Official Journal of the European Union

C 339

English edition

Information and Notices

Volume 63

12 October 2020

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(2020/C 339/01)

Last publication

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OJ C 320, 28.9.2020

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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 Conseil d'État (France) lodged on 22 July 2020 — Conseil national des centres commerciaux v Premier ministre, Ministre de l'Économie, des Finances et de la Relance, Ministre de la cohésion des territoires et des relations avec les collectivités territoriales

(Case C-325/20)

(2020/C 339/02)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Conseil national des centres commerciaux

Defendants: Premier ministre, Ministre de l'Économie, des Finances et de la Relance, Ministre de la cohésion des territoires et des relations avec les collectivités territoriales

Question referred

Must Article 14(6) of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market ([1]) be interpreted as meaning that it permits the presence, on a collegiate body responsible for issuing an opinion on the granting of a commercial operating permit, of a recognised expert describing the local economic fabric, whose role is limited to merely presenting the situation of the economic fabric in the relevant catchment area and the impact of the project on that economic fabric, without taking part in the vote on the permit application?

([1]) OJ 2006 L 376, p. 36.

Request for a preliminary ruling from the Curtea de Apel București (Romania) lodged on 22 July 2020 — Berlin Chemie A. Menarini SRL v Administrația Fiscală pentru Contribuabili Mijlocii București — Direcția Generală Regională a Finanțelor Publice București

(Case C-333/20)

(2020/C 339/03)

Language of the case: Romanian

Referring court

Curtea de Apel București

Parties to the main proceedings

Applicant: Berlin Chemie A. Menarini SRL

Defendant: Administrația Fiscală pentru Contribuabili Mijlocii București — Direcția Generală Regională a Finanțelor Publice București

Intervener: Berlin Chemie AG

Questions referred

1. If a company that carries out supplies of goods in the territory of a Member State other than that in which it has established its business is to be regarded as having, within the meaning of the second sentence of Article 44 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ([1]) and Article 11 of Council Regulation No 282/2011, a fixed establishment in the State in which it carries out those supplies, is it necessary for the human and technical resources employed by that company in the territory of that Member State to belong to it, or is it sufficient for that company to have immediate and permanent access to such human and technical resources through another affiliated company which it controls since it holds the majority of its shares?

2. If a company that carries out supplies of goods in the territory of a Member State other than that in which it has established its business is to be regarded as having, within the meaning of the second sentence of Article 44 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax and Article 11 of Council Regulation No 282/2011, ([2]) a fixed establishment in the State in which it carries out those supplies, is it necessary for the presumed fixed establishment to be directly involved in decisions relating to the supply of the goods, or is it sufficient for that company to have, in the State in which it carries out the supply of goods, technical and human resources that are made available to it through contracts concluded with third party companies for marketing, regulatory, advertising, storage and representation activities which are capable of having a direct influence on the volume of sales?

3. On a proper construction of the second sentence of Article 44 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax and Article 11 of Council Regulation No 282/2011, does the possibility for a taxable person to have immediate and permanent access to the technical and human resources of another affiliated taxable person controlled by it preclude that affiliated company from being regarded as a service provider for the fixed establishment thus created?

([1]) OJ 2006 L 347, p. 1.
([2]) Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (OJ 2011 L 77, p. 1).

Request for a preliminary ruling from the Cour de cassation (France) lodged on 23 July 2020 — DM, LR v Caisse régionale de Crédit agricole mutuel (CRCAM) Alpes-Provence

(Case C-337/20)

(2020/C 339/04)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicants: DM, LR

Defendant: Caisse régionale de Crédit agricole mutuel (CRCAM) Alpes-Provence

Questions referred

1. Is Article 58 of Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market, amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC, ([1]) to be interpreted as establishing a liability regime for unauthorised or incorrectly executed payment transactions made by payment service providers, precluding any action under the ordinary rules of civil liability in respect of the same acts for breach by that provider of the obligations imposed on him or her by national law, in particular where the payment service user fails to inform the payment service provider of the unauthorised or incorrectly executed payment transaction within 13 months of the date of debit?

2. If the answer to the first question is in the affirmative, does that same article preclude the payment service user's guarantor from invoking the ordinary rules of civil liability in respect of the same facts against the payment service provider, beneficiary of the guarantee, in order to challenge the amount of the secured debt?

(1) OJ 2007 L 319, p. 1.

Request for a preliminary ruling from the Cour de cassation (France) lodged on 24 July 2020 — Bank Sepah v Overseas Financial Limited, Oaktree Finance Limited

(Case C-340/20)

(2020/C 339/05)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicant: Bank Sepah

Defendants: Overseas Financial Limited, Oaktree Finance Limited

Other party: Procureur général près la Cour de cassation

Questions referred

1. Are Article 1(h) and (j) and Article 7(1) of Regulation (EC) No 423/2007, (1) Article 1(i) and (h) and Article 16(1) of Regulation (EU) No 961/2010 (2) and Article 1(k) and (j) and Article 23(1) of Regulation (EU) No 267/2012 (3) to be interpreted as precluding a measure with no earmarking effect, such as a judicial lien or preventive attachment, provided for in the French Code of Civil Enforcement Proceedings, from being implemented, without prior authorisation from the competent national authority, in respect of frozen assets?

2. Is it relevant to the answer to the first question that the grounds for the claim to be recovered from the person or entity whose assets are frozen are unrelated to Iran's nuclear and ballistic programme and pre-date United Nations Security Council Resolution 1737 (2006) of 23 December 2006?

(1) Council Regulation (EC) No 423/2007 of 19 April 2007 concerning restrictive measures against Iran (OJ 2007 L 103, p. 1).
(2) Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007 (OJ 2010 L 281, p. 1).
(3) Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (OJ 2012 L 88, p. 1).

Action brought on 24 July 2020 — European Commission v Italian Republic

(Case C-341/20)

(2020/C 339/06)

Language of the case: Italian

Parties

Applicant: European Commission (represented by: F. Moro, A. Armenia, Agents)

Defendant: Italian Republic

Form of order sought

— The Commission accordingly requests the Court to declare that, in granting the benefit of the exemption from excise duty to fuels used by private pleasure craft only if those craft are subject to a charter agreement, regardless of the manner in which such craft are in fact used, the Italian Republic has failed to fulfil its obligations under Article 14(1)(c) of Directive 2003/96/EC. ([1])

— The Commission also requests the Court to order the Italian Republic to pay the costs.

Pleas in law and main arguments

1. Article 14(1)(c) of Council Directive 2003/96/EC of 27 October 2003, restructuring the Community framework for the taxation of energy products and electricity, provides that Member States are required to apply an exemption for energy products supplied for use as fuel for the purposes of navigation within EU waters, including fishing, other than private pleasure craft. It is apparent from the definition of private pleasure craft in that provision that the exemption is reserved to pleasure craft used for the supply of services for consideration for commercial purposes. That applies whether the user is the owner of the craft or hires or charters it.

2. The concept of user has been clarified in the judgment of the Court of Justice of 21 December 2011, *Haltergemeinschaft*, C-250/10, ([2]) which establishes that in the context of a lease or charter, the user who must be taken into account for the purposes of granting or refusing the exemption in question is the lessee or charterer, not the lessor or owner of the craft. It follows from that judgment also that, in order to be eligible for the exemption, it is not sufficient for the chartering to be considered as such as a commercial activity for the owner of the craft, in that what is important to verify is the use that the charterer makes of that craft. It is, therefore, the end user and the ultimate use of the craft that are relevant, and it is that use which must used 'directly for the supply of services for consideration' in order to be eligible for the exemption, as the Court of Justice noted in the judgment of 13 July 2017, *Vakarų Baltijos laivų statykla*, C-151/16. ([3])

3. For the purposes of applying the exemption in question, it is, therefore, necessary to analyse on a case-by-case basis what the actual use of the private pleasure craft is.

4. However, it is apparent from the Italian legislation which applies the exemption in question and from the replies to the letter of formal notice and to the reasoned opinion that the exemption is refused or granted regardless of the actual use made of the craft.

5. In the present action, the Commission considers that in Italy the application of the exemption in question is contrary to Article 14(1)(c) of Directive 2003/96/EC.

6. In particular, the Commission submits that, for the purposes of granting or refusing the exemption, the Italian tax authorities do not carry out a case-by-case assessment of the manner in which is the craft is actually used. Indeed, the Italian authorities maintain that the assessment is carried out taking into account aspects of the sectoral legislation intended only to facilitate such an assessment, such as the fact that the navigation takes place through a typical charter agreement or a lease agreement or occasional charter. However, the Italian authorities maintain that in the case of a charter the exemption must in any event be granted to economic operators who provide maritime navigation services, whereas those involved in leasing or occasional chartering must be excluded from that exemption. In reasserting that the exemption must be granted or refused on the basis of the type of contract entered into and therefore on an abstract basis, the Italian authorities confirm that they do not specifically ascertain that the exemption is granted to those entitled and refused to those not entitled.

7. Apart from charters, in the case of leasing or occasional chartering, any possibility of exemption is precluded, even if, in fact, the craft may be used by the end user in order directly to supply services for consideration, and it is of no importance in that connection that the lessor or owner intends himself or herself to carry out navigation activity. Occasional chartering is not considered under Italian law as a possible commercial use of a craft.

([1]) Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ 2003 L 283, p. 51).
([2]) EU:C:2011:862, paragraph 22.
([3]) EU:C:2017:537, paragraphs 29 and 30.

Request for a preliminary ruling from the Helsingin hallinto-oikeus (Finland) lodged on 23 July 2020 — A SCPI

(Case C-342/20)

(2020/C 339/07)

Language of the case: Finnish

Referring court

Helsingin hallinto-oikeus

Parties to the main proceedings

Applicant: A SCPI

Other party: Veronsaajien oikeudenvalvontayksikkö

Question referred

Are Articles 49, 63 and 65 TFEU to be interpreted as meaning that they preclude national legislation under which only foreign open-ended investment funds constituted by contract can be regarded as equivalent to Finnish investment funds exempt from income tax, meaning that foreign investment funds established in a legal form other than by contract are subject to withholding tax in Finland, even though there are otherwise no significant objective differences between their situation and that of Finnish investment funds?

Request for a preliminary ruling from the Tribunal du travail francophone de Bruxelles (Belgium) lodged on 27 July 2020 — L.F. v S.C.R.L.

(Case C-344/20)

(2020/C 339/08)

Language of the case: French

Referring court

Tribunal du travail francophone de Bruxelles

Parties to the main proceedings

Applicant: L.F.

Defendant: S.C.R.L.

Questions referred

1. Must Article 1 of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation ([1]) be interpreted as meaning that religion and belief are two facets of the same protected criterion or, on the contrary, as meaning that religion and belief form different criteria, on the one hand, that of religion, including the associated beliefs and, on the other, that of belief, whatever that belief may be?

2. If Article 1 of Council Directive 2000/78/EC of 27 November 2000 is to be interpreted as meaning that religion and belief are two facets of the same protected criterion, would that prevent the national court, pursuant to Article 8 of that directive and in order to prevent a lowering of the level of protection against discrimination, from continuing to interpret a rule of national law such as Article 4(4) of the Law of 10 May 2007 to combat certain forms of discrimination, as meaning that religious, philosophical and political beliefs are separate protected criteria?

3. Can Article 2(2)(a) of Directive 2000/78 of 27 November 2000 establishing a general framework for equal treatment in employment and occupation be interpreted as meaning that the rule contained in a company's terms of employment prohibiting workers from *'manifest[ing] in any way, either by word or through clothing or any other way, their religious, philosophical or political beliefs, whatever those beliefs may be'*constitutes direct discrimination, if the practical application of that internal rule shows that:

   a) a female worker who intends to exercise her freedom of religion by wearing a visible sign (with connotations), in this case a headscarf, is treated less favourably than another worker who adheres to no religion, has no philosophical beliefs and no political allegiance and who, therefore, harbours no need to wear any political, philosophical or religious sign?

   b) a female worker who intends to exercise her freedom of religion by wearing a visible sign (with connotations), in this case a headscarf, is treated less favourably than another worker who hold any philosophical or political beliefs but whose need to display them publicly by wearing a sign (with connotations) is less, or even non-existent?

   c) a female worker who intends to exercise her freedom of religion by wearing a visible sign (with connotations), in this case a headscarf, is treated less favourably than another worker who adheres to another or the same religion, but whose need to display it publicly by wearing a sign (with connotations), is less, or even non-existent?

   d) given that beliefs are not necessarily religious, philosophical or political and that they may be of another kind (artistic, aesthetic, sporting, musical, etc.), a female worker who intends to exercise her freedom of religion by wearing a visible sign (with connotations), in this case a headscarf, is treated less favourably than another worker who holds beliefs other than religious philosophical or political beliefs, and who manifests them through clothing?

   e) assuming that the negative aspect of the freedom to manifest religious beliefs also means that a person cannot be required to reveal his or her religious affiliation or beliefs, a female worker who intends to exercise her freedom of religion by wearing a headscarf which is not in itself an unambiguous symbol of that religion, since another female worker might choose to wear it for aesthetic, cultural or even health reasons and it is not necessarily distinguishable from a simple bandana, is treated less favourably than another worker who manifests his or her religious, philosophical or political beliefs verbally, since for the female worker wearing the headscarf that implies an even more fundamental infringement of freedom of religion, on the basis of Article 9(1) of the ECHR since, unless prejudice is prevalent, the religious significance of a headscarf is not manifest and, more often than not, can only be brought to light if the person who is wearing it is required, if only implicitly, to reveal her reasons to her employer?

   f) a female worker who intends to exercise her freedom of religion by wearing a visible sign (with connotations), in this case a headscarf, is treated less favourably than another worker with the same beliefs who chooses to manifest them by wearing a beard (which is not specifically prohibited by the terms of employment, unlike manifestation through clothing)?

(1) OJ 2000 L 303, p. 16.

Request for a preliminary ruling from the Administratīvā rajona tiesa (Latvia) lodged on 28 July 2020 — SIA Zinātnes parks v Finanšu ministrija

(Case C-347/20)

(2020/C 339/09)

Language of the case: Latvian

Referring court

Administratīvā rajona tiesa

Parties to the main proceedings

Applicant: SIA Zinātnes parks

Defendant: Finanšu ministrija

Questions referred

1. Must the concept of 'subscribed share capital' in Article 2(18)(a) of Commission Regulation No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 ([1]) of the Treaty, in conjunction with other EU legal provisions relating to company law, be interpreted as meaning that, for the purposes of determining subscribed share capital, only particulars that have been published in the manner laid down by the national laws of each Member State may be taken into account, bearing in mind that the particulars in question are thus deemed to become effective only from that moment?

2. When assessing the concept of 'undertaking in difficulty' in Article 2(18) of Commission Regulation No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, is it necessary to attach significance to the requirements, laid down as part of the procedure for selecting projects for European funds, concerning which documents are to be submitted as evidence of the financial situation of the undertaking in question?

3. If the reply to the second question referred is in the affirmative, is a provision of domestic law on the selection of projects, which establishes that no further clarification of project applications may be made once the application has been submitted, compatible with the principles of non-discrimination and transparency established in Article 125(3)(a)(ii) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006? ([2])

([1]) OJ 2014 L 187, p. 1.
([2]) OJ 2013 L 347, p. 320.

Request for a preliminary ruling from the Tribunal de l'Entreprise du Hainaut, division de Charleroi (Belgium) lodged on 31 July 2020 — Skeyes v Ryanair DAC, formerly Ryanair Ltd

(Case C-353/20)

(2020/C 339/10)

Language of the case: French

Referring court

Tribunal de l'Entreprise du Hainaut, division de Charleroi

Parties to the main proceedings

Applicant: Skeyes

Defendant: Ryanair DAC, formerly Ryanair Ltd

Questions referred

1. Must Regulation No 550/2004, ([1]) in particular Article 8 thereof, be interpreted as meaning that it authorises the Member States to remove from review by the courts of that Member State any alleged failures to fulfil the obligation to provide services by the air traffic services provider, or must the provisions of that regulation be interpreted as meaning that they require the Member States to provide an effective remedy against any such alleged breaches, account being taken of the nature of the services to be provided?

2. Must Regulation No 550/2004, inasmuch as it states that *'the provision of air traffic services, as envisaged by this Regulation, is connected with the exercise of the powers of a public authority, which are not of an economic nature justifying the application of the Treaty rules on competition'*, be interpreted as excluding not only the rules on competition *per se*, but also any other rules applicable to public undertakings active on a market for goods and services which have an indirect effect on competition, such as those prohibiting hindrances to the freedom to conduct business and to provide services?

(1) Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky (the service provision Regulation) (OJ 2004 L 96, p. 10).

GENERAL COURT

Judgment of the General Court of 8 July 2020 — Infineon Technologies v Commission

(Case T-758/14 RENV) [1]

(Competition — Agreements, decisions and concerted practices — Market for smart card chips — Decision finding an infringement of Article 101 TFEU — Exchanges of commercially sensitive information — Unlimited jurisdiction — Calculation of the amount of the fine — Taking into consideration of the participation only in a part of a network of bilateral contacts between competitors)

(2020/C 339/11)

Language of the case: English

Parties

Applicant: Infineon Technologies AG (Neubiberg, Germany) (represented by: M. Dreher, T. Lübbig and M. Klusmann, lawyers)

Defendant: European Commission (represented by: A. Biolan, A. Dawes and J. Norris, acting as Agents)

Re:

Application under Article 263 TFEU for the annulment of Commission Decision C(2014) 6250 final of 3 September 2014 relating to proceedings under Article 101 TFEU and Article 53 of the EEA Agreement (Case AT.39574 — Smart Card Chips) or, in the alternative, for a reduction in the fine imposed on the applicant.

Operative part of the judgment

The Court:

1. Sets the amount of the fine imposed on Infineon Technologies by subparagraph (a) of the first paragraph of Article 2 of Commission Decision C(2014) 6250 final of 3 September 2014 relating to proceedings under Article 101 TFEU and Article 53 of the EEA Agreement (Case AT.39574 — Smart Card Chips) at EUR 76 871 600;

2. Orders Infineon Technologies and the European Commission to bear their own costs, including those incurred in the original proceedings before the General Court in Case T-758/14, those incurred in the appeal proceedings in Case C-99/17 P and those incurred in the proceedings referred back to the General Court.

[1] OJ C 107, 30.3.2015.

Judgment of the General Court of 8 July 2020 — BRF and SHB Comércio e Indústria de Alimentos v Commission

(Case T-429/18) ([1])

(Public health — Specific rules for the organisation of official controls on products of animal origin intended for human consumption — Amendment of the lists of third country establishments from which imports of specified products of animal origin are permitted, regarding certain establishments from Brazil — Article 12(4)(c) of Regulation (EC) No 854/2004 — Comitology — Obligation to state reasons — Rights of defence — Powers of the Commission — Equal treatment — Proportionality)

(2020/C 339/12)

Language of the case: English

Parties

Applicants: BRF SA (Itajaí, Brazil) and SHB Comércio e Indústria de Alimentos SA (Itajaí) (represented by: D. Arts and G. van Thuyne, lawyers)

Defendant: European Commission (represented by: A. Lewis, B. Eggers and B. Hofstötter, acting as Agents)

Re:

Application under Article 263 TFEU for the annulment of Commission Implementing Regulation (EU) 2018/700 of 8 May 2018 amending the lists of third country establishments from which imports of specified products of animal origin are permitted, regarding certain establishments from Brazil (OJ 2018 L 118, p. 1).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders BRF SA and SHB Comércio e Indústria de Alimentos SA to pay the costs of the Commission, including those pertaining to the interim proceedings.

([1]) OJ C 341, 24.9.2018.

Judgment of the General Court of 8 July 2020 –Neda Industrial Group v Council

(Case T-490/18) ([1])

(Common foreign and security policy — Restrictive measures taken against Iran with the aim of preventing nuclear proliferation — Freezing of funds — Retention of the applicant's name on the lists of persons, entities and bodies subject to the freezing of funds and economic resources — Obligation to state reasons — Error of law — Error of assessment — Temporal adjustment of the effects of an annulment)

(2020/C 339/13)

Language of the case: English

Parties

Applicant: Neda Industrial Group (Tehran, Iran) (represented by: L. Vidal, lawyer)

Defendant: Council of the European Union (represented by: V. Piessevaux and M. Bishop, acting as Agents)

Re:

Application pursuant to Article 263 TFEU for annulment, first, of Council Decision (CFSP) 2018/833 of 4 June 2018 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2018 L 140, p. 87), and of Council Implementing Regulation (EU) 2018/827 of 4 June 2018 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2018 L 140, p. 3), in so far as those acts concern the applicant, and, second, of the letter of 6 June 2018 from the Council to the applicant.

Operative part of the judgment

The Court:

1. Annuls Council Decision (CFSP) 2018/833 of 4 June 2018 amending Decision 2010/413/CFSP concerning restrictive measures against Iran, and Council Implementing Regulation (EU) 2018/827 of 4 June 2018 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran, in so far as they concern Neda Industrial Group;

2. Orders that the effects of Decision 2018/833 be maintained as regards Neda Industrial Group until the annulment of Implementing Regulation 2018/827 takes effect;

3. Dismisses the action as to the remainder;

4. Orders the Council of the European Union to pay the costs.

([1]) OJ C 399, 5.11.2018.

Judgment of the General Court of 8 July 2020 — Securitec v Commission

(Case T-661/18) ([1])

(Public service contracts — Tendering procedure — Maintenance of security installations in buildings occupied and/or managed by the European Commission in Belgium and Luxembourg — Rejection of a tenderer's offer — Award of the contract to another tenderer — Selection criteria — Illegality of a clause in the tender specifications — Equal treatment)

(2020/C 339/14)

Language of the case: French

Parties

Applicant: Securitec (Livange, Luxembourg) (represented by: P. Peuvrel, lawyer)

Defendant: European Commission (represented by: M. Ilkova, A Katsimerou and J. Estrada de Solà, acting as Agents)

Re:

Application under Article 263 TFEU seeking annulment, first, of the Commission's decision of 7 September 2018 to reject the tender submitted by the applicant for lot No. 4 of the contract which was the subject of the restricted tender procedure HR/R1/PR/2017/059 and relating to the 'maintenance of security installations in buildings occupied and/or managed by the European Commission in Belgium and Luxembourg', and second, of the Commission's decision of 17 September 2018 to refuse to provide the applicant with the clarifications that it had requested in the context of that procedure on 11 September 2018

Operative part of the judgment

The Court:

1. Annuls the decision of the European Commission of 7 September 2018 to reject the tender submitted by Securitec for lot no. 4 of the contract that was the subject of restricted tender procedure HR/R1/PR/2017/059 relating to the 'maintenance of security installations in buildings occupied and/or managed by the European Commission in Belgium and Luxembourg' and the decision of the Commission of 17 September 2018 to refuse to provide Securitec with the clarifications that it had requested in the context of that procedure on 11 September 2018;

2. Dismisses the action as to the remainder;

3. Orders the Commission to pay the costs.

(1) OJ C 25, 21.1.2019.

Judgment of the General Court of 8 July 2020 — Glimarpol v EUIPO — Metar (Pneumatic power tool)

(Case T-748/18) (1)

(Community design — Invalidity proceedings — Registered Community design representing a pneumatic power tool — Earlier design — Proof of disclosure — Article 7 of Regulation (EC) No 6/2002 — Ground for invalidity — Individual character — Different overall impression — Article 6(1)(b) of Regulation No 6/2002)

(2020/C 339/15)

Language of the case: English

Parties

Applicant: Glimarpol sp. z o.o. (Bytom, Poland) (represented by: M. Kondrat, lawyer)

Defendant: European Union Intellectual Property Office (represented by: A. Folliard-Monguiral and H. O'Neill, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO: Metar sp. z o.o. (Gliwice, Poland) (represented by: R. Skubisz and M. Mazurek, lawyers)

Re:

Action brought against the decision of the Third Board of Appeal of EUIPO of 4 October 2018 (Case R 1615/2017-3), relating to invalidity proceedings between Metar and Glimarpol.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Glimarpol sp. z o.o. to pay the costs;

3. Orders Metar sp. z o.o. to bear its own costs.

(1) OJ C 72, 25.2.2019.

Judgment of the General Court of 8 July 2020 — Portugal v Commission

(Case T-38/19) ([1])

(EAGF and EAFRD — Expenditure excluded from financing — Non-compliance with cross-compliance rules — Tolerance and leniency in sanctions — Flat-rate financial correction — Assessment of financial damage to the EU — Proportionality — Legitimate expectations)

(2020/C 339/16)

Language of the case: Portuguese

Parties

Applicant: Portuguese Republic (represented by: L. Inez Fernandes, P. Barros da Costa, J. Saraiva de Almeida and P. Estêvão, acting as Agents)

Defendant: European Commission (represented by: B. Rechena and A. Sauka, acting as Agents)

Re:

Application under Article 263 TFEU seeking partial annulment of Commission Implementing Decision (EU) 2018/1841 of 16 November 2018 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) (OJ 2018 L 298, p. 34).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders the Portuguese Republic to pay the costs.

([1]) OJ C 103, 18.3.2019.

Judgment of the General Court of 8 July 2020 — WH v EUIPO

(Case T-138/19) ([1])

(Civil service — Public officials — 2018 promotion exercise — Decision not to promote — Action for annulment — Disregard of the procedural requirements — Articles 76 and 78(6) of the Rules of Procedure of the General Court — Admissibility — Rights of the defence — Obligation to state reasons — Comparison of the merits)

(2020/C 339/17)

Language of the case: Spanish

Parties

Applicant: WH (represented by: E. Fontes Vila, lawyer)

Defendant: European Union Intellectual Property Office (represented by: A. Lukošiūtė and K. Tóth, acting as Agents)

Re:

Application under Article 270 TFEU seeking annulment, first, of the decision of 18 July 2018 by which EUIPO established a definitive list of the officials promoted in the context of the 2018 promotion exercise, in that that decision did not include the name of the applicant and, second, the decision of 18 December 2018 by which the competent appointing authority rejected the complaint lodged by the applicant against that decision.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders WH to pay the costs.

([1]) OJ C 148, 29.4.2019.

Judgment of the General Court of 8 July 2020 –Zubedi v Council

(Case T-186/19) ([1])

(Common foreign and security policy — Restrictive measures adopted against Syria — Freezing of funds — Error of assessment)

(2020/C 339/18)

Language of the case: English

Parties

Applicant: Khaled Zubedi (Damascus, Syria) (represented by: M. Lester, QC, and M. O'Kane, Solicitor)

Defendant: Council of the European Union (represented by: V. Piessevaux and A. Limonet, acting as Agents)

Re:

Application pursuant to Article 263 TFEU seeking the annulment of Council Implementing Decision (CFSP) 2019/87 of 21 January 2019 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2019 L 18 I, p. 13) and of Council Implementing Regulation (EU) 2019/85 of 21 January 2019 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2019 L 18 I, p. 4), in so far as those measures relate to the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Khaled Zubedi to bear his own costs and to pay those incurred by the Council of the European Union.

([1]) OJ C 187, 3.6.2019.

Judgment of the General Court of 8 July 2020 — Welmax +. v EUIPO — Valmex Medical Imaging (welmax)

(Case T-305/19) ([1])

(EU trade mark — Opposition proceedings — International registration designating the European Union — Word mark welmax — Earlier EU word mark valmex — Time limits for an appeal before the Board of Appeal — Delay — Point from which time starts to run — Notification — Proof of dispatch by registered post — Communication by email — Failure to comply with the obligation to pay the appeal fee within the time limit — Appeal deemed not to have been filed — Scope of the requests for regularisation — Article 68(1) of Regulation (EU) 2017/1001 — Articles 23 and 56 to 58 of Delegated Regulation (EU) 2018/625)

(2020/C 339/19)

Language of the case: Polish

Parties

Applicant: Welmax + sp. z o.o. sp.k. (Poznań, Poland) (represented by: M. Machyński, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Valmex Medical Imaging GmbH (Augsbourg, Germany)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 22 March 2019 (Case R 2245/2018-5), relating to opposition proceedings between Valmex Medical Imaging and Welmax +.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Welmax + sp. z o.o. sp.k. to pay the costs.

([1]) OJ C 230, 8.7.2019.

Judgment of the General Court of 8 July 2020 — Artur Florêncio & Filhos, Affsports v EUIPO — Anadeco Gestion (sflooring)

(Case T-533/19) ([1])

(EU trade mark — Opposition proceedings — Application for EU figurative mark sflooring — Earlier national word mark T-FLOORING — Proof of genuine use of the earlier mark — Article 42(2) and (3) of Regulation (EC) No 207/2009 (now Article 47(2) and (3) of Regulation (EU) 2017/1001))

(2020/C 339/20)

Language of the case: English

Parties

Applicant: Artur Florêncio & Filhos, Affsports Lda (Sintra, Portugal) (represented by: D. Martins Pereira Soares, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Anadeco Gestion, SA (Cartagena, Spain) (represented by: J. Erdozain Lopez and J. Galan Lopez, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 20 May 2019 (Case R 1870/2018-4), relating to opposition proceedings between Anadeco Gestion and Artur Florêncio & Filhos, Affsports.

Operative part of the judgment

The Court:

1. Annuls the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 20 May 2019 (Case R 1870/2018-4);

2. Dismisses the action as to the remainder;

3. Orders EUIPO and Anadeco Gestion, SA to bear their own costs and each to pay half of the costs incurred by Artur Florêncio & Filhos, Affsports Lda before the General Court and the Board of Appeal.

([1]) OJ C 312, 16.9.2019.

Judgment of the General Court of 8 July 2020 — EP v Commission

(Case T-605/19) ([1])

(Civil service — Officials — 2018 promotion exercise — Decision not to promote — Article 45 of the Staff Regulations — Obligation to state reasons — Consideration of comparative merits)

(2020/C 339/21)

Language of the case: French

Parties

Applicant: EP (represented by: S. Orlandi and T. Martin, lawyers)

Defendant: European Commission (represented by: T. Lilamand and L. Vernier, acting as Agents)

Re:

Action pursuant to Article 270 TEFU for annulment of the Commission decision of 13 November 2018 not to promote the applicant to grade AD 9in the 2018 promotion exercise.

Operative part of the judgment

The Court:

1. Annuls the decision of the European Commission of 13 November 2018 not to promote EP to grade AD 9in the 2018 promotion exercise;

2. Orders the Commission to pay the costs.

([1]) OJ C 383, 11.11.2019.

Judgment of the General Court of 8 July 2020 — FF Group Romania v EUIPO — KiK Textilien und Non-Food (_kix)

(Case T-659/19) ([1])

(EU trade mark — Opposition proceedings — Application for European Union figurative mark _kix — Earlier national word mark kik — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001 — Genuine use of the mark — Article 47(2) of Regulation 2017/1001)

(2020/C 339/22)

Language of the case: English

Parties

Applicant: FF Group Romania SRL (Bucharest, Romania) (represented by: A. Căvescu, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO: KiK Textilien und Non-Food GmbH (Bönen, Germany) (represented by: L. Pechan, S. Körber and N. Fangmann, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 4 July 2019 (Case R 353/2019 2), relating to opposition proceedings between KiK Textilien und Non-Food and FF Group Romania.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders FF Group Romania SRL to pay the costs.

([1]) OJ C 383, 11.11.2019.

Judgment of the General Court of 8 July 2020 — Euroapotheca v EUIPO — General Nutrition Investment (GNC LIVE WELL)

(Case T-686/19) ([1])

(EU trade mark — Revocation proceedings — EU word mark GNC LIVE WELL — Obligation to state reasons — First sentence of Article 94(1) of Regulation (EU) 2017/1001 — Genuine use of the mark — Article 51(1)(a) of Regulation (EC) No 207/2009 (now Article 58(1)(a) of Regulation 2017/1001))

(2020/C 339/23)

Language of the case: English

Parties

Applicant: Euroapotheca UAB (Vilnius, Lithuania) (represented by: R. Žabolienė and E. Saukalas, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO and intervener before the General Court: General Nutrition Investment Company (Wilmington, Delaware, United States) (represented by: M. Rijsdijk, lawyer)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 30 July 2019 (Case R 2189/2018-5) concerning revocation proceedings between Euroapotheca and General Nutrition Investment Company.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Euroapotheca UAB to pay the costs.

(1) OJ C 399, 25.11.2019.

Judgment of the General Court of 8 July 2020 — Teva Pharmaceutical Industries v EUIPO (Moins de migraine pour vivre mieux)

(Case T-696/19) (1)

(EU trade mark — Application for EU word mark Moins de migraine pour vivre mieux — Absolute ground for refusal — No distinctive character — Article 7(1)(b) of Regulation (EU) 2017/1001)

(2020/C 339/24)

Language of the case: English

Parties

Applicant: Teva Pharmaceutical Industries Ltd (Petah Tikva, Israel) (represented by: J. Bogatz and Y. Stone, lawyers)

Defendant: European Union Intellectual Property Office (represented by: L. Rampini and V. Ruzek, acting as Agents)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 12 August 2019 (Case R 778/2019-5), relating to an application for registration of the word sign Moins de migraine pour vivre mieux as an EU trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Teva Pharmaceutical Industries Ltd to pay the costs.

(1) OJ C 413, 9.12.2019.

Judgment of the General Court of 8 July 2020 — Teva Pharmaceutical Industries v EUIPO (Weniger Migräne. Mehr vom Leben.)

(Case T-697/19) ([1])

(EU trade mark — Application for EU word mark Weniger Migräne. Mehr vom Leben. — Absolute ground for refusal — No distinctive character — Article 7(1)(b) of Regulation (EU) 2017/1001)

(2020/C 339/25)

Language of the case: English

Parties

Applicant: Teva Pharmaceutical Industries Ltd (Petah Tikva, Israel) (represented by: J. Bogatz and Y. Stone, lawyers)

Defendant: European Union Intellectual Property Office (represented by: L. Rampini and V. Ruzek, acting as Agents)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 12 August 2019 (Case R 779/2019-5), relating to an application for registration of the word sign Weniger Migräne. Mehr vom Leben. as an EU trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Teva Pharmaceutical Industries Ltd to pay the costs.

([1]) OJ C 413, 9.12.2019.

Judgment of the General Court of 8 July 2020 — Austria Tabak v EUIPO — Mignot & De Block (AIR)

(Case T-800/19) ([1])

(EU trade mark — Revocation proceedings — EU word mark AIR — Genuine use of the mark — Article 18(1) of Regulation (EU) 2017/1001 — Article 58(1)(a) of Regulation 2017/1001 — Alteration of distinctive character)

(2020/C 339/26)

Language of the case: English

Parties

Applicant: Austria Tabak GmbH (Vienna, Austria) (represented by: J.L. Gracia Albero and R. Ahijón Lana, lawyers)

Defendant: European Union Intellectual Property Office (represented by: J. Ivanauskas and V. Ruzek, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Mignot & De Block BV (Eindhoven, Netherlands) (represented by: S. Körber, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 16 September 2019 (Case R 1665/2018 4), concerning revocation proceedings between Mignot & De Block and Austria Tabak.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Austria Tabak GmbH to pay the costs.

(1) OJ C 45, 10.2.2020.

Order of the General Court of 3 July 2020 — Falqui and Poggiolini v Parliament

(Joined cases T-347/19 and T-348/19) (1)

(Actions for annulment — Institutional law — Single statute for Members of the European Parliament — Members of the European Parliament elected in Italian constituencies — Adoption by the Ufficio di Presidenza della Camera dei deputati (Office of the President of the Italian Chamber of Deputies, Italy) of Decision No 14/2018, on pensions — Change in the amount of pensions — Manifestly inadmissible actions)

(2020/C 339/27)

Language of the case: Italian

Parties

Applicants: Enrico Falqui (Florence, Italy), Danilo Poggiolini (Rome, Italy) (represented by: F. Sorrentino and A. Sandulli, lawyers)

Defendant: European Parliament (represented by: S. Seyr and S. Alves, acting as Agents)

Re:

Application under Article 263 TFEU seeking annulment of the letters of 11 April 2019 drawn up, in the case of both applicants, by the Head of the 'Members' Salaries and Social Entitlements' Unit of the Parliament's Directorate General for Finance concerning the adjustment of the pensions they receive following the entry into force, on 1 January 2019 of Decision No 14/2018 of the Ufficio di Presidenza della Camera dei deputati (Office of the President of the Italian Chamber of Deputies, Italy).

Operative part of the order

1. The actions are rejected as manifestly inadmissible.

2. Mr Enrico Falqui and Mr Danilo Poggiolini shall bear their own costs and pay those incurred by the European Parliament.

(1) OJ C 263, 5.8.2019.

Order of the General Court of 3 July 2020 — Tognoli and Others v Parliament

(Joined cases T-395/19, T-396/19, T-405/19, T-408/19, T-419/19, T-423/19, T-424/19, T-428/19, T-433/19, T-437/19, T-443/19, T-455/19, T-458/19 to T-462/19, T-464/19, T-469/19 and T-477/19) [1]

(Actions for annulment — Institutional law — Single statute for Members of the European Parliament — Members of the European Parliament elected in Italian constituencies — Adoption by the Ufficio di Presidenza della Camera dei deputati (Office of the President of the Italian Chamber of Deputies, Italy) of Decision No 14/2018, on pensions — Change in the amount of pensions — Manifestly inadmissible actions)

(2020/C 339/28)

Language of the case: Italian

Parties

Applicants: Carlo Tognoli (Milan, Italy), and the 19 other applicants whose names are listed in the annex to the order (represented in cases T-395/19, T-396/19, T-419/19, T-423/19, T-424/19, T-428/19, T-433/19, T-437/19, T-455/19, T-458/19 to T-462/19, T-464/19, T-469/19 and T-477/19 by M. Merola, lawyer, and in cases T-405/19, T-408/19 and T-443/19 by M. Merola and L. Florio, lawyers)

Defendant: European Parliament (represented by: S. Seyr and S. Alves, acting as Agents)

Re:

Application under Article 263 TFEU seeking annulment of the letters of 11 April 2019 drawn up, in the case of each applicant, by the Head of the 'Members' Salaries and Social Entitlements' Unit of the Parliament's Directorate General for Finance concerning the adjustment of the pensions they receive following the entry into force, on 1 January 2019 of Decision No 14/2018 of the Ufficio di Presidenza della Camera dei deputati (Office of the President of the Italian Chamber of Deputies, Italy).

Operative part of the order

1. The actions are rejected as manifestly inadmissible.

2. Mr Tognoli and the other applicants whose names are listed in the annex shall bear their own costs and pay those incurred by the European Parliament.

[1] OJ C 280, 19.8.2019.

Action brought on 23 July 2020 — DD v FRA

(Case T-470/20)

(2020/C 339/29)

Language of the case: English

Parties

Applicant: DD (represented by: A. Blot and L. Levi, lawyers)

Defendant: European Union Agency for Fundamental Rights (FRA)

Form of order sought

The applicant claims that the Court should:

— annul the decision of the FRA Director dated 11 November 2019 to issue the disciplinary sanction of removal from post, effective 15 November 2019;

— if need be, annul the decision of the FRA Director dated 15 April 2020, received on the same day, rejecting the complaint directed by the applicant against the above decision on 16 December 2019;

— compensate the material and the non-material prejudices suffered by the applicant;

— order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on two sets of pleas in law related to questions of substance and procedure, respectively, and on the principle of proportionality.

With regard to the substance:

1. First substantive plea in law, alleging error of law and a manifest error of assessment — Violation of the principle of legal certainty — Violation of article 7 paragraph 1 of the Austrian copyright law — Violation of Article 11 of the Charter of Fundamental Rights.

2. Second substantive plea in law, alleging violation of the principles of good administration and of due diligence — Violation of the principle of the presumption of innocence — Burden of proof — Non-establishment of the reality of the facts — Duty to remain measured in statements made.

3. Third substantive plea in law, alleging lack of impartiality, neutrality and objectivity of the Director as appointing authority — Violation of the presumption of innocence — Misuse of power.

4. Fourth substantive plea in law, alleging manifest errors of appreciation.

   — i. The alleged violation by the applicant of Article 11 of the Staff Regulations has no basis in fact.

   — ii. The alleged violation by the applicant of Article 12 of the Staff Regulations has no basis in fact.

   — iii. The alleged violation by the applicant of Article 21 of the Staff Regulations has no basis in fact.

With regard to procedure, the applicant complains of the following procedural irregularities:

1. First procedural plea in law, alleging that the opening of the administrative inquiry lacked even prima facie evidence and disciplinary proceedings were opened irregularly.

2. Second procedural plea in law, alleging non-respect of the mandate by the inquirer — Violation by the defendant is also alleged of: Article 4(2) and Article 7(6) of FRA Decision n° 2013/01, ([1]) Articles 4(1)(a), 4(1)(b), 4(1)(c), 4(1)(d) and 5(1)(a) of Regulation (EU) 2018/1725, ([2]) and, before applicability of Regulation 2018/1725, of Articles 4(1)(a), 4(1)(b), 4(1)(c), 4(1)(d) and 5(1)(a) of Regulation (EC) 45/2001 ([3]) — Violation is furthermore alleged of the effects of a judgment of annulment.

3. Third procedural plea in law, alleging lack of impartiality, neutrality and objectivity of the inquirer.

4. Fourth procedural plea in law, alleging violation of the rights of the defence, in particular of the right to be heard — Violation by the defendant of Articles 1 and 2 of Annex IX to the Staff Regulations and of Article 12 thereof is further alleged.

5. Fifth procedural plea in law, alleging violation of the principle of good administration and of the duty of care — Violation by the defendant of the reasonable delay and of Article 22 of Annex IX to the Staff Regulations is further alleged.

Furthermore, the applicant relies on the violation of the principle of proportionality as a subsidiary plea.

(1) Decision on Conduct of Administrative Enquiries and Disciplinary Procedures.
(2) Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ 2018 L 295, p. 39).
(3) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ 2001 L 8, p. 1).

Action brought on 5 August 2020 — Diego v EUIPO — Forbo Financial Services (WOOD STEP LAMINATE FLOORING)

(Case T-498/20)

(2020/C 339/30)

Language in which the application was lodged: Hungarian

Parties

Applicant: Diego Kereskedelmi és Szolgáltató Kft. (Dabas, Hungary) (represented by: P. Jalsovszky, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Forbo Financial Services AG (Baar, Switzerland)

Details of the proceedings before EUIPO

Applicant for the trade mark at issue: Applicant

Trade mark at issue: European Union figurative mark WOOD STEP LAMINATE FLOORING — Application for registration No 17675802

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 4 June 2019 in Case R 1630/2019-1

Form of order sought

The applicant claims that the General Court should:

— annul the contested decision;

— declare that there is no likelihood of confusion between the marks STEP and WOOD STEP Laminate Flooring;

— order that the mark at issue be registered by EUIPO;

— order that the opposition proceedings be dismissed by EUIPO;

— order the unsuccessful party to pay the costs.

Pleas in law

— Infringement of article 4 of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

— Infringement of article 7(1)(b), (c) and (d) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

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

— Infringement of Article 26(2) TFEU.

— Infringement of Articles 34 and 35 TFEU

Action brought on 15 August 2020 — Uno v Commission

(Case T-514/20)

(2020/C 339/31)

Language of the case: Spanish

Parties

Applicant: Uno Organización Empresarial de Logística y Transporte (Coslada, Spain) (represented by: J. Piqueras Ruiz, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul European Commission Decision C (2020) 3108 final of 14 May 2020 on State aid SA.50872 (2020/NN) — Compensation to Correos on account of the universal service obligation ('USO'), 2011-2020; and consequently,

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

Pleas in law and main arguments

The pleas in law and main arguments are similar to those put forward in Case T-513/20, *Asempre* v *Commission*

Action brought on 17 August 2020 — Mandelay v EUIPO — Qx World (QUEST 9)

(Case T-516/20)

(2020/C 339/32)

Language of the case: English

Parties

Applicant: Mandelay Magyarország Kereskedelmi Kft. (Mandelay Kft.) (Szigetszentmiklós, Hungary) (represented by: V. Luszcz, C. Sár and É. Ulviczki, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Qx World Kft. (Budapest, Hungary)

Details of the proceedings before EUIPO

Applicant of the trademark at issue: Applicant before the General Court

Trade mark at issue: Application for European Union word mark QUEST 9 — Application for registration No 17 885 953

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 3 June 2020 in Case R 1900/2019-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs of the applicant incurred in the present proceedings and in the proceedings before the Board of Appeal;

— should there be an intervention, to order the intervener to bear the costs of the applicant incurred in the present proceedings and in the proceedings before the Board of Appeal.

Pleas in law

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

— Infringement of Article 95 of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 97 of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of essential procedural requirements;

— Infringement of the duty to provide adequate reasons.

Action brought on 17 August 2020 — VF International v EUIPO — National Geographic Society (NATIONAL GEOGRAPHIC)

(Case T-517/20)

(2020/C 339/33)

Language of the case: English

Parties

Applicant: VF International Sagl (Stabio, Switzerland) (represented by: T. van Innis, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: National Geographic Society (Washington, District of Columbia, 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: European Union word mark NATIONAL GEOGRAPHIC — European Union trade mark No 9 419 731

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 21 May 2020 in Case R 1665/2019-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay its own costs and to pay those of the applicant.

Plea in law

— Infringement of Article 8(4) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 17 August 2020 — VF International v EUIPO — National Geographic Society (NATIONAL GEOGRAPHIC)

(Case T-518/20)

(2020/C 339/34)

Language of the case: English

Parties

Applicant: VF International Sagl (Stabio, Switzerland) (represented by: T. van Innis, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: National Geographic Society (Washington, District of Columbia, 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: European Union figurative mark NATIONAL GEOGRAPHIC in colour yellow and black — European Union trade mark No 2 148 799

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 21 May 2020 in Case R 1664/2019-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay its own costs and to pay those of the applicant.

Plea in law

— Infringement of Article 8(4) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 18 August 2020 — Setarcos Consulting v EUIPO (Blockchain Island)

(Case T-523/20)

(2020/C 339/35)

Language of the case: English

Parties

Applicant: Setarcos Consulting Ltd. (Sliema, Malta) (represented by: S. Stafylakis, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for European Union word mark Blockchain Island — Application for registration No 18 027 834

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 9 June 2020 in Case R 2806/2019-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs relating to the proceedings before the Court and the Board of Appeal.

Plea in law

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

Action brought on 12 August 2020 — Devin v EUIPO — Haskovo Chamber of Commerce and Industry (DEVIN)

(Case T-526/20)

(2020/C 339/36)

Language of the case: English

Parties

Applicant: Devin EAD (Devin, Bulgaria) (represented by: B. Van Asbroeck, G. de Villegas and C. Haine, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Haskovo Chamber of Commerce and Industry (Haskovo, Bulgaria)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union word mark DEVIN — European Union trade mark No 9 408 865

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 28 May 2020 in Case R 2535/2019-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Pleas in law

— Infringement of Article 59(1)(a), in conjunction with Articles (7)(1)(c) and 7(3) or Article 59(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 59(1)(a), in conjunction with Article (7)(1)(f) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 59(1)(a), in conjunction with Article (7)(1)(g) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 18 August 2020 — Kočner v Europol

(Case T-528/20)

(2020/C 339/37)

Language of the case: Slovak

Parties

Applicant: Marián Kočner (Bratislava, Slovakia) (represented by: M. Mandzák and M. Para, lawyers)

Defendant: European Union Agency for Law Enforcement Cooperation (Europol)

Form of order sought

The applicant claims that the General Court should:

— order the defendant to pay the applicant the sum of EUR 100 000, and

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

Pleas in law and main arguments

The subject matter of the action is an application under Article 268 TFEU for the award of compensation on the basis of non-contractual liability, in respect of damage caused to the applicant by two harmful events. According to the applicant, the first harmful event consists in the defendant's processing of the applicant's personal data without the agreement of a court or independent administrative authority by means of the acquisition and extraction of data from mobile telephones, and also in data leakage from the defendant's premises (harmful event no. 1). The second harmful event is alleged to consist in the fact that the defendant compiled an official report in which it stated that the applicant is included in the so-called 'Mafia lists' (harmful event number 2).

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

1. The first plea in law alleges unlawful conduct of the defendant consisting in the leakage of the applicant's personal data from the defendant' holding of it, which is the defendant's responsibility under Article 38(7) of Regulation No 2016/794. ([1]) The data leakage from secure mobile telephones infringed rights protected under the Charter of Fundamental Rights of the European Union and the applicant incurred non-material harm causally related to harmful event no. 1, assessed by the applicant at EUR 50 000 in respect of that harmful event.

2. The second plea in law is based on the applicant's classification in the so-called 'Mafia lists', those lists not being governed by any legal provision, whether at the level of EU law or the level of national law, by the Slovak Republic or [another] EU Member State, and that classification of the applicant is an express infringement consisting in the unlawful processing of personal data. Those lists manifestly infringe rights protected by the Charter of Fundamental Rights of the EU, having regard to the case-law of the Court of Justice of the European Union and of the European Court of Human Rights. The applicant alleges that he incurred damage causally related to harmful event no. 2, which he assesses at EUR 50 000.

([1]) Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).

Action brought on 21 August 2020 — LR v EIB

(Case T-529/20)

(2020/C 339/38)

Language of the case: Spanish

Parties

Applicant: LR (represented by: Á. Gómez de la Cruz Pérez, lawyer)

Defendant: European Investment Bank (EIB)

Form of order sought

The applicant claims that the Court should:

— annul the defendant's decision of 9 January 2020 rejecting the applicant's request for a resettlement allowance on the applicant's return to his centre of interest at the end of his employment relationship with the defendant and the decision of 15 May 2020 rejecting the applicant's administrative complaint of 19 February 2020 against the defendant's decision of 9 January 2020.

— annul the defendant's decision of 15 May 2020 rejecting the applicant's administrative complaint of 19 February 2020 seeking the recognition of his right to a resettlement allowance in the event that the General Court of the European Union or the Court of Justice of the European Union recognises that right in respect of the applicants in case T-387/19, *DF and DG* v *EIB*.

— order the defendant to pay the resettlement allowance including default interest calculated at the European Central Bank rate increased by two percentage points, until that allowance is paid in full.

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

Pleas in law and main arguments

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

1. First plea in law, alleging manifest error of law.

— The applicant claims that the fresh interpretation from 2017 of the exception laid down in Article 13(1) of the EIB's administrative provisions is vitiated by a manifest error of law and is contrary to its own acts.

2. Second plea in law, alleging infringement of the requirement to consult the staff representatives.

— The applicant claims that the fresh interpretation amounts to a covert legislative procedure adopted by a body without jurisdiction, with no forms and procedures, in that it did not consult the Staff Committee.

3. Third plea in law, alleging infringement of the principles of proportionality, acquired rights, legitimate expectations and the absence of any transitional arrangements.

4. Fourth plea in law, alleging infringement of the principle of non-discrimination.

5. Fifth plea in law, alleging infringement of the duty to have regard for the welfare of officials and the principle of sound administration.

Action brought on 21 August 2020 — Wolf Oil v EUIPO — Rolf Lubricants (ROLF)

(Case T-531/20)

(2020/C 339/39)

Language of the case: English

Parties

Applicant: Wolf Oil Corp. (Hemiksem, Belgium) (represented by: T. Heremans and L. Depypere, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Rolf Lubricants GmbH (Leverkusen, Germany)

Details of the proceedings before EUIPO

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

Trade mark at issue: International registration designating the European Union in respect of the figurative mark ROLF — International registration designating the European Union No 1 286 835

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 4 June 2020 in Case R 1958/2019-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— in the alternative, alter the contested decision so that its action is held to be well-founded and, consequently its opposition upheld;

— order EUIPO to pay the costs.

Pleas in law

— Infringement of Article 94(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 95(1) 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 August 2020 — Stada Arzneimittel v EUIPO — Pfizer (RUXIMBLIS)

(Case T-542/20)

(2020/C 339/40)

Language in which the application was lodged: German

Parties

Applicant: Stada Arzneimittel AG (Bad Vilbel, Germany) (represented by: J.-C. Plate and R. Kaase, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Pfizer Inc. (New York, New York, United States)

Details of the proceedings before EUIPO

Applicant for the trade mark at issue: Applicant

Trade mark at issue: Application for EU word mark RUXIMBLIS — Application No. 17 865 738

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 16 June 2020 in Case R 1877/2019-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs, including the costs of the proceedings before the Board of Appeal.

Plea in law

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

ISSN 1977-091X (electronic edition)
ISSN 1725-2423 (paper edition)

Publications Office
of the European Union
L-2985 Luxembourg
LUXEMBOURG

EN