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Information and Notices

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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Appeal brought on 29 January 2020 by ZW against the order of the General Court (Fourth Chamber) delivered on 21 November 2019 in Case T-727/18, ZW v EIB

(Case C-50/20 P)

(2020/C 348/02)

Language of the case: English

Parties

Appellant: ZW (represented by: T. Petsas, dikigoros)

Other party to the proceedings: European Investment Bank (EIB)

By order of 3 September 2020, the Court of Justice (Eighth Chamber) decided that the appeal is dismissed as in part manifestly inadmissible and in part manifestly unfounded and ordered the appellant to bear its own costs.

Request for a preliminary ruling from the Landesverwaltungsgericht Steiermark (Austria) lodged on 8 May 2020 — NE v Bezirkshauptmannschaft Hartberg-Fürstenfeld

(Case C-205/20)

(2020/C 348/03)

Language of the case: German

Referring court

Landesverwaltungsgericht Steiermark

Parties to the main proceedings

Applicant: NE

Respondent authority: Bezirkshauptmannschaft Hartberg-Fürstenfeld

Interested party: Finanzpolizei Team 91

Questions referred

1. Is the requirement of proportionality of penalties laid down in Article 20 of Directive 2014/67/EU ([1]) and interpreted by the Court of Justice of the European Union in its orders in *Bezirkshauptmannschaft Hartberg-Fürstenfeld* (C-645/18, EU:C:2019:1108) ([2]) and *Bezirkshauptmannschaft Hartberg-Fürstenfeld* (C-140/19, C-141/19, C-492/19, C-493/19 and C-494/19, EU:2019:1103) ([3]) a directly applicable provision of the Directive?

2. If Question 1 is answered in the negative:

Does the interpretation of national law in conformity with EU law permit and require the national court and administrative authority to supplement — in the absence of new legislation at national level — the domestic penal provisions applicable in the present proceedings with the criteria of the requirement of proportionality laid down in the orders of the Court of Justice of the European Union in *Bezirkshauptmannschaft Hartberg-Fürstenfeld* (C-645/18, EU:C:2019:1108) and *Bezirkshauptmannschaft Hartberg-Fürstenfeld* (C-140/19, C-141/19, C-492/19, C-493/19 and C-494/19, EU:2019:1103)?

([1]) Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation') (OJ 2014 L 159, p. 11).

([2]) EU:C:2019:1108.

([3]) EU:2019:1103.

Appeal brought on 9 June 2020 by the European Commission against the judgment of the General Court (Eighth Chamber) delivered on 2 April 2020 in Case T-571/17, UG v Commission

(Case C-249/20 P)

(2020/C 348/04)

Language of the case: French

Parties

Appellant: European Commission (represented by: B. Mongin, L. Radu Bouyon, acting as Agents)

Other party to the proceedings: UG

Form of order sought

— Set aside the judgment of the European Union (Eighth Chamber) of 2 April 2020, delivered in Case T-571/17, *UG* v *Commission*

— Refer the case back to the General Court;

— Reserve the costs of the proceedings at first instance and on appeal.

Pleas in law and main arguments

1. First ground of appeal: distortion of the facts (paragraphs 64 to 71 of the contested decision)

According to settled case-law, there exists a distortion of the facts subject to review by the Court where the assessment of the existing evidence is manifestly incorrect. Such distortion must be obvious from the documents before the Court

In the first part of the ground, the Commission claims that the General Court's finding that the authority empowered to conclude contracts of employment (AECE) set UG too short a timeframe within which to remedy professional incompetence is contradicted by the evidence in the file. The AECE did not require UG to meet all the objectives fixed in the 2015 appraisal and to restore a relationship of trust with all his work colleagues within a period of three months.

According to the second part of the ground, the General Court erroneously focused its consideration on the issue of unjustified absences and failed to take into account the recurrence of several aspects of professional incompetence noted in the decision of 17 October 2016 and the letter of 8 September 2016.

2. Second ground of appeal: error in law (paragraphs 72 to 77 of the contested decision)

The General Court annulled the contested decision because of an error of fact without however demonstrating that that error was 'manifest'. AECE has a broad discretion in respect of dismissal and the review by the General Court is limited to the issue of whether there has been a manifest error or a misuse of powers. The General Court identified an error in the contested decision which merely concerned one of the aspects of professional incompetence to which the AECE had drawn UG's attention, an error which was not 'manifest' and could therefore not lead to the annulment of the contested decision.

Request for a preliminary ruling from the Landgericht Erfurt (Germany) lodged on 24 June 2020 — A. G. E. v B AG

(Case C-276/20)

(2020/C 348/05)

Language of the case: German

Referring court

Landgericht Erfurt

Parties to the main proceedings

Applicant: A. G. E.

Defendant: B AG

Questions referred

1. Under EU law, especially the principle of effectiveness, and for the purposes of European fundamental rights, must no deduction for actual use of the vehicle be applied to the damage sustained by the purchaser where the manufacturer of a vehicle or engine infringes European registration law and European emissions standards? Does that preclusion of any deduction apply where a manufacturer causes a customer intentional damage contrary to public policy?

2. Is the referring court an independent and impartial court or tribunal for the purpose of Article 267 TFEU, read in conjunction with the third sentence of Article 19(1) TEU and Article 47(2) of the Charter of Fundamental Rights of the European Union?

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 3 July 2020 — Commerzbank AG v E.O.

(Case C-296/20)

(2020/C 348/06)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Commerzbank AG

Defendant: E.O.

Questions referred

1. Is Article 15(1)(c) of the Lugano Convention [1] to be interpreted as meaning that the 'pursuit' of a professional or commercial activity in the State bound by the Convention and in which the consumer is domiciled presupposes that the other party was already engaged in cross-border activity at the time when the contract was initiated and concluded or does that provision also apply for the purpose of determining the court having jurisdiction to hear proceedings where the parties were domiciled within the meaning of Articles 59 and 60 of the Lugano Convention in the same State bound by the Convention at the time when the contract was concluded and a foreign element to the legal relationship arose only subsequently **[Or. 3]** because the consumer relocated at a later date to another State bound by the Convention?

2. If cross-border activity at the time when the contract was concluded is not necessary:

   Does Article 15(1)(c) of the Lugano Convention, read in conjunction with Article 16(2) thereof, generally preclude determination of the court having jurisdiction in accordance with Article 5(1) of the Lugano Convention in the case where the consumer relocated to another State bound by the Convention between the time when the contract was concluded and the time when the proceedings were brought, or is it also necessary for the professional or commercial activities of the other party to be pursued in or directed to the new State of domicile and for the contract to come within the scope of such activities?

[1] Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2007 L 339, p. 3).

Request for a preliminary ruling from the Landgericht Mainz (Germany) lodged on 16 July 2020 — KX v PY GmbH

(Case C-317/20)

(2020/C 348/07)

Language of the case: German

Referring court

Landgericht Mainz

Parties to the main proceedings

Applicant: KX

Defendant: PY GmbH

Question referred

Is Article 18(1) 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 (Article 18(1) of the Brussels I Regulation) [1] to be interpreted as meaning that, in addition to regulating international jurisdiction, the provision also lays down a rule to be observed by the adjudicating court as to the territorial jurisdiction of the national courts in matters pertaining to travel contracts where both the consumer, as the traveller, and his contractual partner, the tour operator, are domiciled in the same Member State, however the destination is not in that Member State but is located abroad ('apparent domestic cases'), with the consequence that the consumer can bring contractual claims against the tour operator before the court for his place of residence as a supplement to national rules of jurisdiction?

[1] OJ 2012 L 351, p. 1.

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 13 July 2020 — Colt Technology Services SpA, Wind Tre SpA, Telecom Italia SpA, Vodafone Italia SpA v Ministero della Giustizia, Ministero dello sviluppo economico, Ministero dell'Economia e delle Finanze, Procura Generale della Repubblica presso la Corte d'appello di Reggio Calabria, Procura della Repubblica presso il Tribunale di Cagliari, Procura della Repubblica presso il Tribunale di Roma, Procura della Repubblica presso il Tribunale di Locri

(Case C-318/20)

(2020/C 348/08)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellants: Colt Technology Services SpA, Wind Tre SpA, Telecom Italia SpA, Vodafone Italia SpA

Respondents: Ministero della Giustizia, Ministero dello sviluppo economico, Ministero dell'Economia e delle Finanze, Procura Generale della Repubblica presso la Corte d'appello di Reggio Calabria, Procura della Repubblica preso il Tribunale di Cagliari, Procura della Repubblica presso il Tribunale di Roma, Procura della Repubblica presso il Tribunale di Locri

Question referred

Do the general principles laid down in Articles 18, 26 and 102 et seq. TFEU preclude a provision of national law that identifies procedures for calculating the rate applied for the performance by telecommunications operators of interception activities ordered by the judicial authorities, where that provision does not require compliance with the principle of the full reimbursement of costs?

Appeal brought on 14 July 2020 by Wonder Line, SL against the judgment of the General Court (Sixth Chamber) delivered on 13 May 2020 in Case T-284/19, Wonder Line v EUIPO — De Longhi Benelux (KENWELL)

(Case C-322/20 P)

(2020/C 348/09)

Language of the case: English

Parties

Appellant: Wonder Line, SL (represented by: E. Manresa Medina, abogado)

Other party to the proceedings: European Union Intellectual Property Office (EUIPO)

By order of 26 August 2020 of the Vice-President, the Court of Justice held that the appeal is dismissed as inadmissible and ordered the appellant to bear its own costs.

Request for a preliminary ruling from the Bundesverwaltungsgericht (Germany) lodged on 30 July 2020 — Federal Republic of Germany v BL, BC

(Case C-355/20)

(2020/C 348/10)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: Federal Republic of Germany

Defendants: BL, BC

Joined party: Stadt Chemnitz

Questions referred

1 (a) In the case of subsequent immigration in order to join an unaccompanied minor refugee in accordance with Article 10(3)(a) and Article 2(f) of Council Directive 2003/86/EC ([1]) of 22 September 2003, can the continued existence of the refugee's minority be a 'condition' within the meaning of Article 16(1)(a) of Directive 2003/86/EC? Is legislation of a Member State under which parents who immigrated subsequently to join an unaccompanied minor refugee for the purposes of Article 2(f) of Directive 2003/86/EC are granted a (derived) right of residence in the Member State only for as long as the refugee is actually still a minor compatible with the aforesaid provisions?

(b) If the questions in 1(a) are answered in the affirmative: Is Article 16(1)(a), read in conjunction with Article 10(3)(a) and Article 2(f), of Directive 2003/86/EC to be interpreted as meaning that a Member State under whose legislation the parents' (derived) right of residence is limited to the period up until when the child comes of age is allowed to reject an application for entry and residence for the purpose of family reunification submitted by parents still resident in a third country if the refugee has come of age before the adoption of a final decision, in administrative or court proceedings, on an application lodged within three months of recognition of the child's refugee status?

2. If the answer to Question 1 is that it is not permissible to refuse family reunification:

What requirements are to be imposed in terms of a real family relationship within the meaning of Article 16(1)(b) of Directive 2003/86/EC in cases of subsequent immigration of parents to join a refugee who comes of age before a decision is adopted on the application for entry and residence for the purposes of family reunification? In particular:

(a) Does a first-degree relationship in the direct ascending line suffice (Article 10(3)(a) of Directive 2003/86/EC) or is a real family life also necessary?

(b) If a real family life is also necessary:

How close must it be? For example, do occasional or regular visits suffice, must the family cohabit in a single household or must they also be part of a support unit whose members are reliant upon one another?

(c) For the subsequent immigration of parents who are still in a third country and who have submitted an application for family reunification to join a child with recognised refugee status who has since come of age, must there be the expectation that, following their entry, family life will be (re-)established in the Member State in the manner required in Question 2(b)?

([1]) Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ 2003 L 251, p. 12).

Request for a preliminary ruling from the Landesverwaltungsgericht Steiermark (Austria) lodged on 5 August 2020 — NW v Landespolizeidirektion Steiermark

(Case C-368/20)

(2020/C 348/11)

Language of the case: German

Referring court

Landesverwaltungsgericht Steiermark

Parties to the main proceedings

Appellant: NW

Respondent authority: Landespolizeidirektion Steiermark

Questions referred

1. Does EU law preclude domestic legislation in the form of consecutive domestic decrees prolonging border control which, cumulatively, allow for the reintroduction of border control for a period which exceeds the two-year time limit laid down in Article 25 and Article 29 of Regulation (EU) 2016/399 ([1]) without a corresponding Council recommendation pursuant to Article 29 of that regulation?

2. If Question 1 is answered in the negative:

   Is the right to freedom of movement of EU citizens laid down in Article 21(1) TFEU and Article 45(1) of the Charter of Fundamental Rights of the European Union ([2]) to be interpreted, especially in the light of the principle of the absence of checks on persons at internal borders established in Article 22 of Regulation 2016/399, as meaning that it includes the right not to be subject to checks on persons at internal borders, subject to the conditions and exceptions listed in the Treaties and, in particular, in the above regulation?

([1]) Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ 2016 L 77, p. 1, as corrected by OJ 2018 L 272, p. 69).
([2]) OJ 2012 C 326, p. 391.

Request for a preliminary ruling from the Landesverwaltungsgericht Steiermark (Austria) lodged on 5 August 2020 — NW v Bezirkshauptmannschaft Leibnitz

(Case C-369/20)

(2020/C 348/12)

Language of the case: German

Referring court

Landesverwaltungsgericht Steiermark

Parties to the main proceedings

Appellant: NW

Respondent authority: Bezirkshauptmannschaft Leibnitz

Questions referred

1. Does EU law preclude domestic legislation in the form of consecutive domestic decrees prolonging border control which, cumulatively, allow for the reintroduction of border control for a period which exceeds the two-year time limit laid down in Article 25 and Article 29 of Regulation (EU) 2016/399 ([1]) without a corresponding Council recommendation pursuant to Article 29 of that regulation?

2. Is the right to freedom of movement of EU citizens laid down in Article 21(1) TFEU and Article 45(1) of the Charter of Fundamental Rights of the European Union ([2]) to be interpreted, especially in the light of the principle of the absence of checks on persons at internal borders established in Article 22 of Regulation 2016/399, as meaning that it includes the right not to be subject to checks on persons at internal borders, subject to the conditions and exceptions listed in the Treaties and, in particular, in the above regulation?

3. If question 2 is answered in the affirmative:

   Are Article 21(1) TFEU and Article 45(1) of the Charter of Fundamental Rights to be interpreted, in light of the effectiveness of the right to freedom of movement, as precluding the application of national legislation which obliges a person, on pain of receiving an administrative penalty, to present a passport or identity card on entry via an internal border, even where the particular check at the internal border is contrary to the provisions of EU law?

([1]) Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ 2016 L 77, p. 1), as corrected by OJ 2018 L 272, p. 69).
([2]) OJ 2012 C 326, p. 391.

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 7 August 2020 — Peek & Cloppenburg KG, represented by Peek & Cloppenburg Düsseldorf Komplementär B.V. v Peek & Cloppenburg KG, represented by Van Graaf Management GmbH

(Case C-371/20)

(2020/C 348/13)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Appellant on a point of law: Peek & Cloppenburg KG, represented by the personally liable partner Peek & Cloppenburg Düsseldorf Komplementär B.V.

Respondent in the appeal on a point of law: Peek & Cloppenburg KG, represented by the personally liable partner Van Graaf Management GmbH

Questions referred

1. Is there a 'payment' for product promotion within the meaning of the first sentence of point 11 of Annex I to Directive 2005/29/EC ([1]) only in the case where monetary consideration is provided for the use of editorial content in the media to promote a product, or does the term 'payment' cover every kind of consideration, irrespective of whether this consists of money, goods, services or assets of any other kind?

2. Does the first sentence of point 11 of Annex I to Directive 2005/29/EC presuppose that the trader provides the media operator with a non-cash benefit as consideration for the use of editorial content and, if so, must such consideration also be assumed to be present in the case where the media operator reports on an advertisement organised in conjunction with a trader, where that trader has made image rights available to the media operator for the purposes of that report, both undertakings have contributed towards the costs and effort associated with that advertisement and the advertisement serves to promote sales of the products of both undertakings?

([1]) 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 da Relação de Coimbra (Portugal) lodged on 10 August 2020 — Liberty Seguros SA v DR

(Case C-375/20)

(2020/C 348/14)

Language of the case: Portuguese

Referring court

Tribunal da Relação de Coimbra

Parties to the main proceedings

Applicant: Liberty Seguros SA

Defendant: DR

Interveners: Fundo de Garantia Automóvel, VS, FN, JT, Seguradoras Unidas, SA

Question referred

Does [EU] law, and in particular Directive 2009/103/EC [1] of the European Parliament and of the Council, preclude national legislation which allows the nullity of a contract of insurance taken out against civil liability in respect of the use of motor vehicles to be relied on as against injured third parties and the Fundo de Garantia Automóvel (Portuguese motor vehicle insurance guarantee fund) where that nullity results from the fact that the policyholder has used the insured vehicle for the clandestine and illegal transport of persons and goods for remuneration and has concealed its use for that purpose from the insurer? Would the answer be the same even if the passengers had known that the transport was clandestine and unlawful?

[1] Directive 2009/103/EC of the European Parliament and of the Council 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 (OJ 2009 L 263, p. 11).

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 29 July 2020 — Servizio Elettrico Nazionale SpA and Others v Autorità Garante della Concorrenza e del Mercato and Others

(Case C-377/20)

(2020/C 348/15)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicants: Servizio Elettrico Nazionale SpA, ENEL SpA, Enel Energia SpA

Defendants: Autorità Garante della Concorrenza e del Mercato, ENEL SpA, Servizio Elettrico Nazionale SpA, Eni Gas e Luce SpA, Eni SpA, Gala SpA, Axpo Italia SpA, E.Ja SpA, Green Network SpA, Ass.ne Codici — Centro per i Diritti del Cittadino

Questions referred

1. May conduct that constitutes an abuse of a dominant position be completely lawful in and of itself and be classified as 'an abuse' solely because of the (potentially) restrictive effect created in the reference market, or must that conduct also be characterised by a specific 'unlawful' component, represented by the use of 'competitive methods (or means) that are different' from those that are 'normal'? In the latter case, what criteria should be used to establish the boundary between 'normal' and 'distorted' competition?

2. Is the purpose of the concept of abuse to maximise the well-being of consumers, with the court being responsible for determining whether that well-being has been (or could be) reduced, or does the concept of an infringement of competition law have the function of preserving in itself the competitive structure of the market, in order to avoid the creation of economic power groupings that are, in any case, considered harmful for the community?

3. In the case of an abuse of a dominant position represented by an attempt to prevent the continuation or development of the existing level of competition, is the dominant undertaking in any case permitted to prove that the conduct did not cause any actual harm, despite its abstract ability to generate a restrictive effect? If the answer to that question is in the affirmative, for the purposes of assessing whether an atypical exclusionary abuse has occurred, must Article 102 TFEU be interpreted as meaning that the Authority has an obligation to examine specifically the economic analyses produced by the party concerning the actual ability of the conduct examined to exclude its competitors from the market?

4. Must an abuse of a dominant position be assessed solely in terms of its effects on the market (including merely potential effects), without regard to the subjective motive of the agent, or does a demonstration of restrictive intent constitute a parameter that may be used (even exclusively) to assess the abusive nature of the dominant undertaking's conduct? Does such a demonstration of the subjective component serve only to shift the burden of proof to the dominant undertaking (which would have the burden, at this stage, of providing evidence that the exclusionary effect is absent)?

5. In the case of a dominant position held by a number of undertakings belonging to the same corporate group, is membership of that group sufficient to assume that even those undertakings that have not implemented the abusive conduct have contributed to the infringement, so that the supervisory authority would merely need to demonstrate a conscious, albeit non-collusive, parallel approach by the undertakings operating within the collectively dominant group? Or (as is the case for the prohibition on cartels) is there in any case a need to provide evidence, even indirectly, of a specific situation of coordination and instrumentality among the various undertakings within the dominant group, in particular in order to demonstrate the involvement of the parent company?

Request for a preliminary ruling from the Østre Landsret (Denmark) lodged on 11 August 2020 — B v Udlændingenævnet

(Case C-379/20)

(2020/C 348/16)

Language of the case: Danish

Referring court

Østre Landsret

Parties to the main proceedings

Applicant: B

Defendant: Udlændingenævnet

Question referred

Does Article 13 of Decision No 1/80 of the Association Council of 19 September 1980 ([1]) on the development of the Association, which is linked to the Agreement establishing an Association between the European Economic Community and Turkey, signed at Ankara on 12 September 1963 by the Republic of Turkey, on the one hand, and by the Member States of the EEC and the Community, on the other, and concluded, approved and confirmed on behalf of the Community by Council Decision 64/732/EEC ([2]) of 23 December 1963, preclude the introduction and application of a new national measure under which family reunification between an economically active Turkish national who is lawfully resident in the Member State in question and that person's child who is 15 years of age is subject to the condition that very specific grounds, including the consideration of family unity and the consideration of the best interests of the child, support such reunification?

([1]) Decision No 1/80 of the Association Council of 19 September 1980 on the application of the social security schemes of the Member States of the European Communities to Turkish workers and members of their families (OJ 1983 C 110, p. 60).

([2]) 64/732/EEC: Council Decision of 23 December 1963 on the conclusion of the Agreement establishing an Association between the European Economic Community and Turkey (OJ 1964 217, p. 3685).

Appeal brought on 24 August 2020 by Lípidos Santiga, SA against the order of the General Court (Fourth Chamber) delivered on 11 June 2020 in Case T-561/19, Lípidos Santiga v Commission

(Case C-402/20 P)

(2020/C 348/17)

Language of the case: English

Parties

Appellant: Lípidos Santiga, SA (represented by: P. Muñiz Fernández, abogado)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the order of the General Court (Fourth Chamber) of 11 June 2020, Lipidos Santiga v Commission (case T-561/19) notified to the appellant on 12 June 2020, insofar as it dismissed the action as inadmissible;

— declare the action brought by the Appellant admissible and refer the case back to the General Court to rule on the merits of the case; and

— order the European Commission to pay the costs of these proceedings and of the proceedings before the General Court.

Pleas in law and main arguments

First ground of appeal: The General Court erred in law in finding that the Appellant's situation is not affected by the European Union's exclusion of palm oil biofuel from the EU market.

A. In omitting to examine whether there is a market for palm oil biofuel outside the REDII [1] mandatory targets, the General Court failed to state sufficient grounds.

B. The General Court erred in law in concluding that the contested provisions do not trigger the express prohibition contained in Article 26(2) of RED II concerning the use palm oil biofuel.

C. The General Court erred in law in finding that, as a consequence of the low ILUC-risk exception, the Appellant is not directly affected by the contested provisions.

Second ground of appeal: The General Court erred in law in finding that Member States have discretion to implement the prohibition in Article 26(2) of RED II triggered by the contested provisions.

Third ground of appeal: The General Court's legal characterisation of the effects on the Appellant's situation arising from the contested provisions, as well as its interpretation and application of the direct concern test, are manifestly erroneous.

[1] Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ 2018, L 328, p. 82).

GENERAL COURT

Order of the General Court of 3 July 2020 — Solar Ileias Bompaina v Commission

(Case T-143/19) ([1])

(Action for annulment — State aid — Hellenic Republic — Operators on the market in electricity produced from renewable energy sources — Power purchase agreements — Legislative amendments with retroactive effect limiting tariff advantages — Complaint to the Commission alleging aid in favour of energy suppliers — Decision declaring the aid compatible with the internal market — Status as an interested party — Safeguarding of procedural rights — Inadmissibility)

(2020/C 348/18)

Language of the case: English

Parties

Applicant: Solar Ileias Bompaina AE (Athens, Greece) (represented by: A. Metaxas and A. Bartosch, lawyers)

Defendant: European Commission (represented by: K.-Ph. Wojcik and K. Herrmann, acting as Agents)

Re:

Action on the basis of Article 263 TFEU seeking, in essence, the annulment in part of Commission Decision C(2018) 6777 final of 10 October 2018 concerning State aid SA.38967 (2014/NN-2) — Greece — National operating aid scheme in favour of installations using renewable energy sources and highly efficient combined power and heat installations.

Operative part of the order

1. The action is dismissed as inadmissible.

2. Solar Ileias Bompaina AE is ordered to bear its own costs and to pay the costs incurred by the European Commission.

([1]) OJ C 148, 29.4.2019.

Order of the General Court of 2 July 2020 — Klein v Commission

(Case T-562/19) ([1])

(Action for failure to act — Medical devices — Article 8(1) and (2) of Directive 93/42/EEC — Safeguard clause procedure — Notification by a Member State of a decision prohibiting the placing on the market of a medical device — Absence of a decision by the Commission — Out of time — Inadmissibility)

(2020/C 348/19)

Language of the case: German

Parties

Applicant: Christoph Klein (Großgmain, Austria) (represented by: H.-J. Ahlt, lawyer)

Defendant: European Commission (represented by: A. C. Becker, F. Thiran and G. von Rintelen, acting as Agents)

Re:

Application under Article 265 TFEU for a declaration that the Commission unlawfully failed to act in the safeguard clause procedure initiated by the Federal Republic of Germany on 7 January 1998 and adopt a decision in accordance with Council Directive 93/42/EEC of 14 June 1993 concerning medical devices (OJ 1993 L 169, p. 1) in respect of the device Inhaler Broncho Air®.

Operative part of the order

1. The action is dismissed as inadmissible.

2. Mr Christoph Klein shall pay the costs.

(1) OJ C 337, 7.10.2019.

Order of the General Court of 10 July 2020 — Katjes Fassin v EUIPO — Haribo The Netherlands & Belgium (WONDERLAND)

(Case T-616/19) (1)

(Action for annulment — EU trade mark — Opposition proceedings — Application for the EU word mark WONDERLAND — Earlier Benelux word mark WONDERMIX — Relative grounds for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001 — Action manifestly lacking any foundation in law)

(2020/C 348/20)

Language of the case: German

Parties

Applicant: Katjes Fassin GmbH & Co. KG (Emmerich am Rhein, Germany) (represented by: T. Schmitz and M. Breuer, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO intervening before the General Court: Haribo The Netherlands & Belgium BV (Breda, Netherlands) (represented by: A. Tiemann and C. Elkemann, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 8 July 2019 (Case R 2164/2018-4) relating to opposition proceedings between Haribo The Netherlands & Belgium and Katjes Fassin.

Operative part of the order

1. The action is dismissed as manifestly lacking any foundation in law.

2. Katjes Fassin GmbH & Co. KG shall pay its own costs and those incurred, in connection with the present proceedings, by the European Union Intellectual Property Office (EUIPO) and by Haribo The Netherlands & Belgium BV.

(1) OJ C 363, 28.10.2019.

Order of the General Court of 10 July 2020 — KF v SatCen

(Case T-619/19) ([1])

(Action for annulment and for damages — Staff of SatCen — Members of the contract staff — Jurisdiction of the EU Courts — Common foreign and security policy — Decision to launch administrative investigations in respect of the applicant pursuant to a judgment of the General Court — Acts adversely affecting an official — Claim for interest on a sum awarded by the General Court as compensation for the harm suffered — Article 76(d) of the Rules of Procedure — Action manifestly inadmissible)

(2020/C 348/21)

Language of the case: English

Parties

Applicant: KF (represented by: N. Macaulay, Barrister)

Defendant: European Union Satellite Centre (represented by: A. Guillerme, lawyer)

Re:

Application, first, based on Article 263 TFEU for the annulment of the decision of the Director of SatCen of 3 July 2019 to launch investigations concerning the applicant and, second, based on Article 268 TFEU for compensation for the harm allegedly suffered by the applicant, in particular as a result of that decision.

Operative part of the order

1. The action is dismissed.

2. KF shall pay the costs, including those relating to the interlocutory proceedings.

3. There is no need to adjudicate on the application for leave to intervene made by the Council of the European Union.

4. Each party shall bear its own costs relating to the application for leave to intervene.

([1]) OJ C 399, 25.11.2019.

Order of the General Court of 14 July 2020 — Shindler and Others v Commission

(Case T-627/19) ([1])

(Actions for failure to act and for annulment — Area of freedom, security and justice — Withdrawal of the United Kingdom from the European Union — Applications for the adoption of a decision maintaining the European citizenship of certain UK nationals and of a decision on various measures relating to the rights of UK nationals — Adoption of a position by the Commission — No invitation to act — Refusal to adopt a decision maintaining the European citizenship of certain UK nationals — No interest in bringing proceedings — Action manifestly inadmissible)

(2020/C 348/22)

Language of the case: French

Parties

Applicants: Harry Shindler (Porto d'Ascoli, Italy) and the other applicants whose names are listed in the annex (represented by: J. Fouchet, lawyer)

Defendant: European Commission (represented by: F. Erlbacher, C. Giolito and E. Montaguti, acting as Agents)

Intervener in support of the defendant: Council of the European Union (represented by: M. Bauer and R. Meyer, acting as Agents)

Re:

Application (i) under Article 265 TFEU seeking a declaration that the Commission unlawfully refrained from adopting, on the one hand, a decision maintaining, as from the withdrawal of the United Kingdom from the European Union, the European citizenship of certain UK nationals who did not, at that time, have the nationality of an EU Member State, irrespective of whether or not an agreement setting out the arrangements of that withdrawal was concluded, and, on the other hand, a decision on various measures relating to the rights of those nationals, should such withdrawal take place without such an agreement having been concluded and (ii) seeking annulment, pursuant to Article 263 TFEU, of the letter of the Commission of 11 September 2019 refusing to adopt a decision maintaining the European citizenship of those nationals.

Operative part of the order

1. The action is dismissed.

2. Mr Harry Shindler and the other applicants whose names are listed in the annex shall pay the costs, including those relating to the interlocutory proceedings.

3. The Council of the European Union shall bear its own costs.

(1) OJ C 383, 11.11.2019.

Order of the General Court of 14 July 2020 — Sasol Germany and Others v ECHA

(Case T-640/19) (1)

(Action for annulment — REACH — Substances of very high concern — Establishment of a candidate list of substances for eventual inclusion in Annex XIV to Regulation (EC) No 1907/2006 — Decision identifying 4-tert-butylphenol as a substance meeting the criteria for inclusion in the list — Objection of inadmissibility — Act not open to challenge — Act merely implementing the decision — No interest in bringing proceedings — Inadmissibility)

(2020/C 348/23)

Language of the case: English

Parties

Applicants: Sasol Germany GmbH (Hamburg, Germany), SI Group — Béthune (Béthune, France), BASF SE (Ludwigshafen am Rhein, Germany) (represented by: C. Mereu, P. Sellar and S. Saez Moreno, lawyers)

Defendant: European Chemicals Agency (represented by: M. Heikkilä and W. Broere, acting as Agents, and by S. Raes, lawyer)

Re:

Application under Article 263 TFEU for the partial annulment of Decision ED/71/2019 of ECHA in so far as it includes 4-tert-butyphenol as a substance of very high concern in the list of substances identified with a view to their eventual inclusion in Annex XIV to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ 2006 L 396, p. 1, corrigendum OJ 2007 L 136, p. 3).

Operative part of the order

1. The action is dismissed as inadmissible.

2. There is no longer any need to adjudicate on the applications to intervene of the Federal Republic of Germany, the Kingdom of Sweden and the European Commission.

3. Sasol Germany GmbH, SI Group — Béthune and BASF SE shall bear their own costs and shall pay the costs incurred by the European Chemicals Agency (ECHA), with the exception of those relating to the applications to intervene.

4. Sasol Germany GmbH, SI Group — Béthune, BASF SE, the European Chemicals Agency (ECHA), the Federal Republic of Germany, the Kingdom of Sweden and the Commission shall each bear their own costs relating to the applications to intervene.

(1) OJ C 406, 2.12.2019.

Order of the General Court of 17 July 2020 — Wagenknecht v European Council

(Case T-715/19) (1)

(Action for failure to act — Protection of the European Union's financial interests — Combating fraud — Meeting of the European Council — Multiannual financial framework — Financial regulation — Alleged conflict of interest of the representative of the Czech Republic at a meeting of the European Council — Alleged lack of action by the European Council — Article 130 of the Rules of Procedure — Interest in bringing proceedings — Locus standi — Definition of the position of the European Council — End of the failure to act — Inadmissibility — Article 15(2) TEU — Action manifestly lacking any foundation in law)

(2020/C 348/24)

Language of the case: English

Parties

Applicant: Lukáš Wagenknecht (Pardubice, Czech Republic) (represented by: A. Dolejská, lawyer)

Defendant: European Council (represented by: A. Westerhof Löfflerová, A. Jensen and M.J. Bauerschmidt, acting as Agents)

Re:

Application on the basis of Article 265 TFEU seeking a declaration that the European Council unlawfully failed to act on the applicant's request to exclude the Prime Minister of the Czech Republic, Mr Andrej Babiš, from the meeting of the European Council of 20 June 2019 and from future meetings concerning the financial perspective negotiations, due to his alleged conflict of interest with regard to the requirements of Article 325(1) TFEU and Article 61(1) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013 (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014 and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ 2018 L 193, p. 1).

Operative part of the order

1. The action is dismissed as inadmissible and, in any event, manifestly devoid of any foundation in law.

2. Lukáš Wagenknecht shall pay the costs.

(1) OJ C 54, 17.2.2020.

Order of the General Court of 15 July 2020 — Koopman International v EUIPO — Tinnus Enterprises and Mystic Products (Fluid distribution equipment)

(Case T-838/19) ([1])

(Action for annulment — Community design — Invalidity proceedings — Registered Community design representing fluid distribution equipment — Suspension of the proceedings before the Board of Appeal — Act not open to challenge — Preparatory act — Inadmissibility)

(2020/C 348/25)

Language of the case: English

Parties

Applicant: Koopman International BV (Amsterdam, Netherlands) (represented by: G. van den Bergh and B. Brouwer, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO intervener before the General Court: Tinnus Enterprises LLC (Plano, Texas, United States) (represented by: A. Odle, lawyer)

Other party to the proceedings before the Board of Appeal of EUIPO: Mystic Products Import & Export, SL (Badalona, Spain)

Re:

Action brought against the provisional decision of the Third Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 18 September 2019 (Case R 1005/2018-3), relating to invalidity proceedings between Mystic Products Import & Export and Koopman International, on the one hand, and Tinnus Enterprises, on the other hand.

Operative part of the order

1. The action is dismissed as inadmissible.

2. Koopman International BV shall pay its own costs and the costs incurred by the European Union Intellectual Property Office (EUIPO) and by Tinnus Enterprises LLC.

([1]) OJ C 45, 10.2.2020.

Order of the General Court of 15 July 2020 — Koopman International v EUIPO — Tinnus Enterprises and Mystic Products (fluid distribution equipment)

(Case T-839/19) ([1])

(Action for annulment — Community design — Invalidity proceedings — Registered Community design representing fluid distribution equipment — Suspension of the proceedings before the Board of Appeal — Act not open to challenge — Preparatory act — Inadmissibility)

(2020/C 348/26)

Language of the case: English

Parties

Applicant: Koopman International BV (Amsterdam, Netherlands) (represented by G. van den Bergh and B. Brouwer, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO intervening before the General Court: Tinnus Enterprises LLC (Plano, Texas, United States) (represented by A. Odle, lawyer)

Other party to the proceedings before the Board of Appeal of EUIPO: Mystic Products Import & Export, SL (Badalona, Spain)

Re:

Action brought against the provisional decision of the Third Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 18 September 2019 (Case R 1006/2018-3), relating to invalidity proceedings between Mystic Products Import & Export and Koopman International, on the one hand, and Tinnus Enterprises, on the other hand.

Operative part of the order

1. The action is dismissed as inadmissible.

2. Koopman International BV shall pay its own costs and the costs incurred by the European Union Intellectual Property Office (EUIPO) and by Tinnus Enterprises LLC.

(1) OJ C 45, 10.2.2020.

Order of the General Court of 15 July 2020 — Koopman International v EUIPO — Tinnus Enterprises and Mystic Products (fluid distribution equipment)

(Case T-840/19) (1)

(Action for annulment — Community design — Invalidity proceedings — Registered Community design representing fluid distribution equipment — Suspension of the proceedings before the Board of Appeal — Act not open to challenge — Preparatory act — Inadmissibility)

(2020/C 348/27)

Language of the case: English

Parties

Applicant: Koopman International BV (Amsterdam, Netherlands) (represented by G. van den Bergh and B. Brouwer, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO intervening before the General Court: Tinnus Enterprises LLC (Plano, Texas, United States) (represented by A. Odle, lawyer)

Other party to the proceedings before the Board of Appeal of EUIPO: Mystic Products Import & Export, SL (Badalona, Spain)

Re:

Action brought against the provisional decision of the Third Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 18 September 2019 (Case R 1008/2018-3), relating to invalidity proceedings between Mystic Products Import & Export and Koopman International, on the one hand, and Tinnus Enterprises, on the other hand.

Operative part of the order

1. The action is dismissed as inadmissible.

2. Koopman International BV shall pay its own costs and the costs incurred by the European Union Intellectual Property Office (EUIPO) and by Tinnus Enterprises LLC.

(1) OJ C 45, 10.2.2020.

Order of the General Court of 15 July 2020 — Koopman International v EUIPO — Tinnus Enterprises and Mystic Products (Fluid Distribution Equipment)

(Case T-841/19) (1)

(Action for annulment — Community design — Invalidity proceedings — Registered Community design representing fluid distribution equipment — Suspension of the proceedings before the Board of Appeal — Act not open to challenge — Preparatory act — Inadmissibility)

(2020/C 348/28)

Language of the case: English

Parties

Applicant: Koopman International BV (Amsterdam, Netherlands) (represented by G. van den Bergh and B. Brouwer, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO intervening before the General Court: Tinnus Enterprises LLC (Plano, Texas, United States) (represented by A. Odle, lawyer)

Other party to the proceedings before the Board of Appeal of EUIPO: Mystic Products Import & Export, SL (Badalona, Spain)

Re:

Action brought against the provisional decision of the Third Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 18 September 2019 (Case R 1009/2018-3), relating to invalidity proceedings between Mystic Products Import & Export and Koopman International, on the one hand, and Tinnus Enterprises, on the other hand.

Operative part of the order

1. The action is dismissed as inadmissible.

2. Koopman International BV shall pay its own costs and the costs incurred by the European Union Intellectual Property Office (EUIPO) and by Tinnus Enterprises LLC.

(1) OJ C 45, 10.2.2020.

Order of the General Court of 15 July 2020 — Koopman International v EUIPO — Tinnus Enterprises and Mystic Products (fluid distribution equipment)

(Case T-842/19) ([1])

(Action for annulment — Community design — Invalidity proceedings — Registered Community design representing fluid distribution equipment — Suspension of the proceedings before the Board of Appeal — Act not open to challenge — Preparatory act — Inadmissibility)

(2020/C 348/29)

Language of the case: English

Parties

Applicant: Koopman International BV (Amsterdam, Netherlands) (represented by G. van den Bergh and B. Brouwer, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO intervening before the General Court: Tinnus Enterprises LLC (Plano, Texas, United States) (represented by A. Odle, lawyer)

Other party to the proceedings before the Board of Appeal of EUIPO: Mystic Products Import & Export, SL (Badalona, Spain)

Re:

Action brought against the provisional decision of the Third Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 18 September 2019 (Case R 1010/2018-3), relating to invalidity proceedings between Mystic Products Import & Export and Koopman International, on the one hand, and Tinnus Enterprises, on the other hand.

Operative part of the order

1. The action is dismissed as inadmissible.

2. Koopman International BV shall pay its own costs and the costs incurred by the European Union Intellectual Property Office (EUIPO) and by Tinnus Enterprises LLC.

([1]) OJ C 45, 10.2.2020.

Order of the President of the General Court of 22 July 2020 — KN v EESC

(Case T-377/20 R)

(Application for interim relief — Civil service — Member of the EESC — Harassment — OLAF investigation — EESC Bureau decision — Application for suspension of operation of a measure — Lack of urgency)

(2020/C 348/30)

Language of the case: French

Parties

Applicant: KN (represented by: M. Casado García-Hirschfeld and M. Aboud, lawyers)

Defendant: European Economic and Social Committee (represented by: M. Pascua Mateo, K. Gambino, X. Chamodraka, I. Pouli and A. Carvajal García-Valdecasas, acting as Agents)

Re:

Application under Articles 278 and 279 TFEU seeking, first, suspension of enforcement of the decision of the EESC of 9 June 2020 by which the applicant was discharged from all supervisory and personnel management activities and, second, provisional suspension of the delivery of that decision to the institutions of the European Union and certain bodies of the Member States.

Operative part of the order

1. The application for interim measures is dismissed.

2. The costs are reserved.

Action brought on 21 July 2020 — Netherlands v Commission

(Case T-469/20)

(2020/C 348/31)

Language of the case: Dutch

Parties

Applicant: Kingdom of the Netherlands (represented by: M. Bulterman, J. Langer and M. de Ree, acting as Agents)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul Decision C(2020) final 2998 of the European Commission of 12 May 2020 on State aid SA.54537 (2020/NN) — Netherlands; Prohibition of coal for the production of electricity in the Netherlands;

— order the European Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging misapplication of Article 107(1) TFEU in so far as the Commission assumes that Vattenfall has received an advantage.

2. Second plea in law, alleging misapplication of Article 107(1) TFEU in so far as the Commission incorrectly allocates the burden of proof.

3. Third plea in law, alleging infringement of the obligation to state reasons under Article 296 TFEU in so far as the Commission fails to justify why there are doubts as to a right to compensation and to determine the level of overcompensation which Vattenfall received, and in so far as the decision is inherently contradictory.

4. Fourth plea in law, alleging infringement of Article 107(3) TFEU in so far as the Commission deemed the compensation to Vattenfall compatible with the internal market without having had the competence to do so.

5. Fifth plea in law, alleging breach of the principle of legal certainty in so far as the Commission fails to determine whether the compensation to Vattenfall ought to be regarded as State aid within the meaning of Article 107(1) TFEU.

Action brought on 27 July 2020 — LG and Others v Commission

(Case T-482/20)

(2020/C 348/32)

Language of the case: English

Parties

Applicants: LG and five other applicants (represented by: A. Sigal and M. Teder, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul, under Article 263 TFEU, a tacit decision of the European Anti-Fraud Office (OLAF) of 26 May 2020, rejecting the applicants' claim for legal professional privilege with regard to communications between the applicants and their outside legal counsel, unless the applicants explain the context and content of such privileged communications;

— order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicants rely on three pleas in law.

1. First plea in law, alleging that the applicants' right to legal professional privilege is a fundamental, though unwritten, right under EU law, as recognised in the case law of the Court of Justice. The exercise of this right cannot, it is argued, be conditional upon the applicants showing that their privileged communications have a substantive connection to the very investigation in which they are privileged; this would defeat the purpose of legal professional privilege.

2. Second plea in law, alleging that the applicants' right to legal professional privilege stems separately from the ECHR and the Charter of Fundamental Rights of the European Union, particularly the right to privacy under Article 8 of the ECHR (Article 7 of the Charter) and the right to defence under Article 6 of the ECHR (Article 47 of the Charter). The protection of legal professional privilege under the ECHR and the Charter does not depend, it is argued, on the purpose and content of the relevant communications, but only on the identity of their participants.

3. Third plea in law, alleging that, even if the right to legal professional privilege under the ECHR and the Charter can be constrained for the benefit of a public good, such constraints must take the form of a law. They cannot, it is argued, be based on a discretionary decision of an administrative author.

Action brought on 13 August 2020 — LP v European Parliament

(Case T-519/20)

(2020/C 348/33)

Language of the case: Dutch

Parties

Applicant: LP (represented by: J. Bosquet and G. Op de Beeck, lawyers)

Defendant: European Parliament

Form of order sought

— annul the decision of 22 October 2019 of the authority empowered to conclude contracts of employment refusing the recruitment of the applicant as an accredited parliamentary assistant to the European Parliament (the first contested decision);

— annul the decision of the Secretary-General of the European Parliament of 14 May 2020 rejecting the complaint brought by the applicant under Article 90(2) of the Staff Regulations against the first contested decision (the second contested decision);

— order the defendant to pay the costs.

Pleas in law and main arguments

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

Single plea in law: infringement of Article 128(2)(c) of the Conditions of Employment of Other Servants of the European Union and Article 41(1) and (2) of the Charter of Fundamental Rights of the European Union.

— Infringement of Article 128(2)(c) of the Conditions of Employment of Other Servants of the European Union in that the European Parliament wrongly interprets that article as requiring the possession of a clean criminal record. However, that article relates to job-related safeguards, whereby an entry in the excerpt from the criminal record is relevant only if it is of such a kind as to impair a job-related function or if it is of such a kind as to have an impact on the exercise of the function in practice. The grounds of the contested decisions are contrary to the abovementioned article since, in the second contested decision, the defendant confirms that there is no current, genuine and sufficiently serious threat to the proper performance of the duties, given that there are merely 'doubts' relating to the applicant's moral integrity.

— Infringement of Article 41(1) and (2) of the Charter of Fundamental Rights of the European Union and of the principle of due care which emerges therefrom, since the European Parliament did not take into account all the relevant factors in its assessment when recruiting the applicant. No account was taken of the relationship of trust with the Member of the European Parliament concerned or of the fact that the applicant is already a parliamentary assistant in the parliament of one of the federated states of Belgium. Moreover, the European Parliament disregards the recognition of guilt made by the applicant in his complaint by judging that he lacks a sense of responsibility in that he qualifies the offence entered in the extract from the criminal record. The contested decisions are therefore inadequately reasoned.

Action brought on 21 August 2020 — Phi Group v EUIPO — Gruppo Cadoro (REDELLO)

(Case T-532/20)

(2020/C 348/34)

Language of the case: English

Parties

Applicant: Phi Group GmbH (Zug, Switzerland) (represented by: P. Campolini and L. Bidaine, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Gruppo Cadoro GmbH (Eglisau, Switzerland)

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 REDELLO — Application for registration No 17 929 193

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 22 June 2020 in Case R 2677/2019-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— find that the opposition against the trademark application fails in its entirety or, alternatively, refer the case to the EUIPO in order for it to draw all the necessary consequences form the Court's decision;

— order the other party to bear the costs of the appeal proceedings before the Board of Appeal;

— order EUIPO and, if necessary, the intervener, to support the cost of the present proceedings.

Plea in law

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

Action brought on 26 August 2020 — Müller v EUIPO (TIER SHOP)

(Case T-535/20)

(2020/C 348/35)

Language of the case: German

Parties

Applicant: Müller GmbH & Co. KG (Ulm, Germany) (represented by: S. Mühlberger, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for EU figurative mark TIER SHOP — Application for registration No 18 022 495

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 29 June 2020 in Case R 2600/2019-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision, in so far as the application for registration of EU figurative mark No 18 022 495 was rejected.

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 27 August 2020 — Magic Box Int. Toys v EUIPO — KMA Concepts (SUPERZINGS)

(Case T-549/20)

(2020/C 348/36)

Language in which the application was lodged: Spanish

Parties

Applicant: Magic Box Int. Toys SLU (Sant Cugat del Vallés, Spain) (represented by: J.L. Rivas Zurdo, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: KMA Concepts Ltd. (Hong Kong, China)

Details of the proceedings before EUIPO

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

Trade mark at issue: EU word mark SUPERZINGS — EU trade mark No 16 164 204

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 29 June 2020 in Case R 2511/2019-4

Form of order sought

The applicant claims that the General Court should:

— annul the contested decision;

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

Plea in law

Infringement of Article 60(1)(a), in conjunction with Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 04 September 2020 — Sharpston v Council and Representatives of the Governments of the Member States

(Case T-550/20)

(2020/C 348/37)

Language of the case: English

Parties

Applicant: Eleanor Sharpston (Schoenfels, Luxembourg) (represented by: N. Forwood, Barrister-at-Law and J. Flynn, QC)

Defendants: Council of the European Union, Representatives of the Governments of the Member States

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Representatives of the Governments of the Member States appointing three Judges and an Advocate General to the Court of Justice of the European Union, dated 2 September 2020, in so far as it purports to appoint Mr Anathasios Rantos as Advocate General of the Court of Justice with effect from 7 September 2020;

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

Pleas in law and main arguments

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

1. First plea in law, alleging an error of law in the interpretation of Article 50(3) TEU. It is argued that neither that Article nor any other provision of EU primary law produced or required the automatic termination of the applicant's mandate as Advocate General, which expires on 6 October 2021. There was accordingly no vacant post to which Mr. Rantos could lawfully be appointed.

2. Second plea in law, alleging infringement of the constitutional principle in EU law of the independence of the judiciary. By taking a position on what it knew to be a contested and controversial question relating to the mandate of a serving member of the Court of Justice, the contested decision bypasses the safeguards put in place by EU primary law (in particular in Title I of the Statute of the Court of Justice of the European Union) in order peremptorily to remove that member of the Court of Justice from office.

3. Third plea in law, alleging lack of proportionality and the absence of 'legitimate and compelling grounds'. Neither the terms of the Treaties nor the functions of an Advocate General involve any continuing connection with any Member State after their appointment. Any termination of her mandate would therefore be disproportionate and fail to provide the 'legitimate and compelling grounds' that the case law requires for interference with the mandate of a serving member of the Court of Justice.

Order of the General Court of 17 July 2020 — Kahimbi Kasagwe v Council

(Case T-117/19) ([1])

(2020/C 348/38)

Language of the case: French

The President of the Seventh Chamber has ordered that the case be removed from the register.

([1]) OJ C 139, 15.4.2019.

Order of the General Court of 8 July 2020 — Bontempi and Others v Sand Cph (WhiteSand)

(Case T-350/19) ([1])

(2020/C 348/39)

Language of the case: English

The President of the Tenth Chamber has ordered that the case be removed from the register.

([1]) OJ C 255, 29.7.2019.

Order of the General Court of 16 July 2020 — IF v Parliament

(Case T-36/20) ([1])

(2020/C 348/40)

Language of the case: English

The President of the First Chamber has ordered that the case be removed from the register.

([1]) OJ C 114, 6.4.2020.

Order of the General Court of 14 July 2020 — IV v Commission

(Case T-145/20) ([1])

(2020/C 348/41)

Language of the case: French

The President of the Third Chamber has ordered that the case be removed from the register.

([1]) OJ C 201, 15.6.2020.

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