c) Must Article 30(9) of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and Directives 2009/138/EC and 2013/36/EU, in so far as it makes the limiting of access to information concerning beneficial owners conditional upon a '*risk*', be interpreted as meaning that protection resulting from limitation of access may not be enjoyed where that information, and other evidence provided by the beneficial owner to justify the existence and extent of the 'risk' incurred, are easily available to third parties through other information channels?

Question 3: concerning the concept of 'disproportionate' risk

3/ What divergent interests must be taken into consideration in the context of applying Article 30(9) of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and Directives 2009/138/EC and 2013/36/EU, in so far as it makes the limiting of access to information concerning a beneficial owner conditional upon a 'disproportionate' risk?

(1) Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ 2015 L 141, p. 73).

(2) OJ 2018 L 156, p. 43.

Appeal brought on 14 February 2020 by Yieh United Steel Corp. against the judgment of the General Court (Second Chamber) delivered on 3 December 2019 in Case T-607/15, Yieh United Steel v Commission

(Case C-79/20 P)

(2020/C 103/23)

Language of the case: English

Parties

Appellant: Yieh United Steel Corp. (represented by: D. Luff, avocat)

Other parties to the proceedings: European Commission, Eurofer, Association Européenne de l'Acier, AISBL

Form of order sought

The appellant claims that the Court should:

— declare this appeal admissible and well founded;

— set aside the judgment of the General Court of the European Union of 3 December 2019 in case Yieh United Steel Corporation Ltd (Yusco) v Commission of the European Union, T-607/15;

— in accordance with Article 61 of the Statute of the Court of Justice, give final judgment, upholding Yusco's claims before the General Court and, accordingly, annul the antidumping duty imposed on the appellant under Commission Implementing Regulation (EU) 2015/1429 ([1]) of 26 August 2015 imposing a definitive anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan (the 'Contested Regulation' or the 'Definitive Duty Regulation'), in so far as it relates to the applicant;

— order the Commission and the interveners, in addition to paying their own costs, to bear all costs occasioned to the appellants in the course of the present proceedings and the proceedings before the General Court.

Pleas in law and main arguments

The appellant submits that the contested judgment should be set aside on the three grounds of appeal summarized below.

Firstly, the General Court infringed Article 2(3) of Council Regulation (EC) No 2016/1036 ([2]) of 8 June 2016 (the 'Basic Regulation') by wrongly discarding the application of this provision.

Secondly, the General Court infringed Article 2(5) of the Basic Regulation by not adequately balancing the interests of the Commission in the context of its investigation and the appellant's right to have its own records considered.

Thirdly, the General Court infringed Article 2(2) of the Basic Regulation by erroneously ruling that the rejection of a domestic sale under Article 2(2) of the Basic Regulation does not require seeking a specific intention or knowledge on the part of the vendor as to the final export of the products concerned.

([1]) OJ 2015, L 224, p. 10.

([2]) Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union (OJ 2016, L 176, p. 21).

GENERAL COURT

Judgment of the General Court of 12 February 2020 — Amisi Kumba v Council

(Case T-163/18) ([1])

(Common foreign and security policy — Restrictive measures taken in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Renewal of the listing of the applicant's name on the list of persons concerned — Obligation to state reasons — Rights of the defence — Obligation for the Council to communicate the new elements justifying the renewal of the restrictive measures — Error of law — Manifest error of assessment — Right to property — Proportionality — Presumption of innocence — Plea of illegality)

(2020/C 103/24)

Language of the case: French

Parties

Applicant: Gabriel Amisi Kumba (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf, M. Forgeois and A. Guillerme, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix, H. Marcos Fraile and S. Van Overmeire, acting as Agents)

Re:

Application based on Article 263 TFEU seeking annulment of Council Decision (CFSP) 2017/2282 of 11 December 2017 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2017 L 328, p. 19), in so far as it concerns the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Gabriel Amisi Kumba to pay the costs.

([1]) OJ C 161, 7.5.2018.

Judgment of the General Court of 12 February 2020 — Kampete v Council

(Case T-164/18) ([1])

(Common foreign and security policy — Restrictive measures taken in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Renewal of the listing of the applicant's name on the list of persons concerned — Obligation to state reasons — Rights of the defence — Obligation for the Council to communicate the new elements justifying the renewal of the restrictive measures — Error of law — Manifest error of assessment — Proportionality — Article 76(d) of the Rules of Procedure — Plea of illegality)

(2020/C 103/25)

Language of the case: French

Parties

Applicant: Ilunga Kampete (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf, M. Forgeois and A. Guillerme, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix, H. Marcos Fraile and S. Van Overmeire, acting as Agents)

Re:

Application based on Article 263 TFEU seeking annulment of Council Decision (CFSP) 2017/2282 of 11 December 2017 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2017 L 328, p. 19), in so far as it concerns the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Ilunga Kampete to pay the costs.

([1]) OJ C 161, 7.5.2018.

Judgment of the General Court of 12 February 2020 — Kahimbi Kasagwe v Council

(Case T-165/18) ([1])

(Common foreign and security policy — Restrictive measures taken in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Renewal of the listing of the applicant's name on the list of persons concerned — Obligation to state reasons — Rights of the defence — Obligation for the Council to communicate the new elements justifying the renewal of the restrictive measures — Error of law — Manifest error of assessment — Right to property — Right to respect for private and family life — Proportionality — Presumption of innocence — Plea of illegality)

(2020/C 103/26)

Language of the case: French

Parties

Applicant: Delphin Kahimbi Kasagwe (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf, M. Forgeois and A. Guillerme, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix, H. Marcos Fraile and S. Van Overmeire, acting as Agents)

Re:

Application based on Article 263 TFEU seeking annulment of Council Decision (CFSP) 2017/2282 of 11 December 2017 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2017 L 328, p. 19), in so far as it concerns the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Delphin Kahimbi Kasagwe to pay the costs.

([1]) OJ C 161, 7.5.2018.

Judgment of the General Court of 12 February 2020 — Ilunga Luyoyo v Council

(Case T-166/18) ([1])

(Common foreign and security policy — Restrictive measures taken in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Renewal of the listing of the applicant's name on the list of persons concerned — Obligation to state reasons — Rights of the defence — Obligation for the Council to communicate the new elements justifying the renewal of the restrictive measures — Error of law — Manifest error of assessment — Right to property — Right to respect for private and family life — Proportionality — Presumption of innocence — Plea of illegality)

(2020/C 103/27)

Language of the case: French

Parties

Applicant: Ferdinand Ilunga Luyoyo (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf, M. Forgeois and A. Guillerme, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix, H. Marcos Fraile and S. Van Overmeire, acting as Agents)

Re:

Application based on Article 263 TFEU seeking annulment of Council Decision (CFSP) 2017/2282 of 11 December 2017 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2017 L 328, p. 19), in so far as it concerns the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Ferdinand Ilunga Luyoyo to pay the costs.

([1]) OJ C 161, 7.5.2018.

Judgment of the General Court of 12 February 2020 — Kanyama v Council

(Case T-167/18) ([1])

(Common foreign and security policy — Restrictive measures taken in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Renewal of the applicant's name on the list of persons concerned — Obligation to state reasons — Rights of the defence — Obligation for the Council to communicate the new elements justifying the renewal of the restrictive measures — Error of law — Manifest error of assessment — Right to property — Right to respect for private and family life — Proportionality — Presumption of innocence — Plea of illegality)

(2020/C 103/28)

Language of the case: French

Parties

Applicant: Célestin Kanyama (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf, M. Forgeois and A. Guillerme, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix, H. Marcos Fraile and S. Van Overmeire, acting as Agents)

Re:

Application based on Article 263 TFEU seeking annulment of Council Decision (CFSP) 2017/2282 of 11 December 2017 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2017 L 328, p. 19), in so far as it concerns the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Célestin Kanyama to pay the costs.

([1]) OJ C 161, 7.5.2018.

Judgment of the General Court of 12 February 2020 — Numbi v Council

(Case T-168/18) ([1])

(Common foreign and security policy — Restrictive measures taken in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Renewal of the listing of the applicant's name on the list of persons concerned — Obligation to state reasons — Rights of the defence — Obligation for the Council to communicate the new elements justifying the renewal of the restrictive measures — Error of law — Manifest error of assessment — Right to property — Proportionality — Presumption of innocence — Plea of illegality)

(2020/C 103/29)

Language of the case: French

Parties

Applicant: John Numbi (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf, M. Forgeois and A. Guillerme, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix, H. Marcos Fraile and S. Van Overmeire, acting as Agents)

Re:

Application based on Article 263 TFEU seeking annulment of Council Decision (CFSP) 2017/2282 of 11 December 2017 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2017 L 328, p. 19), in so far as it concerns the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr John Numbi to pay the costs.

([1]) OJ C 161, 7.5.2018.

Judgment of the General Court of 12 February 2020 — Kibelisa Ngambasai v Council

(Case T-169/18) ([1])

(Common foreign and security policy — Restrictive measures taken in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Renewal of the listing of the applicant's name on the list of persons concerned — Obligation to state reasons — Rights of the defence — Obligation for the Council to communicate the new elements justifying the renewal of the restrictive measures — Error of law — Manifest error of assessment — Proportionality — Article 76(d) of the Rules of Procedure — Plea of illegality)

(2020/C 103/30)

Language of the case: French

Parties

Applicant: Roger Kibelisa Ngambasai (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf, M. Forgeois and A. Guillerme, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix, H. Marcos Fraile and S. Van Overmeire, acting as Agents)

Re:

Application based on Article 263 TFEU seeking annulment of Council Decision (CFSP) 2017/2282 of 11 December 2017 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2017 L 328, p. 19), in so far as it concerns the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Roger Kibelisa Ngambasai to pay the costs.

([1]) OJ C 161, 7.5.2018.

Judgment of the General Court of 12 February 2020 — Kande Mupompa v Council

(Case T-170/18) ([1])

(Common foreign and security policy — Restrictive measures taken in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Renewal of the listing of the applicant's name on the list of persons concerned — Obligation to state reasons — Rights of the defence — Obligation for the Council to communicate the new elements justifying the renewal of the restrictive measures — Error of law — Manifest error of assessment — Right to property — Right to respect for private and family life — Proportionality — Presumption of innocence — Plea of illegality — Modification of the form of order sought)

(2020/C 103/31)

Language of the case: French

Parties

Applicant: Alex Kande Mupompa (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf, M. Forgeois and A. Guillerme, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix, S. Lejeune and H. Marcos Fraile, acting as Agents)

Re:

Application based on Article 263 TFEU seeking annulment of Council Decision (CFSP) 2017/2282 of 11 December 2017 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2017 L 328, p. 19), of Council Implementing Decision (CFSP) 2018/569 of 12 April 2018 implementing Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2018 L 95, p. 21), and of Council Implementing Regulation (EU) No 2018/566 of 12 April 2018 implementing Article 9 of Regulation (EC) No 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo (OJ 2018 L 95, p. 9), in so far as they concern the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Alex Kande Mupompa to pay the costs.

(1) OJ C 161, 7.5.2018.

Judgment of the General Court 12 February 2020 — Boshab v Council

(Case T-171/18) (1)

(Common foreign and security policy — Restrictive measures taken in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Renewal of the listing of the applicant's name on the list of persons concerned — Obligation to state reasons — Rights of the defence — Obligation for the Council to communicate the new elements justifying the renewal of the restrictive measures — Error of law — Manifest error of assessment — Right to property — Right to respect for private and family life — Proportionality — Presumption of innocence — Plea of illegality)

(2020/C 103/32)

Language of the case: French

Parties

Applicant: Évariste Boshab (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf, M. Forgeois and A. Guillerme, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix, S. Lejeune and H. Marcos Fraile, acting as Agents)

Re:

Application based on Article 263 TFEU seeking annulment of Council Decision (CFSP) 2017/2282 of 11 December 2017 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2017 L 328, p. 19), in so far as it concerns the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Évariste Boshab to pay the costs.

(1) OJ C 161, 7.5.2018.

Judgment of the General Court of 12 February 2020 —Akili Mundos v Council

(Case T-172/18) (1)

(Common foreign and security policy — Restrictive measures taken in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Renewal of the listing of the applicant's name on the list of persons covered by restrictive measures adopted autonomously by the Union — First listing of applicant's name on the list of persons covered by the Sanctions Committee of the United Nations Security Council — Obligation to state reasons — Rights of the defence — Obligation for the Council to communicate the new elements justifying the renewal of the restrictive measures — Error of law — Manifest error of assessment — Right to property — Proportionality — Presumption of innocence — Plea of illegality)

(2020/C 103/33)

Language of the case: French

Parties

Applicant: Muhindo Akili Mundos (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf, M. Forgeois and A. Guillerme, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix, S. Lejeune and H. Marcos Fraile, acting as Agents)

Re:

Application based on Article 263 TFEU seeking annulment of Council Decision (CFSP) 2017/2282 of 11 December 2017 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2017 L 328, p. 19), of Council Implementing Decision (CFSP) 2018/202 of 9 February 2018 implementing Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2018 L 38, p. 19), and of Council Implementing Regulation (EU) No 2018/197 of 9 February 2018 implementing Article 9 of Regulation (EC) No 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo (OJ 2018 L 38, p. 2), in so far as they concern the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Muhindo Akili Mundos to pay the costs.

(1) OJ C 161, 7.5.2018.

Judgment of the General Court of 12 February 2020 — Ramazani Shadary v Council

(Case T-173/18) ([1])

(Common foreign and security policy — Restrictive measures taken in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Renewal of the listing of the applicant's name on the list of persons concerned — Obligation to state reasons — Rights of the defence — Obligation for the Council to communicate the new elements justifying the renewal of the restrictive measures — Error of law — Manifest error of assessment — Right to property — Proportionality — Presumption of innocence — Plea of illegality)

(2020/C 103/34)

Language of the case: French

Parties

Applicant: Emmanuel Ramazani Shadary (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf, M. Forgeois and A. Guillerme, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix, S. Lejeune and H. Marcos Fraile, acting as Agents)

Re:

Application based on Article 263 TFEU seeking annulment of Council Decision (CFSP) 2017/2282 of 11 December 2017 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2017 L 328, p. 19), in so far as it concerns the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Emmanuel Ramazani Shadary to pay the costs.

([1]) OJ C 161, 7.5.2018.

Judgment of the General Court of 12 February 2020 — Mutondo v Council

(Case T-174/18) ([1])

(Common foreign and security policy — Restrictive measures taken in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Renewal of the listing of the applicant's name on the list of persons concerned — Obligation to state reasons — Rights of the defence — Obligation for the Council to communicate the new elements justifying the renewal of the restrictive measures — Error of law — Manifest error of assessment — Right to property — Proportionality — Presumption of innocence — Plea of illegality)

(2020/C 103/35)

Language of the case: French

Parties

Applicant: Kalev Mutondo (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf, M. Forgeois and A. Guillerme, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix, S. Lejeune and H. Marcos Fraile, acting as Agents)

Re:

Application based on Article 263 TFEU seeking annulment of Council Decision (CFSP) 2017/2282 of 11 December 2017 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2017 L 328, p. 19), in so far as it concerns the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Kalev Mutondo to pay the costs.

(1) OJ C 161, 7.5.2018.

Judgment of the General Court of 12 February 2020 — Ruhorimbere v Council

(Case T-175/18) (1)

(Common foreign and security policy — Restrictive measures taken in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Renewal of the listing of the applicant's name on the list of persons concerned — Obligation to state reasons — Rights of the defence — Obligation for the Council to communicate the new elements justifying the renewal of the restrictive measures — Error of law — Manifest error of assessment — Right to property — Right to respect for private and family life — Proportionality — Presumption of innocence — Plea of illegality)

(2020/C 103/36)

Language of the case: French

Parties

Applicant: Éric Ruhorimbere (Mbuji-Mayi, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf, M. Forgeois and A. Guillerme, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix, S. Lejeune and H. Marcos Fraile, acting as Agents)

Re:

Application based on Article 263 TFEU seeking annulment of Council Decision (CFSP) 2017/2282 of 11 December 2017 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2017 L 328, p. 19), in so far as it concerns the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Éric Ruhorimbere to pay the costs.

(1) OJ C 161, 7.5.2018.

Judgment of the General Court of 12 February 2020 — Mende Omalanga v Council

(Case T-176/18) ([1])

(Common foreign and security policy — Restrictive measures taken in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Renewal of the listing of the applicant's name on the list of persons concerned — Obligation to state reasons — Rights of the defence — Obligation for the Council to communicate the new elements justifying the renewal of the restrictive measures — Error of law — Manifest error of assessment — Right to property — Right to respect for private and family life — Proportionality — Presumption of innocence — Plea of illegality — Modification of the forms of order sought)

(2020/C 103/37)

Language of the case: French

Parties

Applicant: Lambert Mende Omalanga (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf, M. Forgeois and A. Guillerme, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix, S. Lejeune and H. Marcos Fraile, acting as Agents)

Re:

Action based on Article 263 TFEU seeking the annulment of Council Decision (CFSP) 2017/2282 of 11 December 2017 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2017 L 328, p. 19), of Council Implementing Decision (CFSP) 2018/569 of 12 April 2018 implementing Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2018 L 95, p. 21), and of Council Implementing Regulation (EU) 2018/566 of 12 April 2018 implementing Article 9 of Regulation (EC) No 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo (OJ 2018 L 95, p. 9), in so far as those acts concern the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Lambert Mende Omalanga to pay the costs.

([1]) OJ C 161, 7.5.2018.

Judgment of the General Court of 12 February 2020 — Kazembe Musonda v Council

(Case T-177/18) ([1])

(Common foreign and security policy — Restrictive measures taken in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Renewal of the listing of the applicant's name on the list of persons concerned — Obligation to state reasons — Rights of the defence — Obligation for the Council to communicate the new elements justifying the renewal of the restrictive measures — Error of law — Manifest error of assessment — Proportionality — Article 76(d) of the Rules of Procedure — Plea of illegality)

(2020/C 103/38)

Language of the case: French

Parties

Applicant: Jean-Claude Kazembe Musonda (Lubumbashi, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf, M. Forgeois and A. Guillerme, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix, S. Lejeune and H. Marcos Fraile, acting as Agents)

Re:

Application based on Article 263 TFEU seeking annulment of Council Decision (CFSP) 2017/2282 of 11 December 2017 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2017 L 328, p. 19), in so far as it concerns the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Jean-Claude Kazembe Musonda to pay the costs.

([1]) OJ C 161, 7.5.2018.

Judgment of the General Court of 13 February 2020 — Delta-Sport v EUIPO — Delta Enterprise (DELTA SPORT)

(Case T-387/18) ([1])

(EU trade mark — Opposition proceedings — Application for EU figurative mark DELTA SPORT — Earlier Spanish word mark COLCHON DELTA — Earlier EU figurative mark DELTA — Relative ground for refusal — Similarity of the goods — Similarity of the signs — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2020/C 103/39)

Language of the case: English

Parties

Applicant: Delta-Sport Handelskontor GmbH (Hamburg, Germany) (represented by: M. Krogmann, lawyer)

Defendant: European Union Intellectual Property Office (represented by: J. Ivanauskas and H. O'Neill, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Delta Enterprise Corp. (New York, New York, United States) (represented by: M. Decker, lawyer)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 17 April 2018 (Case R 1894/2017-5) relating to opposition proceedings between Delta Enterprise and Delta-Sport Handelskontor.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Delta-Sport Handelskontor GmbH to pay the costs incurred by EUIPO and Delta Enterprise Corp. in the present proceedings.

([1]) OJ C 285, 13.8.2018.

Judgment of the General Court of 13 February 2020 — Repsol v EUIPO (INVENTEMOS EL FUTURO)

(Case T-8/19) ([1])

(EU trade mark — Application for EU word mark INVENTEMOS EL FUTURO — Absolute ground for refusal — No distinctive character — No distinctive character acquired through use — Article 7(1)(b) and (3) of Regulation (EU) 2017/1001)

(2020/C 103/40)

Language of the case: Spanish

Parties

Applicant: Repsol, SA (Madrid, Spain) (represented by: J.-B. Devaureix and J.C. Erdozain López, lawyers)

Defendant: European Union Intellectual Property Office (represented by: S. Palmero Cabezas and H. O'Neill, acting as Agents)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 23 October 2018 (Case R 1173/2018-2), relating to an application for registration of the word sign INVENTEMOS EL FUTURO as an EU trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Repsol, SA to pay the costs.

([1]) OJ C 72, 25.2.2019.

Order of the General Court of 29 January 2020 — WV v EEAS

(Case T-388/18) ([1])

(Action for annulment — Civil service — Officials — Article 24 of the Staff Regulations — Request for assistance — Rejection of request — Article 90(1) and (2) of the Staff Regulations — Out of time — Excusable error — Inadmissible)

(2020/C 103/41)

Language of the case: French

Parties

Applicant: WV (represented by: E. Boigelot, lawyer)

Defendant: European External Action Service (represented by: S. Marquardt and R. Spac, Agents)

Re:

Application based on Article 270 TFEU seeking the annulment, first, of an implied decision of the EEAS, alleged to have been made on 4 September 2017, rejecting the request for assistance lodged by the applicant and, second, the EEAS' decision of 28 March 2018 dismissing the applicant's complaint of 29 November 2017 against the implied rejection.

Operative part of the order

1. The application is dismissed as inadmissible.

2. WV is ordered to pay the costs.

(1) OJ C 352, 1.10.2018.

Order of the General Court of 29 January 2020 — WV v EEAS

(Case T-471/18) (1)

(Action for annulment — Civil service — Civil servants — Salary deductions — Unauthorised absences — Article 76(d) of the Rules of Procedure — Failure to comply with formal requirements — Action in part manifestly inadmissible and in part manifestly unfounded in law)

(2020/C 103/42)

Language of the case: French

Parties

Applicant: WV (represented by É. Boigelot, lawyer)

Defendant: European External Action Service (represented by S. Marquardt and R. Spac, acting as Agents)

Re:

Application under Article 270 TFEU seeking annulment, first, of the EEAS's decision of 27 November 2017 imposing a salary deduction amounting to 72 calendar days and, second, in so far as necessary, the EEAS's decision of 2 May 2018 rejecting the applicant's complaint of 3 January 2018.

Operative part of the order

1. The action is dismissed as, in part, manifestly inadmissible and, in part, manifestly unfounded in law.

2. WV is ordered to pay the costs.

(1) OJ C 364, 8.10.2018.

Order of the General Court of 31 January 2020 — Irish Wind Farmers' Association and Others v Commission

(Case T-6/19) (1)

(Action for annulment — State aid — Tax advantages granted by Ireland to fossil fuel producers — Letter from the Commission — Act not open to challenge — Inadmissibility)

(2020/C 103/43)

Language of the case: English

Parties

Applicants: Irish Wind Farmers' Association Clg (Kilkenny, Ireland), Carrons Windfarm Ltd (Shanagolden, Ireland), Foyle Windfarm Ltd (Dublin, Ireland), Greenoge Windfarm Ltd (Bunclody, Ireland) (represented by: M. Segura Catalán and M. Clayton, lawyers)

Defendant: European Commission (represented by: L. Grønfeldt, K. Herrmann and S. Noë, acting as Agents)

Re:

Application under Article 263 TFEU for the annulment of the Commission's letter of 25 October 2018 concerning State aid allegedly granted by Ireland to fossil fuel producers.

Operative part of the order

1. The action is dismissed as inadmissible;

2. Each party shall bear its own costs.

(1) OJ C 93, 11.3.2019.

Order of the General Court of 29 January 2020 — WV v EEAS

(Case T-43/19) (1)

(Action for compensation — Civil service — Civil servants — Out of time — Inadmissibility)

(2020/C 103/44)

Language of the case: French

Parties

Applicant: WV (represented by É. Boigelot, lawyer)

Defendant: European External Action Service (represented by S. Marquardt and R. Spac, acting as Agents)

Re:

Application under Article 270 TFEU seeking annulment, first, of the EEAS's decision of 28 March 2018 rejecting the applicant's application for compensation and, in so far as necessary, the EEAS's decision of 26 October 2018 rejecting the applicant's complaint of 26 June 2018; and second, compensation in respect of the harm that the applicant allegedly suffered as a result of the EEAS's conduct towards her.

Operative part of the order

1. The action is dismissed as inadmissible.

2. WV is ordered to pay the costs.

(1) OJ C 103, 18.3.2019.

Action brought on 17 January 2020 — IE v ECDC

(Case T-33/20)

(2020/C 103/45)

Language of the case: English

Parties

Applicant: IE (represented by: L. Levi and A. Champetier, lawyers)

Defendant: European Centre for Disease Prevention and Control (ECDC)

Form of order sought

The applicant claims that the Court should:

— annul the applicant's appraisal report for the year 2018;

— annul the decision of 7 October 2019, rejecting the applicant's complaint of 6 June 2019;

— order the defendant 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 the breach by the defendant of Article 43 of the Staff Regulations and of Article 2.3 of ECDC Implementing Rule no 20 on appraisal of temporary agents of the ECDC.

2. Second plea in law, alleging that the defendant committed manifest errors of assessment.

3. Third plea in law, alleging the defendant's breach of the duty of care.

4. Fourth plea in law, alleging breach by the defendant of the applicant's right to be heard.

Action brought on 27 January 2020 — Chanel v EUIPO — Huawei Technologies (Representation of a circle containing two interlaced curves)

(Case T-44/20)

(2020/C 103/46)

Language in which the application was lodged: French

Parties

Applicant: Chanel (Neuilly sur-Seine, France) (represented by: J. Passa, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Huawei Technologies Co. Ltd (Shenzhen, China)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for the EU figurative mark (Representation of a circle containing two interlaced curves) — Application for registration No 17 248 642

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 28 November 2019 in Case R 1041/2019-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision in so far as it considered that the signs at issue, in the position in which they appear in the application for registration, are not similar;

— annul the decision in so far as it refused as a matter of principle to compare those signs where the sign, covered by the application for registration at issue, was rotated 90 degrees compared to the direction in which it appeared in the application for registration;

— order EUIPO to pay the costs.

Pleas in law

— Infringement of article 8(1)(b) and (5) of Regulation (EU) 2017/1001 of the European Parliament and the Council.

Action brought on 3 February 2020 — Enosi Mastichoparagogon Chiou v EUIPO (MASTIHACARE)

(Case T-60/20)

(2020/C 103/47)

Language of the case: Greek

Parties

Applicant: Enosi Mastichoparagogon Chiou (Chios, Greece) (represented by: A-E. Malami, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for international registration designating the European Union of the word mark MASTIHACARE — Application for registration No 1388895;

Contested decision: Decision of the First Board of Appeal of EUIPO of 25 November 2019 in Case R 692/2019-1

Form of order sought

The applicant claims that the General Court should:

— admit the present action;

— annul the contested decision;

— permit the registration under No 1388895 of the international trade mark 'MASTIHACARE' designating the EU, for all goods in Class 3;

— order EUIPO to pay the costs under Article 190(1) of the Rules of Procedure of the General Court.

Pleas in law

— Infringement of Article 7(1)(b) and (c) of Regulation (EU) 2017/1001 ([1]) 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;

— Infringement of Article 94(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council in the failure to state reasons in the contested decision of the Board of Appeal.

([1]) Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (OJ 2017 L 154, p. 1).

Action brought on 4 February 2020 — Kneissl Holding v EUIPO — LS 9 (KNEISSL)

(Case T-65/20)

(2020/C 103/48)

Language in which the application was lodged: German

Parties

Applicant: Kneissl Holding GmbH (Ebbs, Austria) (represented by: O. Nilgen and A. Kockläuner, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: LS 9 GmbH (Munich, Germany)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: EU word mark KNEISSL — EU trade mark No 291 377

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 8 November 2019 in Case R 2265/2018-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision in so far as it revoked EU trade mark No 291 377 KNEISSL for the following goods: 'sports bags' in Class 18 and 'sportswear, leisurewear, weather protection clothing; ski suits; ski trousers; ski anoraks, underwear, headgear' in Class 25, and dismiss the corresponding application for revocation;

— order EUIPO to pay the costs.

Plea in law

— Infringement of Article 58(1)(a) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 4 February 2020 — Metamorfoza v EUIPO — Tiesios kreivės (MUSEUM OF ILLUSIONS)

(Case T-70/20)

(2020/C 103/49)

Language of the case: English

Parties

Applicant: Metamorfoza d.o.o. (Zagreb, Croatia) (represented by: A. Bijelić, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Tiesios kreivės (Vilnius, Lithuania)

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 MUSEUM OF ILLUSIONS — Application for registration No 17 263 336

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 2 December 2019 in Case R 663/2019-2

Form of order sought

The applicant claims that the Court should:

— to review the case and annul the contested decision.

Pleas in law

— Infringement of Article 8(1)(a) 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 7 February 2020 — IJ v Parliament

(Case T-74/20)

(2020/C 103/50)

Language of the case: French

Parties

Applicant: IJ (represented by: L. Levi, M. Vandenbussche and A. Champetier, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— declare the present action admissible and well founded;

consequently,

— annul the decision of the European Parliament of 10 October 2018 in so far as it applies the retention clause in Article 100 of the Conditions of Employment of Other Servants of the European Union to the applicant;

— in so far as may be necessary, annul the decision of the European Parliament of 29 October 2019 to the extent that it rejects the applicant's complaint of 8 January 2019;

— order the applicant to pay all 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 Article 100 of the Conditions of Employment of Other Servants of the European Union ('the CEOS'). The applicant claims that the application of the retention clause to her case infringes Article 100 of the CEOS, which must be interpreted in a restrictive manner and in accordance with the principle of free movement of workers provided for by Article 45 TFEU. Article 100 of the CEOS must also be interpreted in accordance with Articles 34 and 35 of the Charter of Fundamental Rights of the European Union ('the Charter') and with Articles 12 and 13 of the European Social Charter. In the alternative, the applicant raises an objection of illegality against Article 100 of the CEOS, on the ground that that provision infringes Article 45 TFEU, Articles 34 and 35 of the Charter and Articles 12 and 13 of the European Social Charter.

2. Second plea in law, alleging failure to observe the principle of non-discrimination enshrined in Article 1d of the Staff Regulations of Officials of the European Union and in Article 21 of the Charter. The applicant is of the opinion that the application of the retention clause to her deprives her, for a period of five years, from certain elements of the benefit of all invalidity benefits, and constitutes, moreover, discrimination prohibited by Article 1d of the Staff Regulations and Article 21 of the Charter.

3. Third plea in law, alleging failure to observe the principle of the duty of care. The applicant claims that the administration failed to fulfil its duty to have regard for the welfare of staff, even though that duty was enhanced on account of the member of staff in question having a fragile state of health.

Action brought on 10 February 2020 — Abitron Germany v EUIPO — Hetronic International (NOVA)

(Case T-75/20)

(2020/C 103/51)

Language in which the application was lodged: German

Parties

Applicant: Abitron Germany GmbH (Langquaid, Germany) (represented by: T. Matschke, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Hetronic International, Inc. (Oklahoma City, Oklahoma, United States)

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: EU word mark NOVA — EU trade mark No 13 711 718

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 10 December 2019 in Case R 521/2019-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— declare EU trade mark NOVA No 13 711 718 as invalid;

— order EUIPO to pay the costs.

Pleas in law

— Infringement of Article 60(1)(c) 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 7 February 2020 — Czech Republic v Commission

(Case T-76/20)

(2020/C 103/52)

Language of the case: Czech

Parties

Applicant: Czech Republic (represented by: M. Smolek, J. Pavliš, O. Serdula and J. Vláčil, Agents)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Implementing Decision (EU) CCI 2014CZ06RDNP 001 of 29 November 2019 on the suspension of interim payments linked to the Rural Development Programme of the Czech Republic for the period 2014-2020 and related to the expenditure incurred in the periods between 16 October 2018 and 31 December 2018 and between 1 January 2019 and 31 March 2019 (notified under number C(2019) 8647 final);

— 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 two pleas in law.

1. First plea in law, alleging infringement of Article 41(1) of Regulation (EU) No 1306/2013 ([1]) of the European Parliament and of the Council ('Regulation No 1306/2013') on the grounds that the Commission incorrectly takes the view that the subsidies to which the expenditure in question relates were provided in breach of national legislation. However, there could not have been any infringement of the national legislation concerned since that legislation does not apply to the type of subsidies which the suspended payments concern.

2. Second plea in law, also alleging infringement of Article 41(1) of Regulation No 1306/2013. Even if the national legislation concerned were to apply to that type of subsidy (*quod non*), part of the suspended payments relate to projects to which that legislation could not apply *ratione temporis*.

(1) Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ 2013 L 347, p. 549).

Application brought on 7 February 2020 — IM v EIB and EIF

(Case T-80/20)

(2020/C 103/53)

Language of procedure: French

Parties

Applicant: IM (represented by: D. Giabbani, lawyer)

Defendants: European Investment Bank and European Investment Fund

Forms of order sought

The applicant claims that the General Court should:

— admit this action as procedurally valid;

— declare the action well-founded;

— declare that IM has been excluded from the recruitment process in an unlawful manner and through the misuse of power;

— declare that the recruitment procedure for the new Chief Executive is null and void, so that, on the same grounds, the appointment of the new Chief Executive notified on 13 December 2019 is also null and void;

— therefore, annul the appointment of the new Director-General of the European Investment Fund;

— order the defendants to pay the costs.

Pleas in law and main arguments

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

1. First plea alleging infringement of Article 20 of the Statutes of the European Investment Fund, according to which 'the Chief Executive shall be appointed for a term of up to 5 years and shall be eligible for reappointment.'

2. Second plea alleging breach of the terms of the applicant's letter of appointment of 5 March 2014 and the addendum thereto, on the ground that those documents and the extension of the applicant's term of service after 15 March 2017 are evidence of an agreement authorising him to work until the age of 67 and even beyond that age.

3. Third plea alleging direct discrimination on the grounds of the applicant's age. In the applicant's view, by rejecting his application solely on the basis of his age, the recruitment panel breached the principle of non-discrimination.

4. Fourth plea alleging breach of the applicant's confidential and personal data. The applicant submits that, by relying on the contents of the letter of appointment as the basis for its decision, the recruitment panel acknowledges that it had read a document which should not have been in its possession and which contained personal data relating to the applicant.

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