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*(Notices)*NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND
AGENCIES

COURT OF JUSTICE OF THE EUROPEAN UNION

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

(2021/C 53/01)

Last publication

OJ C 44, 8.2.2021

Past publications

OJ C 35, 1.2.2021

OJ C 28, 25.1.2021

OJ C 19, 18.1.2021

OJ C 9, 11.1.2021

OJ C 443, 21.12.2020

OJ C 433, 14.12.2020

These texts are available on:

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

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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Second Chamber) of 17 December 2020 (request for a preliminary ruling from the Juge d'instruction du tribunal de grande instance de Paris — France) — Criminal proceedings against X

(Case C-693/18) ⁽¹⁾

(Reference for a preliminary ruling — Approximation of laws — Regulation (EC) No 715/2007 — Article 3(10) — Article 5(2) — Defeat device — Motor vehicles — Diesel engines — Pollutant emissions — Program acting on the electronic engine controller — Technologies and strategies to limit the production of pollutant emissions)

(2021/C 53/02)

Language of the case: French

Referring court

Juge d'instruction du tribunal de grande instance de Paris

Party in the main proceedings

X

Intervening parties: CLCV and Others, A and Others, B, AGLP and Others, C and Others

Operative part of the judgment

1. Article 3(10) of Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information must be interpreted as meaning that software installed or acting on the electronic engine controller constitutes an 'element of design', within the meaning of that provision, where it acts on the operation of the emission control system and reduces its effectiveness;
2. Article 3(10) of Regulation No 715/2007 must be interpreted as meaning that the concept of an 'emission control system', within the meaning of that provision, covers both 'exhaust gas after-treatment' technologies and strategies that reduce emissions downstream, namely after their formation, and those which, like the exhaust gas recirculation system, reduce emissions upstream, namely during their formation;
3. Article 3(10) of Regulation No 715/2007 must be interpreted as meaning that a device which detects any parameter related to the conduct of the approval procedures provided for by that regulation in order to improve the performance of the emission control system during those procedures, and thus to obtain approval of the vehicle, constitutes a 'defeat device' within the meaning of that provision, even if such an improvement may also be observed, occasionally, under normal conditions of vehicle use;

4. Article 5(2)(a) of Regulation No 715/2007 must be interpreted as meaning that a defeat device, such as that at issue in the main proceedings, which systematically improves the performance of the vehicle emission control system during type-approval procedures in order to comply with the emission limits laid down by that regulation, and thus obtain the approval of those vehicles, cannot fall within the scope of the exception to the prohibition on such devices laid down in that provision, which relates to the protection of the engine against damage or accident and the safe operation of the vehicle, even if such a device helps to prevent the ageing or clogging up of the engine

⁽¹⁾ OJ C 82, 4.3.2019.

Judgment of the Court (Grand Chamber) of 17 December 2020 — European Commission v Hungary
(Case C-808/18) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Area of freedom, security and justice — Policies on border checks, asylum and immigration — Directives 2008/115/EC, 2013/32/EU and 2013/33/EU — Procedure for granting international protection — Effective access — Border procedure — Procedural safeguards — Compulsory placement in transit zones — Detention — Return of illegally staying third-country nationals — Appeals brought against administrative decisions rejecting the application for international protection — Right to remain in the territory)

(2021/C 53/03)

Language of the case: Hungarian

Parties

Applicant: European Commission (represented by: M. Condou-Durande, A. Tokár and J. Tomkin, acting as Agents)

Defendant: Hungary (represented by: M.Z. Fehér and by M.M. Tátrai, acting as Agents)

Operative part of the judgment

The Court:

1. Hungary has failed to fulfil its obligations under Article 5, Article 6(1), Article 12(1) and Article 13(1) of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, under Article 6, Article 24(3), Article 43 and Article 46(5) of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, and under Articles 8, 9 and 11 of Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection:

- in providing that applications for international protection from third-country nationals or stateless persons who, arriving from Serbia, wish to access, in its territory, the international protection procedure, may be made only in the transit zones of Röszke (Hungary) and Tompa (Hungary), while adopting a consistent and generalised administrative practice drastically limiting the number of applicants authorised to enter those transit zones daily;
- in establishing a system of systematic detention of applicants for international protection in the transit zones of Röszke and Tompa, without observing the guarantees provided for in Article 24(3) and Article 43 of Directive 2013/32 and Articles 8, 9 and 11 of Directive 2013/33;

- in allowing the removal of all third-country nationals staying illegally in its territory, with the exception of those of them who are suspected of having committed a criminal offence, without observing the procedures and safeguards laid down in Article 5, Article 6(1), Article 12(1) and Article 13(1) of Directive 2008/115;
 - in making the exercise by applicants for international protection who fall within the scope of Article 46(5) of Directive 2013/32 of their right to remain in its territory subject to conditions contrary to EU law;
2. The action is dismissed as to the remainder;
 3. Hungary is to bear its own costs and pay four fifths of the costs of the European Commission;
 4. The European Commission is to bear one fifth of its costs.

⁽¹⁾ OJ C 155, 6.5.2019.

Judgment of the Court (Sixth Chamber) of 17 December 2020 (request for a preliminary ruling from the Verwaltungsgericht Berlin — Germany) — WQ v Land Berlin

(Case C-216/19) ⁽¹⁾

(Reference for a preliminary ruling — Common agricultural policy — Regulation (EU) No 1307/2013 — Rules for direct payments to farmers under support schemes — Basic payment scheme — First sentence of Article 24(2) — Concept of ‘eligible hectare at the farmer’s disposal’ — Illegal use of the area concerned by a third party — Article 32(2)(b)(ii) — Application for activation of payment entitlements for a wooded area — Meaning of ‘any area which gave a right to payments in 2008’ — Single payment scheme or single area payment scheme)

(2021/C 53/04)

Language of the case: German

Referring court

Verwaltungsgericht Berlin

Parties to the main proceedings

Applicant: WQ

Defendant: Land Berlin

Operative part of the judgment

1. The first sentence of Article 24(2) of Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 must be interpreted as meaning that, where an aid application is submitted both by the owner of agricultural land and by a third party who is actually using that land without any legal basis, the eligible hectares corresponding to that land are ‘at the disposal’ of the owner of that land alone, within the meaning of that provision.

2. Article 32(2)(b)(iii) of Regulation No 1307/2013, in particular the words ‘any area which gave a right to payments in 2008 under the single payment scheme or the single area payment scheme laid down, respectively, in Titles III and IVA of Regulation [(EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001, as amended by Council Regulation (EC) No 479/2008 of 29 April 2008]’, must be interpreted as meaning that, in the context of an application for activation of set-aside entitlements for a wooded area under that provision, the area concerned must have been subject, in 2008, to an application for aid in accordance with Article 22 of Regulation No 1782/2003, as amended by Regulation No 479/2008, followed by an administrative check of eligibility in accordance with Article 23 of that regulation, and, where appropriate, an on-the-spot check under Article 25 of that regulation. All the other conditions required under Titles III and IVA of that regulation for obtaining a direct payment must also have been fulfilled.

⁽¹⁾ OJ C 206, 17.6.2019.

Judgment of the Court (First Chamber) of 17 December 2020 (request for a preliminary ruling from the Cour de cassation — France) — Adina Onofrei v Conseil de l’ordre des avocats au barreau de Paris, Bâtonnier de l’ordre des avocats au barreau de Paris, Procureur général près la cour d’appel de Paris

(Case C-218/19) ⁽¹⁾

(Reference for a preliminary ruling — Free movement of persons — Freedom of establishment — Access to the profession of lawyer — Exemption from training and diploma requirements — Grant of the exemption — Conditions — National legislation providing for an exemption for category A civil servants and former category A civil servants or for persons treated as such with experience in the professional practice of national law, on national territory, in the national civil service of the Member State concerned or in an international organisation)

(2021/C 53/05)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicant: Adina Onofrei

Defendants: Conseil de l’ordre des avocats au barreau de Paris, Bâtonnier de l’ordre des avocats au barreau de Paris, Procureur général près la cour d’appel de Paris

Operative part of the judgment

Articles 45 and 49 TFEU must be interpreted as:

- precluding national legislation which restricts an exemption from the requirements of professional training and holding a certificate of competence to exercise the profession of lawyer laid down, in principle, for entry to the profession of lawyer, to certain members of the civil service of a Member State who have performed legal work in that capacity in that Member State, in an administration or a public service or an international organisation, and which excludes from the scope of that exemption officials, members or former members of the EU civil service who have performed legal work in that capacity in an EU institution and outside French territory;

- not precluding national legislation which makes such an exemption contingent on the person concerned having performed legal work in the field of national law, and excluding from the scope of that exemption officials, members or former members of the EU civil service who have performed legal work in that capacity, in one or more fields of EU law, provided that that national legislation does not exclude account from being taken of legal work involving the practice of national law.

(¹) OJ C 182, 27.5.2019.

Judgment of the Court (Grand Chamber) of 17 December 2020 — European Commission v Republic of Slovenia

(Case C-316/19) (¹)

(Failure of a Member State to fulfil obligations — Article 343 TFUE — Privileges and immunities of the European Union — Statute of the European System of Central Banks (ESCB) and of the European Central Bank (ECB) — Article 39 — Privileges and immunities of the ECB — Protocol on the privileges and immunities of the European Union — Articles 2, 18 and 22 — Principle of the inviolability of the archives of the ECB — Seizure of documents at the premises of the Central Bank of Slovenia — Documents connected to the performance of the tasks of the ESCB and of the Eurosystem — Article 4(3) TEU — Principle of sincere cooperation)

(2021/C 53/06)

Language of the case: Slovenian

Parties

Applicant: European Commission (represented by: L. Flynn and B. Rous Demiri, acting as Agents)

Defendant: Republic of Slovenia (represented by: V. Klemenc, A. Grum, N. Pintar Gosenca and K. Rejec Longar, acting as Agents)

Intervener in support of the applicant: European Central Bank (ECB) (represented by: K. Kaiser, C. Zilioli, F. Malfrère and A. Šega, acting as Agents, and by D. Sarmiento Ramírez-Escudero, abogado)

Operative part of the judgment

The Court:

1. Declares that, by unilaterally seizing at the premises of the Banka Slovenije (Central Bank of Slovenia) documents connected to the performance of the tasks of the European System of Central Banks and of the Eurosystem and, as regards the period after that seizure, by failing to cooperate sincerely with the European Central Bank on that matter, the Republic of Slovenia has failed to fulfil its obligations under Article 343 TFEU, Article 39 of Protocol (No 4) on the Statute of the European System of Central Banks and of the European Central Bank, Articles 2, 18 and 22 of Protocol (No 7) on the privileges and immunities of the European Union and Article 4(3) TEU;
2. Orders the Republic of Slovenia, in addition to bearing its own costs, to pay those of the European Commission;
3. Declares that the European Central Bank is to bear its own costs.

(¹) OJ C 187, 3.6.2019.

Judgment of the Court (Grand Chamber) of 17 December 2020 (request for a preliminary ruling from the Grondwettelijk Hof — Belgium) — Centraal Israëlitisch Consistorie van België and Others v Vlaamse Regering

(Case C-336/19) ⁽¹⁾

(Reference for a preliminary ruling — Protection of animals at the time of killing — Regulation (EC) No 1099/2009 — Article 4(1) — Obligation to stun animals before they are killed — Article 4(4) — Derogation in the context of ritual slaughter — Article 26(2) — Power of Member States to adopt national rules aimed at ensuring more extensive protection of animals in the case of ritual slaughter — Interpretation — National legislation requiring, in the case of ritual slaughter, stunning which is reversible and cannot cause death — Article 13 TFEU — Charter of Fundamental Rights of the European Union — Article 10 — Freedom of religion — Freedom to manifest religion — Limitation — Proportionality — Lack of consensus among the Member States of the European Union — Discretion afforded to Member States — Principle of subsidiarity — Validity — Differing treatment of ritual slaughter and the killing of animals during hunting or recreational fishing activities and cultural or sporting events — No discrimination — Articles 20, 21 and 22 of the Charter of Fundamental Rights)

(2021/C 53/07)

Language of the case: Dutch

Referring court

Grondwettelijk Hof

Parties to the main proceedings

Applicants: Centraal Israëlitisch Consistorie van België and Others, Unie Moskeeën Antwerpen VZW, Islamitisch Offerfeest Antwerpen VZW, JG, KH, Executief van de Moslims van België and Others, Coördinatie Comité van Joodse Organisaties van België — Section belge du Congrès juif mondial et Congrès juif européen VZW and Others

Defendant: Vlaamse Regering

Intervening parties: LI, Waalse Regering, Kosher Poultry BVBA and Others, Global Action in the Interest of Animals VZW (GAIA)

Operative part of the judgment

1. Point (c) of the first subparagraph of Article 26(2) of Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing, read in the light of Article 13 TFEU and Article 10(1) of the Charter of Fundamental Rights of the European Union, must be interpreted as not precluding legislation of a Member State which requires, in the context of ritual slaughter, a reversible stunning procedure which cannot result in the animal's death.
2. The examination of the third question referred for a preliminary ruling has disclosed nothing capable of affecting the validity of point (c) of the first subparagraph of Article 26(2) of Regulation No 1099/2009.

⁽¹⁾ OJ C 270, 12.8.2019.

Judgment of the Court (First Chamber) of 17 December 2020 — Fabio De Masi, Yanis Varoufakis v European Central Bank

(Case C-342/19 P) ⁽¹⁾

(Appeal — Access to European Central Bank (ECB) documents — Decision 2004/258/EC — Article 4(3) — Exceptions — Document received by the ECB — Opinion from an external service provider — Internal use as part of deliberations and preliminary consultations — Refusal to grant access)

(2021/C 53/08)

Language of the case: German

Parties

Appellants: Fabio De Masi, Yanis Varoufakis (represented by: A. Fischer-Lescano, Universitätsprofessor)

Other party to the proceedings: European Central Bank (represented by: F. von Lindeiner and A. Korb, acting as Agents, and by H.-G. Kamann, Rechtsanwalt)

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders Fabio de Masi and Yanis Varoufakis to pay the costs.

⁽¹⁾ OJ C 280, 19.8.2019.

Judgment of the Court (Tenth Chamber) of 17 December 2020 (request for a preliminary ruling from the Bundesfinanzhof — Germany) — Bundeszentralamt für Steuern v Y-GmbH

(Case C-346/19) ⁽¹⁾

(Reference for a preliminary ruling — Value added tax (VAT) — Refund of VAT — Directive 2008/9/EC — Article 8(2)(d) — Article 15 — Indication of number of the invoice — Refund application)

(2021/C 53/09)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: Bundeszentralamt für Steuern

Defendant: Y-GmbH

Operative part of the judgment

Article 8(2)(d) and Article 15(1) of Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State, as amended by Council Directive 2010/66/EU of 14 October 2010, must be interpreted as meaning that, where an application for a refund of value added tax does not contain a sequential number of the invoice, but does contain another number which allows that invoice, and thus the good or service in question, to be

identified, the tax authority of the Member State of refund must consider that application ‘submitted’ within the meaning of Article 15(1) of Directive 2008/9, as amended by Directive 2010/66, and proceed with its assessment. In making that assessment, and save where that authority already has available to it the original invoice or a copy thereof, it may request that the applicant produce a sequential number which uniquely identifies the invoice and, if that request is not satisfied within the deadline of one month laid down in Article 20(2) of that directive, as amended by Directive 2010/66, it is entitled to reject the application for a refund.

(¹) OJ C 263, 5.8.2019.

Judgment of the Court (Grand Chamber) of 17 December 2020 (request for a preliminary ruling from the Kammergericht Berlin — Germany) — Proceedings relating to the extradition of BY

(Case C-398/19) (¹)

(Reference for a preliminary ruling — Citizenship of the European Union — Articles 18 and 21 TFEU — Extradition of a Union citizen to a third State — Person acquiring Union citizenship after transferring the centre of his or her interests to the Member State from which extradition is requested — Scope of EU law — Prohibition on extradition applied solely to own nationals — Restriction on freedom of movement — Justification based on the prevention of impunity — Proportionality — Information to the Member State of which the requested person is a national — Obligation on the Member State from which extradition is requested and the Member State of origin to ask the third State requesting extradition to send the criminal investigation file — No obligation)

(2021/C 53/10)

Language of the case: German

Referring court

Kammergericht Berlin

Parties to the main proceedings

BY

Joined party: Generalstaatsanwaltschaft Berlin

Operative part of the judgment

1. Articles 18 and 21 TFEU must be interpreted as being applicable to the situation of a citizen of the European Union who is a national of one Member State, who is residing in the territory of another Member State and who is the subject of an extradition request sent to the latter Member State by a third State, even where that citizen moved the centre of his or her interests to that other Member State at a time when he or she did not have Union citizenship;
2. Articles 18 and 21 TFEU must be interpreted as meaning that, where the Member State of which the person requested for extradition is a national, that person being a Union citizen who is the subject of an extradition request sent, by a third State, to another Member State, has been informed by that other Member State of the existence of the request, neither of those Member States is obliged to ask the third State requesting extradition to send to them a copy of the criminal investigation file in order to enable the Member State of which that person is a national to assess the possibility that it might itself conduct a criminal prosecution of that person. Provided that it has duly informed the Member State of which that person is a national of the existence of the extradition request, of all the elements of fact and law communicated by the third State requesting extradition within the framework of that request, and of any changes in the situation of the requested person that might be relevant to the possibility of issuing a European arrest warrant with respect to him or her, the Member State from which extradition is requested may extradite that person without being obliged to wait for the

Member State of which that person is a national to waive, by a formal decision, the issue of such an arrest warrant, concerning, at least, the same offences as those referred to in the extradition request, where the latter Member State fails to issue such an arrest warrant before the expiry of a reasonable time limit imposed on it for that purpose by the Member State from which extradition is requested, taking into consideration all the circumstances of the case;

- Articles 18 and 21 TFEU must be interpreted as meaning that the Member State to which a third State submits an extradition request for the purposes of a criminal prosecution of a Union citizen who is a national of another Member State is not obliged to refuse extradition and itself to conduct a criminal prosecution where its national law permits it to do so.

⁽¹⁾ OJ C 288, 26.8.2019.

Judgment of the Court (Fourth Chamber) of 17 December 2020 — French Republic v European Commission

(Case C-404/19 P) ⁽¹⁾

(Appeal — European Agricultural Guarantee Fund (EAGF) and European Agricultural Fund for Rural Development (EAFRD) — Implementing Decision (EU) 2017/2014 — Expenditure excluded from EU financing — Expenditure incurred by the French Republic — 100 % flat-rate correction — Proportionality — European Commission Guidelines on the calculation of the financial corrections in the framework of the conformity and financial clearance of accounts procedures)

(2021/C 53/11)

Language of the case: French

Parties

Appellant: French Republic (represented by: A.-L. Desjonquères, C. Mosser and D. Colas, acting as Agents)

Other party to the proceedings: European Commission (represented by: X. Lewis, A. Sauka and J. Aquilina, acting as Agents)

Operative part of the judgment

The Court:

- Sets aside the judgment of the General Court of the European Union of 12 March 2019, *France v Commission* (T-26/18, not published, EU:T:2019:153), first, in so far as the General Court dismissed the action of the French Republic concerning Commission Implementing Decision (EU) 2017/2014 of 8 November 2017 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) in so far as, under the ground entitled ‘Control system gravely deficient, Corsica’, it imposed on that Member State flat-rate corrections at a rate of 100 % on area-related direct aid granted in Upper Corsica for the 2013 and 2014 claim years on the basis of deficiencies in the system for the control of area-related aid in Upper Corsica, and, secondly, in so far as the General Court made a ruling as to the costs;
- Annuls Implementing Decision 2017/2014 in so far as, under the ground entitled ‘Control system gravely deficient, Corsica’, it imposed on the French Republic flat-rate corrections at a rate of 100 % on area-related direct aid granted in Upper Corsica for the 2013 and 2014 claim years on the basis of deficiencies in the system for the control of area-related aid in Upper Corsica;
- Orders the European Commission to bear its own costs relating to the appeal proceedings and one quarter of those incurred at first instance, and to pay those incurred by the French Republic in the appeal proceedings and one quarter of the costs incurred by that Member State in the proceedings at first instance;

4. Orders the French Republic to pay, in addition to three quarters of its own costs incurred in the proceedings at first instance, three quarters of the costs incurred by the Commission in those same proceedings.

⁽¹⁾ OJ C 238, 15.7.2019.

Judgment of the Court (Tenth Chamber) of 17 December 2020 — Inpost Paczkomaty sp. z o.o. (C-431/19 P), Inpost S.A. (C-432/19 P) v European Commission, Republic of Poland

(Joined Cases C-431/19 P and C-432/19 P) ⁽¹⁾

(Appeal — State aid — Article 106(2) TFEU — Services of general economic interest (SGEIs) — European Union framework — Application to State aid in the form of public service compensation — Postal sector — Directive 97/67/EC — Article 7 — Compensation of the net costs resulting from universal service obligations — Decision declaring the aid compatible with the internal market)

(2021/C 53/12)

Language of the case: Polish

Parties

Appellants: Inpost Paczkomaty sp. z o.o. (represented by: M. Doktor, radca prawny (C-431/19 P)), Inpost S.A. (represented by: W. Knopkiewicz, radca prawny (C-432/19 P))

Other parties to the proceedings: European Commission (represented by: D. Recchia, K. Blanck and K. Herrmann, acting as Agents), Republic of Poland (represented by: B. Majczyna, acting as Agent)

Operative part of the judgment

The Court:

1. Dismisses the appeals;
2. Orders Inpost Paczkomaty sp. z o.o. and Inpost S.A. to pay the costs.

⁽¹⁾ OJ C 328, 30.9.2019.

Judgment of the Court (Third Chamber) of 17 December 2020 (request for a preliminary ruling from the Finanzgericht Baden-Württemberg — Germany) — WEG Tevesstraße v Finanzamt Villingen-Schwenningen

(Case C-449/19) ⁽¹⁾

(Reference for a preliminary ruling — Taxation — Value added tax (VAT) — Directive 2006/112/EC — Exemption for leasing and letting immovable property — National legislation exempting from VAT the supply of heat by an association of residential property owners to property owners belonging to that association)

(2021/C 53/13)

Language of the case: German

Referring court

Finanzgericht Baden-Württemberg

Parties to the main proceedings

Applicant: WEG Tevesstraße

Defendant: Finanzamt Villingen-Schwenningen

Operative part of the judgment

Article 135(1)(l) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2009/162/EU of 22 December 2009, must be interpreted as meaning that it precludes national legislation which exempts from value added tax the supply of heat by an association of residential property owners to the property owners belonging to that association.

⁽¹⁾ OJ C 348, 14.10.2019.

**Judgment of the Court (First Chamber) of 17 December 2020 — Federal Republic of Germany v
European Commission, Republic of Finland**

(Joined Cases C-475/19 P and C-688/19 P) ⁽¹⁾

(Appeal — Approximation of laws — Regulation (EU) No 305/2011 — Harmonised conditions for the marketing of construction products — Harmonised standards and technical regulations — Harmonised standards EN 14342:2013, EN 14904:2006, EN 13341:2005 + A1:2011 and EN 12285-2:2005 — Action for annulment)

(2021/C 53/14)

Language of the case: German

Parties

Appellant: Federal Republic of Germany (represented by: J. Möller and R. Kanitz, acting as Agents, and by M. Kottmann, M. Winkelmüller and F. van Schewick, Rechtsanwälte)

Other parties to the proceedings: European Commission (represented by: C. Hermes, M. Huttunen and A. Sipos, acting as Agents), Republic of Finland (represented by: S. Hartikainen and A. Laine, acting as Agents)

Operative part of the judgment

The Court:

1. Dismisses the appeals;
2. Orders the Federal Republic of Germany to bear, in addition to its own costs, those incurred by the European Commission in relation to the present appeals and to the proceedings before the General Court of the European Union;
3. Orders the Republic of Finland to bear its own costs.

⁽¹⁾ OJ C 270, 12.8.2019.
OJ C 372, 4.11.2019.

Judgment of the Court (Fifth Chamber) of 17 December 2020 (request for a preliminary ruling from the Cour de cassation — France) — Syndicat interprofessionnel de défense du fromage Morbier v Société Fromagère du Livradois SAS

(Case C-490/19) ⁽¹⁾

(Reference for a preliminary ruling — Agriculture — Protection of geographical indications and designations of origin for agricultural products and foodstuffs — Regulation (EC) No 510/2006 — Regulation (EU) No 1151/2012 — Article 13(1)(d) — Practice liable to mislead the consumer as to the true origin of the product — Reproduction of the shape or appearance of a product which has a protected name — Protected designation of origin (PDO) ‘Morbier’)

(2021/C 53/15)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicant: Syndicat interprofessionnel de défense du fromage Morbier

Defendant: Société Fromagère du Livradois SAS

Operative part of the judgment

Article 13(1) of Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs and Article 13(1) of Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs must be interpreted as meaning that they do not prohibit solely the use by a third party of a registered name.

Article 13(1)(d) of Regulation No 510/2006 and Article 13(1)(d) of Regulation No 1151/2012 must be interpreted as prohibiting the reproduction of the shape or appearance characterising a product covered by a registered name where that reproduction is liable to lead the consumer to believe that the product in question is covered by that registered name. It is necessary to assess whether such reproduction may mislead the European consumer, who is normally informed and reasonably observant and circumspect, taking into account all relevant factors in the case.

⁽¹⁾ OJ C 288, 26.8.2019.

Judgment of the Court (Fourth Chamber) of 10 December 2020 (request for a preliminary ruling from the Augstākā tiesa (Senāts) — Latvia) — Euromin Holdings (Cyprus) Limited

(Case C-735/19) ⁽¹⁾

(Reference for a preliminary ruling — Company law — Directive 2004/25/EC — Takeover bid — First and second subparagraphs of Article 5(4) — Protection of minority shareholders — Mandatory bid — Method of calculating the share value to determine the equitable price — Power to adjust the equitable price — Exceptions to the standard calculation method under clearly defined circumstances and criteria — Liability of the Member State concerned — Damage suffered by the offeror resulting from a bid that is too high)

(2021/C 53/16)

Language of the case: Latvian

Referring court

Augstākā tiesa (Senāts)

Parties to the main proceedings

Applicant: Euromin Holdings (Cyprus) Limited

Other party: Finanšu un kapitāla tirgus komisija

Operative part of the judgment

1. Article 5(4) of Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids must be interpreted as not precluding national legislation which prescribes three methods for determining the equitable price at which the offeror must buy back a company's shares, including the method resulting from the application of the first subparagraph of Article 5(4) of that directive, and which provides that the method which leads to the highest price must always be used, provided that the methods for determining the equitable price other than that resulting from the application of the first subparagraph of Article 5(4) are applied by the supervisory authority in compliance with the general principles laid down in Article 3(1) of that directive and under circumstances and criteria that are defined by a clear, precise and transparent legal framework.
2. The second subparagraph of Article 5(4) of Directive 2004/25 must be interpreted as precluding national legislation which provides that, for the purposes of a takeover bid, the share value is obtained by dividing the net assets of the target company, including non-controlling minority interests, by the number of shares issued unless that method of determining the share price is based on an objective valuation criterion that is generally used in financial analysis and may be regarded as 'clearly determined', within the meaning of that provision, which is a matter for the referring court to verify.
3. Directive 2004/25 must be interpreted as conferring, in the procedure for a takeover bid, rights on the offeror that may be enforced in an action for State liability.
4. EU law must be interpreted as precluding national legislation which provides that, where a Member State is rendered liable for damage caused as a result of an infringement of a rule of EU law by a decision taken by an administrative authority of that State, compensation for the resulting material damage may be limited to 50 % of the amount of the damage.

⁽¹⁾ OJ C 413, 9.12.2019.

Judgment of the Court (Sixth Chamber) of 10 December 2020 (request for a preliminary ruling from the Vrhovno sodišče Republike Slovenije — Slovenia) — A. B., B. B. v Personal Exchange International Limited

(Case C-774/19) ⁽¹⁾

(Reference for a preliminary ruling — Judicial cooperation in civil matters — Regulation (EC) No 44/2001 — Article 15(1) — Jurisdiction over consumer contracts — Concept of 'consumer' — Poker playing contract concluded online between a natural person and an organiser of games of chance — Natural person earning a living from online poker games — Knowledge of that person — Regularity of that activity)

(2021/C 53/17)

Language of the case: Slovenian

Referring court

Vrhovno sodišče Republike Slovenije

Parties to the main proceedings

Applicants: A. B., B. B.

Defendant: Personal Exchange International Limited

Operative part of the judgment

Article 15(1) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that a natural person domiciled in a Member State who, first, has concluded with a company established in another Member State a contract to play poker on the internet, containing general terms and conditions specified by that company, and, second, has neither officially declared such activity nor offered it to third parties as a paid service does not lose the status of ‘consumer’ within the meaning of that provision, even if that person plays that game for a large number of hours per day, possesses extensive knowledge and receives substantial winnings from the game.

⁽¹⁾ OJ C 19, 20.1.2020.

Request for an opinion submitted by the Kingdom of Belgium pursuant to Article 218(11) TFEU

(Opinion C-1/20)

(2021/C 53/18)

Language of the case: all the official languages

Applicant

Kingdom of Belgium (represented by: C. Pochet, J.-C. Halleux, M. Van Regemorter, S. Baeyens, Agents)

Question submitted to the Court

Is the draft modernised Energy Charter Treaty compatible with the Treaties, and in particular Article 19 TEU and Article 344 TFEU:

- so far as concerns Article 26 of that agreement, if that article may be interpreted as allowing the intra-EU application of the dispute settlement mechanism?
- in so far as, if Article 26 of that agreement were to be interpreted as allowing the intra-EU application of the dispute settlement mechanism, that agreement does not lay down a specific, express rule or an explicit disconnection clause, in particular in the definitions of investment and investor in Article 1 of the envisaged agreement, providing for the non-applicability of the general mechanism of Article 26 between the Member States?

Request for a preliminary ruling from the Justyna Gawlica, Notary in Krapkowice — Krapkowice (Poland) lodged on 12 August 2020 — OKR

(Case C-387/20)

(2021/C 53/19)

Language of the case: Polish

Referring court

Justyna Gawlica, Notary in Krapkowice

Parties to the main proceedings

Applicant: OKR

Questions referred

1. Must Article 22 of Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession⁽¹⁾ be interpreted as meaning that a person who is not a citizen of the European Union is also entitled to choose the law of his or her native country as the law governing all matters relating to succession?
2. Must Article 75, in conjunction with Article 22, of Regulation No 650/2012 be interpreted as meaning that, in the case where a bilateral agreement between a Member State and a third country does not govern the choice of law applicable to a case involving succession but indicates the law applicable to that case involving succession, a national of that third country residing in a Member State bound by that bilateral agreement may make a choice of law?

and in particular:

- must a bilateral agreement with a third country expressly exclude the choice of a specific law and not merely govern the *lex successionis* using objective connecting factors in order for its provisions to take precedence over Article 22 of Regulation No 650/2012?
- is the freedom to choose the law governing succession and to make the applicable law uniform by making a choice of law — at least to the extent determined by the EU legislature in Article 22 of Regulation No 650/2012 — one of the principles underlying judicial cooperation in civil and commercial matters in the European Union, which may not be infringed even where bilateral agreements with third countries apply which take precedence over Regulation No 650/2012?

⁽¹⁾ OJ 2012 L 201, p. 107.

Request for a preliminary ruling from the Juzgado Contencioso Administrativo No 1 de Pontevedra (Spain) lodged on 2 September 2020 — UN v Subdelegación del Gobierno en Pontevedra

(Case C-409/20)

(2021/C 53/20)

Language of the case: Spanish

Referring court

Juzgado Contencioso Administrativo No 1 de Pontevedra

Parties to the main proceedings

Applicant: UN

Defendant: Subdelegación del Gobierno en Pontevedra

Questions referred

Must Directive 2008/115/EC⁽¹⁾ of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (Articles 4(3), 6(1), 6(5) and 7(1)) be interpreted as meaning that it precludes national legislation (Articles 53(1)(a) and 55(1)(b), Article 57 and Article 28(3)(c) of Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social (Basic Law 4/2000 of 11 January 2000 on the rights and freedoms of foreign nationals in Spain and their

social integration)) that penalises illegally staying foreign nationals in the absence of aggravating circumstances, initially, with a fine together with a request to return voluntarily to the country of origin followed, thereafter, by the penalty of removal if the foreign national neither regularises his situation nor returns voluntarily to his country?

⁽¹⁾ OJ 2008 L 348, p. 98.

Request for a preliminary ruling from the Curtea de Apel București (Romania) lodged on 20 October 2020 — Alstom Transport SA v Compania Națională de Căi Ferate CFR SA, Strabag AG — Sucursala București, and Swietelsky AG Linz — Sucursala București

(Case C-532/20)

(2021/C 53/21)

Language of the case: Romanian

Referring court

Curtea de Apel București

Parties to the main proceedings

Appellant: Alstom Transport SA

Respondents: Compania Națională de Căi Ferate CFR SA, Strabag AG — Sucursala București, and Swietelsky AG Linz — Sucursala București

Question referred

Are the third subparagraph of Article 1(1), Article 1(3) and Article 2c of Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors ⁽¹⁾ to be interpreted as meaning that the period within which the successful tenderer in an award procedure may apply for review of the decision of the contracting authority declaring admissible the bid submitted by a tenderer placed lower in the ranking must be calculated by reference to the date on which the interest of the successful tenderer arose, that is, upon the lodging by the unsuccessful tenderer of an action against the outcome of the award procedure?

⁽¹⁾ OJ 1992 L 76, p. 14.

Request for a preliminary ruling from the Finanzgericht Köln (Germany) lodged on 3 November 2020 — ACC Silicones Ltd. v Bundeszentralamt für Steuern

(Case C-572/20)

(2021/C 53/22)

Language of the case: German

Referring court

Finanzgericht Köln

Parties to the main proceedings

Applicant: ACC Silicones Ltd.

Defendant: Bundeszentralamt für Steuern

Questions referred

1. Does Article 63 TFEU (ex Article 56 EC) preclude a national tax provision, such as that at issue in the main proceedings, which, for the purposes of the reimbursement of tax on income from capital, requires a company resident abroad which receives dividends from equity holdings and does not meet the minimum equity holding threshold laid down in Article 3 (1)(a) of Directive 90/435 ⁽¹⁾ on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (as amended by Directive 2003/123) ⁽²⁾ to prove, by means of a certificate from the foreign tax administration, not only that neither that company nor a shareholder with a direct or indirect equity holding in that company can offset the tax on income from capital or deduct it as an operating cost or as work-related outgoings, but also that no offset, deduction or carry-forward has actually taken place either, in the case where such proof is not required, for the purposes of the reimbursement of tax on income from capital, from a company with the same level of equity holding which is resident in national territory?
2. In the event that the answer to the first question is in the negative:

Do the principles of proportionality and effectiveness preclude the requirement of a certificate as referred to in the first question in the case where it is effectively impossible for a company in receipt of dividends from so-called 'free-float' shares which is resident abroad to provide such a certificate?

⁽¹⁾ Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (OJ 1990 L 225, p. 6).

⁽²⁾ Council Directive 2003/123/EC of 22 December 2003 amending Directive 90/435/EEC on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (OJ 2004 L 7, p. 41).

Request for a preliminary ruling from the Înalta Curte de Casație și Justiție (Romania) lodged on 5 November 2020 — SC Cridar Cons SRL v Administrația Județeană a Finanțelor Publice Cluj and Direcția Generală Regională a Finanțelor Publice Cluj-Napoca

(Case C-582/20)

(2021/C 53/23)

Language of the case: Romanian

Referring court

Înalta Curte de Casație și Justiție

Parties to the main proceedings

Appellant: SC Cridar Cons SRL

Respondents: Administrația Județeană a Finanțelor Publice Cluj and Direcția Generală Regională a Finanțelor Publice Cluj-Napoca

Questions referred

1. Are Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾ and Article 47 of the Charter of Fundamental Rights of the European Union to be interpreted as precluding national legislation pursuant to which the tax authorities, after issuing a notice of assessment refusing to grant a right to deduct input VAT, are permitted to suspend the examination of an administrative complaint pending the outcome of criminal proceedings that could provide additional objective evidence of the taxable person's involvement in tax fraud?

2. Would the answer given by the Court of Justice of the European Union to the first question be different if, during the period for which examination of the administrative complaint is suspended, the taxable person benefits from provisional measures which suspend the effects of the refusal of the right to deduct VAT?

⁽¹⁾ OJ 2006 L 347, p. 1.

Request for a preliminary ruling from the Juzgado Contencioso-Administrativo No 2 de Valladolid (Spain) lodged on 5 November 2020 — BFF Finance Iberia S.A.U v Gerencia Regional de Salud de la Junta de Castilla y León

(Case C-585/20)

(2021/C 53/24)

Language of the case: Spanish

Referring court

Juzgado Contencioso-Administrativo No 2 de Valladolid

Parties to the main proceedings

Applicant: BFF Finance Iberia S.A.U

Defendant: Gerencia Regional de Salud de la Junta de Castilla y León

Questions referred

In the light of Articles 4(1), 6, and 7(2) and (3) of Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions: ⁽¹⁾

1. Is Article 6 of the directive to be interpreted as meaning that the sum of EUR 40 applies per invoice in all circumstances, provided that the creditor has individually identified the invoices in his claims before the administrative authorities and the administrative courts, or does the sum of EUR 40 apply per invoice in all circumstances, even if joint and general claims have been lodged?
2. How must Article 198(4) of Law 9/2017 [which lays down] a payment period of 60 days in all circumstances and for all contracts, providing for an initial period of 30 days for approval and another, additional period of 30 days for payment, be interpreted, in so far as [recital] 23 of the directive is worded as follows:

'Long payment periods and late payment by public authorities for goods and services lead to unjustified costs for undertakings. It is therefore appropriate to introduce specific rules as regards commercial transactions for the supply of goods or services by undertakings to public authorities, which should provide in particular for payment periods normally not exceeding 30 calendar days, unless otherwise expressly agreed ... and provided it is objectively justified in the light of the particular nature or features of the contract, and in any event not exceeding 60 calendar days.'[?]

3. How is Article 2 of the directive to be interpreted? Does the interpretation of the directive support the conclusion that the basis for calculating late-payment interest recognised in the directive includes the VAT due on the service provided, the amount of which is included in the invoice? Or is it necessary to identify and determine the time when the contractor paid the tax to the tax administrative authority?

⁽¹⁾ OJ 2011 L 48, p. 1.

Request for a preliminary ruling from the Landgericht Hannover (Germany) lodged on 10 November 2020 — Landkreis Northeim v Daimler AG

(Case C-588/20)

(2021/C 53/25)

Language of the case: German

Referring court

Landgericht Hannover

Parties to the main proceedings

Applicant: Landkreis Northeim

Defendant: Daimler AG

Interveners: Iveco Magirus AG, MAN SE, MAN Truck & Bus SE, MAN Truck & Bus Deutschland GmbH

Question referred

Must the decision of the European Commission of 19 July 2016 ⁽¹⁾— C(2016) 4673 final — relating to a proceeding under Article 101 TFEU and Article 53 of the EEA agreement (Case AT.39824 — Trucks) be interpreted as meaning that special-purpose/specialised vehicles, in particular refuse collection vehicles, are also covered by the findings of that Commission Decision?

⁽¹⁾ Notified under document C(2016) 4673 final, summary notice in OJ 2017 C 108, p. 6.

Request for a preliminary ruling from the Tribunale Amministrativo Regionale per il Lazio (Italy) lodged on 17 November 2020 — Interporto di Trieste SpA v Ministero dello Sviluppo Economico, Gestore dei Servizi Energetici SpA — GSE

(Case C-608/20)

(2021/C 53/26)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per il Lazio

Parties to the main proceedings

Applicant: Interporto di Trieste SpA

Defendants: Ministero dello Sviluppo Economico, Gestore dei Servizi Energetici SpA — GSE

Question referred

Does EU law preclude the application of a provision of national law, such as that in Article 26(2) and (3) of Decree-Law No 91/2014, as converted by Law No 116/2014, which significantly reduces or delays the payment of incentives already granted by law and defined on the basis of corresponding agreements concluded by undertakings generating electrical energy by means of photovoltaic conversion with Gestore dei servizi energetici SpA, a public company responsible for that process?

In particular, is that provision of national law compatible with the general principles of EU law relating to legitimate expectation, legal certainty, sincere cooperation and effectiveness, with Articles 16 and 17 of the Charter of Fundamental Rights of the European Union, with Directive 2009/28/EC⁽¹⁾ and with the rules governing support schemes laid down in that directive, and with Article 216(2) TFEU, in particular in relation to the European Energy Charter Treaty?

⁽¹⁾ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ 2009 L 140, p. 16).

**Request for a preliminary ruling from the Tribunale Amministrativo Regionale per il Lazio (Italy)
lodged on 17 November 2020 — Soelia SpA v Ministero dello Sviluppo Economico, Gestore dei
Servizi Energetici SpA — GSE**

(Case C-609/20)

(2021/C 53/27)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per il Lazio

Parties to the main proceedings

Applicant: Soelia SpA

Defendants: Ministero dello Sviluppo Economico, Gestore dei Servizi Energetici SpA — GSE

Question referred

Does EU law preclude the application of a provision of national law, such as that in Article 26(2) and (3) of Decree-Law No 91/2014, as converted by Law No 116/2014, which significantly reduces or delays the payment of incentives already granted by law and defined on the basis of corresponding agreements concluded by undertakings generating electrical energy by means of photovoltaic conversion with Gestore dei servizi energetici SpA, a public company responsible for that process?

In particular, is that provision of national law compatible with the general principles of EU law relating to legitimate expectation, legal certainty, sincere cooperation and effectiveness, with Articles 16 and 17 of the Charter of Fundamental Rights of the European Union, with Directive 2009/28/EC⁽¹⁾ and with the rules governing support schemes laid down in that directive, and with Article 216(2) TFEU, in particular in relation to the European Energy Charter Treaty?

⁽¹⁾ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ 2009 L 140, p. 16).

**Request for a preliminary ruling from the Tribunale Amministrativo Regionale per il Lazio (Italy)
lodged on 17 November 2020 — Cosilt — Consorzio per lo sviluppo economico locale di Tolmezzo v
Ministero dello Sviluppo Economico, Gestore dei Servizi Energetici SpA — GSE**

(Case C-610/20)

(2021/C 53/28)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per il Lazio

Parties to the main proceedings

Applicant: Cosilt — Consorzio per lo sviluppo economico locale di Tolmezzo

Defendants: Ministero dello Sviluppo Economico, Gestore dei Servizi Energetici SpA — GSE

Question referred

Does EU law preclude the application of a provision of national law, such as that in Article 26(2) and (3) of Decree-Law No 91/2014, as converted by Law No 116/2014, which significantly reduces or delays the payment of incentives already granted by law and defined on the basis of corresponding agreements concluded by undertakings generating electrical energy by means of photovoltaic conversion with Gestore dei servizi energetici SpA, a public company responsible for that process?

In particular, is that provision of national law compatible with the general principles of EU law relating to legitimate expectation, legal certainty, sincere cooperation and effectiveness, with Articles 16 and 17 of the Charter of Fundamental Rights of the European Union, with Directive 2009/28/EC ⁽¹⁾ and with the rules governing support schemes laid down in that directive, and with Article 216(2) TFEU, in particular in relation to the European Energy Charter Treaty?

⁽¹⁾ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ 2009 L 140, p. 16).

**Request for a preliminary ruling from the Tribunale Amministrativo Regionale per il Lazio (Italy)
lodged on 17 November 2020 — Cosilt — Consorzio per lo sviluppo economico locale di Tolmezzo v
Ministero dello Sviluppo Economico, Gestore dei Servizi Energetici SpA — GSE**

(Case C-611/20)

(2021/C 53/29)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per il Lazio

Parties to the main proceedings

Applicant: Cosilt — Consorzio per lo sviluppo economico locale di Tolmezzo

Defendants: Ministero dello Sviluppo Economico, Gestore dei Servizi Energetici SpA — GSE

Question referred

Does EU law preclude the application of a provision of national law, such as that in Article 26(2) and (3) of Decree-Law No 91/2014, as converted by Law No 116/2014, which significantly reduces or delays the payment of incentives already granted by law and defined on the basis of corresponding agreements concluded by undertakings generating electrical energy by means of photovoltaic conversion with Gestore dei servizi energetici SpA, a public company responsible for that process?

In particular, is that provision of national law compatible with the general principles of EU law relating to legitimate expectation, legal certainty, sincere cooperation and effectiveness, with Articles 16 and 17 of the Charter of Fundamental Rights of the European Union, with Directive 2009/28/EC⁽¹⁾ and with the rules governing support schemes laid down in that directive, and with Article 216(2) TFEU, in particular in relation to the European Energy Charter Treaty?

⁽¹⁾ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ 2009 L 140, p. 16).

**Request for a preliminary ruling from the Tribunalul Cluj (Romania) lodged on 17 November 2020 —
Happy Education SRL v Direcția Generală Regională a Finanțelor Publice Cluj-Napoca, Administrația
Județeană a Finanțelor Publice Cluj**

(Case C-612/20)

(2021/C 53/30)

Language of the case: Romanian

Referring court

Tribunalul Cluj

Parties to the main proceedings

Applicant: Happy Education SRL

Defendants: Direcția Generală Regională a Finanțelor Publice Cluj-Napoca, Administrația Județeană a Finanțelor Publice Cluj

Questions referred

1. Must Article 132(1)(i), Article 133 and Article 134 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax⁽¹⁾ be interpreted as meaning that educational services such as those contained in the national ‘Școala după școală’ [‘School after school’] programme can be brought within the concept of ‘services closely related to school education’, in the case where they are provided, in circumstances such as those obtaining in the main proceedings, by a private body, for commercial purposes and in the absence of a partnership concluded with an educational establishment?
2. If the answer to the first question is in the affirmative, can the applicant be recognised as being an ‘organisation having similar objects’, within the meaning of Article 132(1)(i) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, on the basis of the provisions of national law on authorisation of the activities identified by code CAEN 8559 — ‘Other forms of education (n.c.e.)’ by the Oficiul Național al Registrului Comerțului (National Trade Register Office) and with reference to the public-interest nature of the educational activities of the ‘school after school’ type, which are aimed at prevention of school leaving and early school leaving, improvement of school results, remedial education, accelerated learning, personal development and social inclusion?

⁽¹⁾ OJ 2006 L 347, p. 1, Special edition in Romanian: Chapter 09 Volume 003 P. 7.

**Request for a preliminary ruling from the Hanseatisches Oberlandesgericht in Bremen (Germany)
lodged on 20 November 2020 — T.N., N.N. v E.G.**

(Case C-617/20)

(2021/C 53/31)

Language of the case: German

Referring court

Hanseatisches Oberlandesgericht in Bremen

Parties to the main proceedings

Complainants: T.N., N.N.

Applicant: E.G.

Questions referred

The following questions on the interpretation of Articles 13 and 28 of Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession (EU Succession Regulation) ⁽¹⁾ are referred for a preliminary ruling:

1. Does a declaration concerning the waiver of succession by an heir before the court of a Member State that has jurisdiction for the place of his or her habitual residence, which complies with the formal requirements applicable there, replace the declaration concerning the waiver of succession to be made before the court of another Member State that has jurisdiction to rule on the succession, in such a way that when that declaration is made, it is deemed to have been validly made (substitution)?

2. If Question 1 is to be answered in the negative:

In addition to making a declaration before the court that has jurisdiction for the place of habitual residence of the party waiving succession which complies with all formal requirements, is it necessary, in order for the declaration concerning the waiver of succession to be valid, that the latter inform the court that has jurisdiction to rule on the succession that the declaration concerning the waiver of succession has been made?

3. If Question 1 is to be answered in the negative and Question 2 in the affirmative:

a. Is it necessary that the court that has jurisdiction to rule on the succession be addressed in the official language of the location of that court in order for the declaration concerning the waiver of succession to be valid and, in particular, in order to comply with the time limits applicable for making such declarations before that court?

b. Is it necessary that the court that has jurisdiction to rule on the succession receive the original documents drawn up in relation to the waiver by the court that has jurisdiction for the place of habitual residence of the party waiving succession and a translation thereof in order for the declaration concerning the waiver of succession to be valid and, in particular, in order to comply with the time limits applicable for making such declarations before the court that has jurisdiction to rule on the succession?

⁽¹⁾ OJ 2012 L 201, p. 107.

**Request for a preliminary ruling from the Högsta förvaltningsdomstolen (Sweden) lodged on
25 November 2020 — Skatteverket v DSAB Destination Stockholm AB**

(Case C-637/20)

(2021/C 53/32)

Language of the case: Swedish

Referring court

Högsta förvaltningsdomstolen

Parties to the main proceedings

Appellant and respondent: Skatteverket

Respondent and appellant: DSAB Destination Stockholm AB

Question referred

Must Article 30(a) of the VAT Directive ⁽¹⁾ be interpreted as meaning that a card, such as the one at issue in the main proceedings, which gives the cardholder the right to receive various services at a given place for a limited period of time and up to a certain value constitutes a voucher and, in such circumstances, constitutes a multi-purpose voucher?

⁽¹⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1) as amended by Council Directive (EU) 2016/1065 of 27 June 2016 amending Directive 2006/112/EC as regards the treatment of vouchers (OJ 2016 L 177, p. 9).

**Request for a preliminary ruling from the Överklagandenämnden för studiestöd (Sweden) lodged on
25 November 2020 — MCM v Centrala studiestödsnämnden**

(Case C-638/20)

(2021/C 53/33)

Language of the case: Swedish

Referring court

Överklagandenämnden för studiestöd

Parties to the main proceedings

Applicant: MCM

Defendant: Centrala studiestödsnämnden

Questions referred

May a Member State (the country of origin), in respect of a returning migrant worker's child, notwithstanding Article 45 TFEU and Article 7(2) of Regulation [No] 492/2011, ⁽¹⁾ and taking into consideration the budgetary interests of the country of origin, lay down a requirement for the child to have a connection with the country of origin in order to grant that child student financial aid to study abroad in the other EU Member State where the child's parent previously worked (the host country), where

- (i) after returning from the host country, the child's parent has lived and worked in the country of origin for at least eight years,
- (ii) the child did not accompany his or her parent to the country of origin, but has remained since birth in the host country, and
- (iii) the country of origin lays down the same requirement of a connection for other nationals in the country of origin who do not satisfy the residence requirement and who apply for student financial aid for studies abroad in another country in the EU?

⁽¹⁾ Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union (OJ 2011 L 141, p. 1).

**Request for a preliminary ruling from the Sąd Okręgowy w Poznaniu (Poland) lodged on
26 November 2020 — W.J. v L.J. and J.J. represented by their legal representative A.P.**

(Case C-644/20)

(2021/C 53/34)

Language of the case: Polish

Referring court

Sąd Okręgowy w Poznaniu

Parties to the main proceedings

Applicant: W.J.

Defendants: L.J. and J.J. represented by their legal representative A.P.

Question referred

Must Article 3(1) and (2) of the Hague Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations, approved on behalf of the European Community by Council Decision 2009/941/EC of 30 November 2009 (OJ 2009 L 331, p. 17), ⁽¹⁾ be interpreted as meaning that a creditor who is a child may acquire a new habitual residence in the State in which he or she was wrongfully retained if a court orders the return of the creditor to the State in which he or she habitually resided immediately prior to the wrongful retention?

⁽¹⁾ OJ 2009 L 331, p. 17.

**Request for a preliminary ruling from the Cour de cassation (France) lodged on 1 December 2020 —
VA, ZA v TP**

(Case C-645/20)

(2021/C 53/35)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicants: VA, ZA

Defendant: TP

Question referred

Must Article 10(1)(a) of Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession ⁽¹⁾ be interpreted as meaning that, where the habitual residence of the deceased at the time of death is not located in a Member State, the court of a Member State in which the deceased had not established his habitual residence but which finds that the deceased had the nationality of that State and held assets in it must, of its own motion, examine whether it has subsidiary jurisdiction under that article?

⁽¹⁾ OJ 2012 L 201, p. 107.

Request for a preliminary ruling from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD) (Portugal) lodged on 1 December 2020 — XG v Autoridade Tributária e Aduaneira

(Case C-647/20)

(2021/C 53/36)

Language of the case: Portuguese

Referring court

Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD)

Parties to the main proceedings

Appellant: XG

Respondent: Autoridade Tributária e Aduaneira

Question referred for a preliminary ruling

May capital gains arising from a property transaction consisting in the sale of an immovable property purchased by a Portuguese national not resident in the European Union be subjected to a discriminatory system of taxation which is more onerous by comparison with that which is applied to residents, who benefit from a 50 % reduction of the capital gains forming the basis of the calculation of income tax, in accordance with the provisions of Article 65(1)(a) TFEU?

Action brought on 17 December 2020 — European Commission v Slovak Republic

(Case C-683/20)

(2021/C 53/37)

Language of the case: Slovak

Parties

Applicant: European Commission (represented by: R. Lindenthal, M. Noll-Ehlers, acting as Agents)

Defendant: Slovak Republic

Form of order sought

The applicant claims that the Court should:

- Declare that, by failing to draw up action plans and by failing to send the Commission a summary of the action plans for 445 major road sections, the Slovak Republic has infringed Article 8(2) and Article 10(2) of Directive 2002/49/EC ⁽¹⁾ of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise, in conjunction with Annex VI thereto;
- Declare that, by failing to draw up action plans and by failing to send the Commission a summary of the action plans for 16 major rail sections, the Slovak Republic has infringed Article 8(2) and Article 10(2) of Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise, in conjunction with Annex VI thereto; and
- order the Slovak Republic to pay the costs.

Pleas in law and main arguments

Under Article 8(2) of Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise, the Slovak Republic was to ensure that action plans were drawn up for major road sections (roads with more than three million vehicle passages per year) and major rail sections (railways with more than 30000 train passages per year) within its territory by 18 July 2013. Under Article 10(2) of that directive, in conjunction with Annex VI thereto, the Slovak Republic was then to ensure that the summaries of the action plans were sent to the Commission by 18 January 2014.

The Slovak Republic has failed to fulfil its obligations stemming from Article 8(2) and Article 10(2) of the Directive, in conjunction with Annex VI thereto, so far as concerns 445 major road sections and 16 major rail sections which it had previously notified to the Commission.

⁽¹⁾ OJ 2002 L 189, p. 12.

Action brought on 21 December 2020 — European Commission v United Kingdom of Great Britain and Northern Ireland

(Case C-692/20)

(2021/C 53/38)

Language of the case: English

Parties

Applicant: European Commission (represented by: A. Armenia, P.-J. Loewenthal, Agents)

Defendant: United Kingdom of Great Britain and Northern Ireland

The applicant claims that the Court should:

- declare that, by failing to take the necessary measures to comply with the judgment of this Court in Case C-503/17, *Commission v United Kingdom*, EU:C:2018:831, the United Kingdom has failed to fulfil its obligations under Article 260(1) of the Treaty on the Functioning of the European Union, read in conjunction with Articles 127 and 131 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ⁽¹⁾;
- order the United Kingdom, pursuant to Article 260(2) of the Treaty on the Functioning of the European Union, read in conjunction with Articles 127 and 131 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, to pay to the Commission:
- a penalty payment of EUR 268 878,50 per day from the date of the judgment in the present proceedings until the date that the United Kingdom complies with the judgment in Case C-503/17;
- a lump sum of EUR 35 873,20 multiplied by the number of days between the date on which the judgment in Case C-503/17 was rendered and either the date on which the United Kingdom complies with that judgment or the date of the judgment in the present proceedings, whichever is earlier, with a minimum lump sum of EUR 8 901 000; and
- order the United Kingdom to pay the costs.

Pleas in law and main arguments

By judgment in Case C-503/17, *Commission v United Kingdom*, EU:C:2018:831, the Court of Justice found that the United Kingdom, by failing to remove the entitlement of private pleasure craft to use marked fuel for propulsion, failed to fulfil its obligations under Council Directive ⁽²⁾ 95/60/EC of 27 November 1995 on fiscal marking of gas oils and kerosene. As the United Kingdom has not taken the necessary measures to comply with that judgement, the Commission decided to refer the matter to the Court of Justice.

In its application the Commission proposes, in accordance with Article 260 TFEU read in conjunction with Articles 127 and 131 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, that the Court imposes on the United Kingdom a penalty payment of EUR 268 878,50 per day from the date of the judgment in the present proceedings until the date that the United Kingdom complies with the judgment in Case C-503/17 and a lump sum of EUR 35 873,20 multiplied by the number of days between the date on which the judgment in Case C-503/17 was rendered and either the date on which the United Kingdom complies with that judgment or the date of the judgment in the present proceedings, whichever is earlier, with a minimum lump sum of EUR 8 901 000.

⁽¹⁾ OJ 2019, C 384 I, p. 1.

⁽²⁾ OJ 1995, L 291, p. 46.

GENERAL COURT

Judgment of the General Court of 16 December 2020 — VP v Cedefop

(Case T-187/18) ⁽¹⁾

(Civil service — Members of the temporary staff — Request for renewal of a contract for an indefinite period — Decision not to renew — Manifest error of assessment — Right to be heard — Article 26 of the Staff Regulations — Liability — Material damage — Non-material damage)

(2021/C 53/39)

Language of the case: English

Parties

Applicant: VP (represented by: L. Levi, lawyer)

Defendant: European Centre for the Development of Vocational Training (represented by: M. Brugia, acting as Agent, and by T. Bontinck and A. Guillerme, lawyers)

Re:

Application under Article 270 TFEU for (i) annulment of Cedefop's decision of 12 May 2017 not to renew the applicant's contract as a member of the temporary staff for an indefinite period and, as far as necessary, of the decision of 1 December 2017 rejecting her complaint of 9 August 2017 against the decision of 12 May 2017 and (ii) compensation for the material and non-material damage which the applicant allegedly suffered as a result of those decisions.

Operative part of the judgment

The Court:

1. Annuls the decision of the European Centre for the Development of Vocational Training (Cedefop) of 12 May 2017 not to renew VP's contract as a member of the temporary staff;
2. Annuls the decision of 1 December 2017 rejecting VP's complaint;
3. Orders Cedefop to pay EUR 30 000 as compensation for the material damage sustained by VP;
4. Orders Cedefop to pay EUR 10 000 as compensation for the non-material damage sustained by VP;
5. Dismisses the action as to the remainder;
6. Orders Cedefop to pay the costs.

⁽¹⁾ OJ C 166, 14.5.2018.

Judgment of the General Court of 16 December 2020 — *PlasticsEurope v ECHA*(Case T-207/18) ⁽¹⁾

(REACH — Establishment of a list of substances identified with a view to their eventual inclusion in Annex XIV to Regulation (EC) No 1907/2006 — Supplement to the entry relating to the substance bisphenol A on that list — Articles 57 and 59 of Regulation No 1907/2006 — Manifest error of assessment — Weight of evidence approach — Exploratory studies — Intermediate uses — Proportionality)

(2021/C 53/40)

Language of the case: English

Parties

Applicant: PlasticsEurope (Brussels, Belgium) (represented by: R. Cana, É. Mullier and F. Mattioli, lawyers)

Defendant: European Chemicals Agency (ECHA) (represented by: M. Heikkilä, W. Broere and C. Buchanan, acting as Agents)

Interveners in support of the defendant: Federal Republic of Germany (represented by: J. Möller, D. Klebs and S. Heimerl, acting as Agents), French Republic (represented by: A.-L. Desjonquères, J. Traband, E. Leclerc and W. Zemamta, acting as Agents), ClientEarth (London, United Kingdom) (represented by: P. Kirch, lawyer)

Re:

Application pursuant to Article 263 TFEU seeking the annulment of ECHA Decision ED/01/2018 of 3 January 2018, by which the existing entry relating to bisphenol A on the list of identified substances 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), in accordance with Article 59 of that regulation, was supplemented to the effect that bisphenol A is also identified as a substance with endocrine disrupting properties that may have serious effects on the environment which give rise to an equivalent level of concern to those of other substances listed in Article 57(a) to (e) of that regulation, within the meaning of Article 57(f) thereof.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders PlasticsEurope to bear its own costs and pay those incurred by the European Chemicals Agency (ECHA) and ClientEarth;
3. Orders the Federal Republic of Germany and the French Republic to bear their own costs.

⁽¹⁾ OJ C 190, 4.6.2018.

Judgment of the General Court of 16 December 2020 — VW v Commission(Case T-243/18) ⁽¹⁾**(Civil service — Officials — Surviving spouse — Survivor's pension — Articles 18 and 20 of Annex VIII to the Staff Regulations — Conditions for eligibility — Duration of the marriage — Plea of illegality — Equal treatment — Principle of proportionality)**

(2021/C 53/41)

*Language of the case: French***Parties***Applicant:* VW (represented by: N. de Montigny, lawyer)*Defendant:* European Commission (represented by: B. Mongin and L. Vernier, acting as Agents)*Interveners in support of the defendant:* European Parliament (represented by: D. Boytha and J. Steele, acting as Agents), Council of the European Union (represented by: M. Bauer and R. Meyer, acting as Agents)**Re:**

Application based on Article 270 TFEU seeking the annulment of the decision of the Commission of 26 June 2017 dismissing the applicant's application for a survivor's pension and, in so far as is necessary, of the decision rejecting the complaint against that decision of 19 January 2018.

Operative part of the judgment*The Court:*

1. Annuls the decision of the European Commission of 26 June 2017 dismissing VW's application for a survivor's pension;
2. Orders the Commission to bear its own costs and to pay those incurred by VW;
3. Orders the European Parliament and the Council of the European Union to bear their own costs.

⁽¹⁾ OJ C 231, 2.7.2018.

Judgment of the General Court of 16 December 2020 — American Airlines v Commission(Case T-430/18) ⁽¹⁾**(Competition — Concentrations — Air transport market — Decision declaring a concentration compatible with the internal market and the EEA Agreement — Commitments — Decision granting Grandfathering rights — Error of law — Concept of appropriate use)**

(2021/C 53/42)

*Language of the case: English***Parties***Applicant:* American Airlines, Inc. (Fort Worth, Texas, United States) (represented by: J.-P. Poitras, Solicitor, J. Ruiz Calzado and J. Wileur, lawyers)*Defendant:* European Commission (represented by: T. Franchoo, H. Leupold and L. Wildpanner, acting as Agents)*Intervener in support of the defendant:* Delta Air Lines, Inc. (Wilmington, Delaware (United States) (represented by: M. Demetriou, QC, C. Angeli and I. Giles, lawyers)

Re:

Application under Article 263 TFEU for annulment of Commission Decision C(2018) 2788 final of 30 April 2018 granting Grandfathering rights to Delta Air Lines (Case M.6607 — US Airways/American Airlines).

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders American Airlines, Inc. to bear its own costs and pay those incurred by the European Commission;
3. Orders Delta Air Lines, Inc. to bear its own costs.

⁽¹⁾ OJ C 319, 10.9.2018.

Judgment of the General Court of 16 December 2020 — Pareto Trading v EUIPO — Bikor and Bikor Professional Color Cosmetics (BIKOR EGYPTIAN EARTH)

(Case T-438/18) ⁽¹⁾

(EU trade mark — Invalidity proceedings — EU word mark BIKOR EGYPTIAN EARTH — Absolute ground for refusal — Bad faith — Article 52(1)(b) of Regulation (EC) No 207/2009 (now Article 59(1)(b) of Regulation (EU) 2017/1001))

(2021/C 53/43)

Language of the case: English

Parties

Applicant: Pareto Trading Co., Inc. (Carlstadt, New Jersey, United States) (represented by: I. Sempere Massa, C. Martínez-Tercero Molina and V. Balaguer Fuentes, lawyers)

Defendant: European Union Intellectual Property Office (represented by: D. Gája, H. O'Neill, V. Ruzek and S. Hanne, acting as Agents)

Other parties to the proceedings before the Board of Appeal of EUIPO: Elżbieta Korbut Bikor (Gdańsk, Poland) and Bikor Professional Color Cosmetics Małgorzata Wedekind (Gdańsk)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 24 April 2018 (Case R 1826/2015-1) relating to invalidity proceedings between Pareto Trading, on the one hand, and Ms Bikor and Bikor Professional Color Cosmetics Małgorzata Wedekind, on the other.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Pareto Trading Co., Inc. to pay the costs.

⁽¹⁾ OJ C 319, 10.9.2018.

Judgment of the General Court of 16 December 2020 — 3V Sigma v ECHA(Case T-176/19) ⁽¹⁾

(REACH — Substance evaluation — UVASORB HEB — Decision of the ECHA requesting further information — Article 46(1) of Regulation (EC) No 1907/2006 — Request seeking to identify potential transformation or degradation products of the substance — Proportionality — Need for the additional study requested — Relevant conditions and realistic conditions — Study temperature — Manifest error of assessment)

(2021/C 53/44)

Language of the case: English

Parties

Applicant: 3V Sigma SpA (Milan, Italy) (represented by: C. Bryant and S. Hainsworth, Solicitors, and by D. Anderson, lawyer)

Defendant: European Chemicals Agency (represented by: A. Hautamäki, J. Alaranta and W. Broere, acting as Agents)

Intervener in support of the defendant: Federal Republic of Germany (represented by: J. Möller, D. Klebs, and S. Heimerl, acting as Agents)

Re:

Action under Article 263 TFEU seeking the annulment in part of Decision A-004-2017 of the ECHA Board of Appeal of 15 January 2019 in so far as it dismissed the applicant's appeal against the decision of the ECHA of 20 December 2016 requiring that further information be provided about the substance UVASORB HEB and in so far as the deadline for providing that information was set at 22 October 2020.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders 3V Sigma SpA to bear its own costs and to pay the costs incurred by the European Chemicals Agency (ECHA), including those incurred in connection with the proceedings for interim relief;
3. Orders the Federal Republic of Germany to bear its own costs.

⁽¹⁾ OJ C 172, 20.5.2019.

Judgment of the General Court of 16 December 2020 — Azarov v Council(Case T-286/19) ⁽¹⁾

(Common foreign and security policy — Restrictive measures taken in view of the situation in Ukraine — Freezing of funds — List of persons, entities and bodies covered by the freezing of funds and economic resources — Maintenance of the applicant's name on the list — Council's obligation to verify that the decision of an authority of a third State was taken in accordance with the rights of the defence and the right to effective judicial protection)

(2021/C 53/45)

Language of the case: German

Parties

Applicant: Mykola Yanovych Azarov (Kiev, Ukraine) (represented by: G. Lansky and A. Egger, lawyers)

Defendant: Council of the European Union (represented by: J. Van Blaaderen and P. Mahnič, acting as Agents)

Re:

Application under Article 263 TFEU seeking the annulment of Council Decision (CFSP) 2019/354 of 4 March 2019 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2019 L 64, p. 7) and Council Implementing Regulation (EU) 2019/352 of 4 March 2019 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2019 L 64, p. 1), in so far as the applicant's name was maintained on the list of persons, entities and bodies subject to those restrictive measures.

Operative part of the judgment

The Court:

1. Annuls Council Decision (CFSP) 2019/354 of 4 March 2019 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine and Council Implementing Regulation (EU) 2019/352 of 4 March 2019 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine, in so far as the name of Mr. Mykola Yanovych Azarov was maintained on the list of persons, entities and bodies subject to those restrictive measures;
2. Orders the Council of the European Union to pay the costs.

⁽¹⁾ OJ C 213, 24.6.2019.

Judgment of the General Court of 16 December 2020 — H.R. Participations v EUIPO — Hottinger Investment Management (JCE HOTTINGUER)

(Case T-535/19) ⁽¹⁾

(EU trade mark — Invalidity proceedings — EU word mark JCE HOTTINGUER — Non-registered earlier national trade mark HOTTINGER — Relative ground for refusal — Reference to the national law governing the earlier mark — Rules governing common law actions for passing-off — Article 8(4) and Article 53(1)(c) of Regulation (EC) No 207/2009 (now Article 8(4) and Article 60(1)(c) of Regulation (EU) 2017/1001, respectively))

(2021/C 53/46)

Language of the case: English

Parties

Applicant: H.R. Participations SA (Luxembourg, Luxembourg) (represented by: P. Wilhelm, J. Rossi, E. Dumur and G. Hadot-Pericard, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Hottinger Investment Management Ltd (London, United Kingdom) (represented by: W. Sander, Solicitor, and M. Beebe, Barrister)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 3 May 2019 (Case R 2078/2018-2), relating to invalidity proceedings between Hottinger Investment Management and H.R. Participations.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders H.R. Participations SA to pay the costs.

⁽¹⁾ OJ C 312, 16.9.2019.

Judgment of the General Court of 16 December 2020 — Cinkciarz.pl v EUIPO (€\$)

(Case T-665/19) ⁽¹⁾

(EU trade mark — Application for EU figurative mark €\$ — Absolute ground for refusal — Lack of distinctiveness — Article 7(1)(b) of Regulation (EU) 2017/1001 — Obligation to state reasons)

(2021/C 53/47)

Language of the case: Polish

Parties

Applicant: Cinkciarz.pl sp. z o.o. (Zielona Góra, Poland) (represented by: E. Skrzydło-Tefelska and K. Gajek, lawyers)

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

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 4 July 2019 (Case R 1345/2018-1) regarding an application for registration of the figurative sign €\$ as an EU trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Cinkciarz.pl sp. z o.o. to pay the costs.

⁽¹⁾ OJ C 399, 25.11.2019.

Judgment of the General Court of 16 December 2020 — HA v Commission

(Case T-736/19) ⁽¹⁾

(Civil service — Officials — Reimbursement of medical expenses — Ceiling for reimbursement of equipment for the treatment of sleep apnoea — Action for annulment — No purely confirmatory act — Interest in bringing proceedings — Admissibility — Joint Rules on sickness insurance for officials — General implementing provisions)

(2021/C 53/48)

Language of the case: French

Parties

Applicant: HA (represented by: S. Kreicher, lawyer)

Defendant: European Commission (represented by: T. Bohr, A.-C. Simon and M. Brauhoff, acting as Agents)

Re:

Application under Article 270 TFEU seeking the annulment of the decision of the Commission which set a ceiling for reimbursement of EUR 3 100 for the rental of medical equipment for the period from 1 March 2019 to 29 February 2024.

Operative part of the judgment

The Court:

1. Annuls the decision of the European Commission of 17 January 2019 which set a ceiling for reimbursement of EUR 3 100 for the rental of medical equipment for the period from 1 March 2019 to 29 February 2024 and the decision of the Commission of 13 August 2019 which dismissed the complaint lodged against that decision;
2. Orders the Commission to pay the costs.

⁽¹⁾ OJ C 432, 23.12.2019.

Judgment of the General Court of 16 December 2020 — Alkemie Group v EUIPO — Mann & Schröder (ALKEMIE)

(Case T-859/19) ⁽¹⁾

(EU trade mark — Opposition proceedings — Application for EU word mark ALKEMIE — Earlier EU word mark Alkmene — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

(2021/C 53/49)

Language of the case: Polish

Parties

Applicant: Alkemie Group sp. z o.o. (Gdynia, Poland) (represented by: A. Korbela, 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: Mann & Schröder GmbH (Siegbach, Germany)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 16 September 2019 (Case R 2230/2018-2) regarding opposition proceedings between Mann & Schröder and Alkemie Group.

Operative part of the judgment

The Court:

1. Annuls the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 16 September 2019 (Case R 2230/2018-2) to the extent that it dismissed Alkemie Group sp. z o.o.'s action in respect of 'dietary aids' in Class 5;
2. Dismisses the action for the remainder;
3. Orders each party to bear its own costs.

⁽¹⁾ OJ C 54, 17.2.2020.

Judgment of the General Court of 16 December 2020 — Alkemie Group v EUIPO — Mann & Schröder (ALKEMIE)

(Case T-860/19) ⁽¹⁾

(EU trade mark — Opposition proceedings — Application for EU figurative mark ALKEMIE — Earlier EU word mark Alkmene — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

(2021/C 53/50)

Language of the case: Polish

Parties

Applicant: Alkemie Group sp. z o.o. (Gdynia, Poland) (represented by: A. Korbela, 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: Mann & Schröder GmbH (Siegelbach, Germany)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 16 September 2019 (Case R 2231/2018-2) regarding opposition proceedings between Mann & Schröder and Alkemie Group.

Operative part of the judgment

The Court:

1. Annuls the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 16 September 2019 (Case R 2231/2018-2) to the extent that it dismissed Alkemie Group sp. z o.o.'s action in respect of 'dietary aids' in Class 5;
2. Dismisses the action for the remainder;
3. Orders each party to bear its own costs.

⁽¹⁾ OJ C 54, 17.2.2020.

Judgment of the General Court of 16 December 2020 — Production Christian Gallimard v EUIPO — Éditions Gallimard (PCG CALLIGRAM CHRISTIAN GALLIMARD)

(Case T-863/19) ⁽¹⁾

(EU trade mark — Opposition proceedings — Application for EU word mark PCG CALLIGRAM CHRISTIAN GALLIMARD — Previous EU word marks GALLIMARD — Relative ground for refusal — Likelihood of confusion — Conceptual comparison — Surnames — Independent distinctive role — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

(2021/C 53/51)

Language of the case: French

Parties

Applicant: Production Christian Gallimard (Luxembourg, Luxembourg) (represented by: L. Dreyfuss-Bechmann, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Éditions Gallimard la nouvelle revue française éditions de la nouvelle revue française SA (Paris, France) (represented by: J.-A. Bénazéraf and Y. Diringer, lawyers)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 1 October 2019 (Case R-2316/2018-5) regarding opposition proceedings between Éditions Gallimard la nouvelle revue française éditions de la nouvelle revue française and Production Christian Gallimard.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Production Christian Gallimard to bear its own costs and to pay those incurred by the European Union Intellectual Property Office (EUIPO);
3. Orders Éditions Gallimard la nouvelle revue française éditions de la nouvelle revue française SA to bear its own costs.

⁽¹⁾ OJ C 61, 24.2.2020.

Judgment of the General Court of 16 December 2020 — Gustopharma Consumer Health v EUIPO — Helixor Heilmittel (HELIX ELIXIR)

(Case T-883/19) ⁽¹⁾

(EU trade mark — Opposition proceedings — Application for the EU word mark HELIX ELIXIR — Earlier EU word mark HELIXOR — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

(2021/C 53/52)

Language of the case: English

Parties

Applicant: Gustopharma Consumer Health, SL (Madrid, Spain) (represented by: A. Gómez López and J. Mora Cortés, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Helixor Heilmittel GmbH (Rosenfeld, Germany) (represented by: J. Klink, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 23 October 2019 (Case R 100/2019-1) relating to opposition proceedings between Helixor Heilmittel and Gustopharma Consumer Health.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Gustopharma Consumer Health, SL, to pay the costs.

⁽¹⁾ OJ C 68, 2.3.2020.

Order of the General Court of 14 December 2020 — La Quadrature du Net and Others v Commission

(Case T-738/16) ⁽¹⁾

(Area of freedom, justice and security — Protection of natural persons with regard to the processing of personal data — Transfer of personal data to the United States — Declaration of invalidity of the contested measure — Action which has become devoid of purpose — No need to adjudicate)

(2021/C 53/53)

Language of the case: French

Parties

Applicants: La Quadrature du Net (Paris, France), French Data Network (Amiens, France), Fédération des fournisseurs d'accès à Internet associatifs (Fédération FDN) (Amiens) (represented by: A. Fitzjean Ö. Cobhthaigh, lawyer)

Defendant: European Commission (represented by: H. Kranenborg and D. Nardi, acting as Agents)

Intervener in support of the applicant: Union fédérale des consommateurs — Que choisir (UFC — Que choisir) (Paris, France) (represented by: F.-P. Lani, lawyer)

Interveners in support of the defendant: Czech Republic (represented by: M. Smolek, J. Vlácil and O. Serdula, acting as Agents), Federal Republic of Germany (represented by: S. Eisenberg, S. Heimerl, D. Klebs and J. Möller, acting as Agents), French Republic (represented by: E. Armoët and E. de Moustier, acting as Agents), Kingdom of the Netherlands (represented by: M. Bulterman and C. Schillemans, acting as Agents), United Kingdom of Great Britain and Northern Ireland (represented by: S. Brandon, acting as Agent, and J. Holmes QC), United States of America (represented by: H. Viaene, C. Evrard, E. Valgaeren, P. Wytinck, lawyers, S. Kingston and E. Barrington, Senior Counsel), Digitaleurope (Brussels, Belgium) (represented by: J. Cahir, V. Power, Solicitors, and M. Gray, Senior Counsel), Microsoft Corp. (Redmond, Washington, United States) (represented by: J. Bourgeois and M. Meulenbelt, lawyers), BSA Business Software Alliance, Inc. (Washington, DC, United States) (represented by: B. Van Vooren and K. Van Quathem, lawyers)

Re:

Application under Article 263 TFEU for annulment of Commission Implementing Decision (EU) 2016/1250 of 12 July 2016 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequacy of the protection provided by the EU-U.S. Privacy Shield (OJ 2016 L 207, p. 1).

Operative part of the order

1. There is no longer any need to adjudicate on the present action.
2. The European Commission shall bear its own costs and pay the costs incurred by La Quadrature du Net, French Data Network and Fédération des fournisseurs d'accès à Internet associatifs (Fédération FDN).

3. The Czech Republic, the Federal Republic of Germany, the French Republic, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Union fédérale des consommateurs — Que choisir (UFC — Que choisir), DigitalEurope, Microsoft Corp. and BSA Business Software Alliance, Inc., shall bear their own costs.

⁽¹⁾ OJ C 6, 9.1.2017.

Order of the General Court of 16 December 2020 — Universität Bremen v REA

(Case T-660/19) ⁽¹⁾

(Action for annulment — Grant proposal — Horizon Europe — the Framework Programme for Research and Innovation — Call for proposals H2020-SC6-Governance-2019 — REA decision rejecting a proposal — No representation by a lawyer — Manifest inadmissibility of the action)

(2021/C 53/54)

Language of the case: German

Parties

Applicant: Universität Bremen (Bremen, Germany) (represented by: Professor C. Schmid, University Professor)

Defendants: Research Executive Agency (REA) (represented by: S. Payan-Lagrou and V. Canetti, acting as Agents, and by R. van der Hout and C. Wagner, lawyers)

Re:

Application based on Article 263 TFEU seeking the annulment of REA decision Ares(2019) 4590599 of 16 July 2019, rejecting the proposal presented by the applicant within the framework of the call for proposals H2020-SC6-Governance-2019.

Operative part of the order

1. The action is dismissed as manifestly inadmissible.
2. Universität Bremen shall bear its own costs and shall pay the costs incurred by the Research Executive Agency (REA).

⁽¹⁾ OJ C 399, 25.11.2019.

Order of the General Court of 15 December 2020 — Junqueras i Vies v Parliament

(Case T-24/20) ⁽¹⁾

(Action for annulment — Institutional law — Member of European Parliament — Privileges and immunities — Announcement by the President of the European Parliament of the establishment of the vacancy of a Member of the European Parliament's seat — Request to take urgently an initiative to assert the privileges and immunities of a Member of the European Parliament — Acts not open to judicial review — Inadmissibility)

(2021/C 53/55)

Language of the case: Spanish

Parties

Applicant: Oriol Junqueras i Vies (Sant Joan de Vilatorrada, Spain) (represented by: A. Van den Eynde Adroer, lawyer)

Defendant: European Parliament (represented by: F. Drexler, N. Görlitz and C. Burgos, acting as Agents)

Re:

Action under Article 263 TFEU for the annulment, first, of the establishment of a vacancy of the applicant's seat as from 3 January 2020, announced by the President of the Parliament at the plenary session of 13 January 2020 and, second, of the alleged rejection by the latter of the request to take urgently an initiative seeking to assert the immunity of the applicant, submitted on 20 December 2019 in his name by Ms Riba I Giner, Member of the European Parliament, on the basis of Article 8 of the Rules of Procedure of the Parliament.

Operative part of the order

1. The action is dismissed as inadmissible.
2. There is no longer any need to rule on the application to intervene of the Kingdom of Spain.
3. Mr Oriol Junqueras I Vies shall pay the costs, including those incurred in Case T-24/20 R.
4. The Kingdom of Spain shall bear the costs relating to its application to intervene.

⁽¹⁾ OJ C 68, 2.3.2020.

Order of the General Court of 14 December 2020 — ClientEarth v Commission

(Case T-255/20) ⁽¹⁾

(Action for annulment — Access to documents — Comitology — Technical Committee on Motor Vehicles — Agenda for the 79th meeting of the committee — Right to information applicable in the Member States of the European Union as regards emissions from light passenger and commercial vehicles — Implied refusal of access — Express decision adopted after the action was brought — No need to adjudicate)

(2021/C 53/56)

Language of the case: English

Parties

Applicant: ClientEarth AISBL (Brussels, Belgium) (represented by: F. Logue, Solicitor, and J. Kenny, Barrister)

Defendant: European Commission (represented by: S. Delaude, C. Ehrbar and G. Gattinara, acting as Agents)

Re:

Application under Article 263 TFEU for annulment of the implied decision of the Commission of 26 February 2020 refusing to grant access to certain parts of the minutes of the 79th meeting of the Technical Committee on Motor Vehicles of 12 February 2019.

Operative part of the order

1. There is no longer any need to adjudicate on the action.
2. The European Commission shall pay the costs.

⁽¹⁾ OJ C 247, 27.7.2020.

Order of the General Court of 16 December 2020 — Bonicelli v Fusion for Energy Joint Undertaking(Case T-520/20) ⁽¹⁾***(Appeal — Civil service — Officials — 2019 promotion exercise — Decision not to promote — Replacement of the contested act in the course of the proceedings — Action which has become devoid of purpose — No need to adjudicate)***

(2021/C 53/57)

*Language of the case: French***Parties***Applicant:* Tullio Bonicelli (Badalona, Spain) (represented by: N. Lhoëst, lawyer)*Defendant:* European Joint Undertaking for ITER and the Development of Fusion Energy (represented by: G. T. Poszler, acting as Agent)**Re:**

Application under Article 263 TFEU for annulment, first, of the decision of the European Joint Undertaking for ITER and the Development of Fusion Energy of 24 October 2019 not to include the name of the applicant on the final list of officials promoted within the framework of the 2019 promotion exercise and, secondly, of its decision of 8 May 2020 rejecting the complaint lodged by the applicant against that decision.

Operative part of the order

1. There is no longer any need to adjudicate on the action.
2. The European Joint Undertaking for ITER and the Development of Fusion Energy shall pay its own costs and the costs incurred by Mr Tullio Bonicelli.

⁽¹⁾ OJ C 329, 5.10.2020.

Order of the President of the General Court of 15 December 2020 — Genekam Biotechnology v Commission

(Case T-579/20 R)

(Application for interim measures — Grant agreement concluded under the Seventh Framework Programme for research, technological development and demonstration activities (2007-2013) — Recovery of the sums paid — Application for suspension of operation — Lack of urgency)

(2021/C 53/58)

*Language of the case: English***Parties***Applicant:* Genekam Biotechnology AG (Duisburg, Germany) (represented by: S. Hertwig, lawyer)*Defendant:* European Commission (represented by: J. Estrada de Solà, A Katsimerou and R. Pethke, acting as Agents)**Re:**

Application based on Article 299 TFEU to suspend the enforcement of Commission Decision C(2020) 5548 final of 7 August 2020 establishing a pecuniary obligation and forming an enforceable decision against the applicant.

Operative part of the order

1. The application for interim measures is dismissed.
2. The costs are reserved.

Action brought on 27 October 2020 — Symrise v ECHA**(Case T-655/20)**

(2021/C 53/59)

*Language of the case: English***Parties***Applicant:* Symrise AG (Holzminden, Germany) (represented by: A, B, C, lawyers)*Defendant:* European Chemicals Agency**Form of order sought**

The applicant claims that the Court should:

- annul decision of 18 August 2020 of the European Chemicals Agency's Board of Appeal in case number A-010-2018 in its entirety;
- order the Agency to pay the costs of the proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Agency committed a manifest error of assessment and misinterpreted the REACH Regulation by requesting the tests on vertebrate animals on the Substance, by justifying the need for tests by reference to workers' exposure and by failing to take the safety of the Substance as assessed under the Cosmetics Regulation into account.
 2. Second plea in law, alleging that the Agency committed a manifest error of assessment and breached its duty to state reasons by requesting the extended one-generation reproductive toxicity study with several extensions (the 'EOGRTS').
 3. Third plea in law, alleging that the Agency committed a manifest error of assessment of the information available to it and breached its duty to state reasons by deciding that the EOGRTS would need to be conducted via the oral route.
 4. Fourth plea in law, alleging that the Agency, by requesting the Long-term toxicity study on fish (OECD TG 234) under Section 9.1.6.1. of Annex IX of the REACH Regulation, committed a manifest error of assessment and misinterpreted column 2 of section 9.1 of Annex IX, breached the applicant's right to be heard and breached Article 25 of the REACH Regulation.
 5. Fifth plea in law, alleging that the Agency committed a manifest error of assessment by failing to take into account all relevant information, breached Article 25 of the REACH Regulation and committed a manifest error of assessment in imposing the deadlines of the Contested Decision.
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Action brought on 27 October 2020 — Symrise v ECHA**(Case T-656/20)**

(2021/C 53/60)

*Language of the case: English***Parties**

Applicant: Symrise AG (Holzminden, Germany) (represented by: A, B, C, lawyers)

Defendant: European Chemicals Agency

Form of order sought

The applicant claims that the Court should:

- annul decision of 18 August 2020 of the European Chemicals Agency's Board of Appeal in case number A-009-2018 in its entirety;
- order the Agency 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 that the Agency committed a manifest error of assessment and misinterpreted the REACH Regulation by requesting the tests on vertebrate animals on the Substance, by justifying the need for tests by reference to workers' exposure and by failing to take the safety of the Substance as assessed under the Cosmetics Regulation into account.
2. Second plea in law, alleging that the Agency committed a manifest error of assessment and breached its duty to state reasons by deciding that the extended one-generation reproductive toxicity study with several extensions (the 'EOGRTS') would need to be conducted via the oral route.
3. Third plea in law, alleging that the Agency breached Article 25 of the REACH regulation and committed a manifest error of assessment in imposing the deadlines of the Contested Decision.

Action brought on 3 December 2020 — Lenovo Global Technology Belgium v EuroHPC Joint Undertaking**(Case T-717/20)**

(2021/C 53/61)

*Language of the case: English***Parties**

Applicant: Lenovo Global Technology Belgium BV (Machelen, Belgium) (represented by: S. Sakellariou, G. Forwood, K. Struckmann and F. Abou Zeid, lawyers)

Defendant: European High Performance Computing Joint Undertaking

Form of order sought

The applicant claims that the Court should:

- order the requested measures of organisation of procedure;

- annul the decision of 29 September 2020 of the European High Performance Computing Joint Undertaking (Ref. Ares (2020)5103538) rejecting the tender submitted by Lenovo for Lot 3 in the context of call for tenders SMART 2019/1084 relating to the acquisition of the Leonardo Supercomputer, to be hosted by CINECA, in Italy, and awarding the contract to another company; and
- order the European High Performance Computing Joint Undertaking to pay the applicant's costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the defendant breached the principles of equal treatment and transparency by failing to disqualify the winning bidder for not meeting a number of mandatory requirements included in the Technical Specifications. Specifically, the defendant did not disqualify the winning bidder, despite the fact that it failed to meet the mandatory requirement of a fixed price proposal by including in its tender a mutual exchange rate clause, and by failing to provide a fixed price for the memory components. Furthermore, the defendant breached these same principles by not disqualifying the winning bidder for failing to include in its bid other requirements listed in the Technical Specifications.
2. Second plea in law, alleging that the defendant made a number of errors in relation to the assessment of the performance score and efficiency score of winning bidder's proposal. Specifically, the defendant committed a manifest error of assessment by using a wrong minimal HPCG value in the calculation of the performance scores; it used obviously incorrect values for HPL and HPCG performance provided by the winning bidder without seeking clarification, committing a manifest error of assessment and violating the principle of good administration; and accepted obviously incorrect values from the winning bidder on the power consumption, again committing a manifest error of assessment and violating the principle of good administration.
3. Third plea in law, alleging that the defendant committed a number of errors in relation to the award criterion of 'EU added value'. Specifically, such a criterion was unlawful as it was unrelated to the subject matter of the contract, and breached the principle of equal treatment, the Financial Regulation, the EU's obligations under the WTO GPA and the principle of sound financial management enshrined in Article 310(5) TFEU. Furthermore, when the defendant applied this criterion, it committed a manifest error and breached the principle of equal treatment.
4. Fourth plea in law, alleging that the defendant committed a number of errors in relation to the award criterion of 'Security of the supply chain'. Specifically, the EU breached the principle of equal treatment and its duty to state reasons by treating the winning bidder's tender more favourably than the applicant's, with no objective justification, despite the two proposals being comparable in key aspects. The defendant also committed a manifest error in relation to the assessment of a number of elements of the applicant's proposal relevant to the award criterion of the security of the supply chain.

Action brought on 5 December 2020 — WIZZ Air Hungary v Commission

(Case T-718/20)

(2021/C 53/62)

Language of the case: English

Parties

Applicant: WIZZ Air Hungary Légitársaság Zrt. (WIZZ Air Hungary Zrt.) (Budapest, Hungary) (represented by: E. Vahida, S. Rating and I. Metaxas-Maranghidis, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the European Commission's decision (EU) of 24 February 2020 in State aid Case SA.56244 — Rescue aid to Tarom ⁽¹⁾; and
- order the European Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the rescue aid to Tarom does not satisfy the compatibility condition of the European Commission's Rescue and Restructuring Guidelines ⁽²⁾ regarding the need for the rescue aid to contribute to an objective of genuine common interest because the Commission failed to assess the significance of Tarom on the domestic and international air transport markets and the likelihood of substitution of Tarom.
2. Second plea in law, alleging that the rescue aid does not satisfy the 'one time, last time' compatibility condition of the Rescue and Restructuring Guidelines because Tarom's previous restructuring period lasted until 2019, *i.e.*, less than ten years before the European Commission approved new rescue aid to Tarom through its decision of 24 February 2020.
3. Third plea in law, alleging that the European Commission failed to initiate a formal investigation procedure despite serious difficulties and violated the Applicant's procedural rights.
4. Fourth plea in law, alleging that the European Commission violated its duty to state reasons.

⁽¹⁾ OJ 2020, C 310, p. 3

⁽²⁾ Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, OJ 2014, C 249, p. 1.

Action brought on 14 December 2020 — OM v Commission

(Case T-728/20)

(2021/C 53/63)

Language of the case: French

Parties

Applicant: OM (represented by: N. de Montigny, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should

- annul the decision rejecting requests for reimbursement 247-251 and 252-256;
- annul the decision of 23 March 2020 rejecting the complaint;
- order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant invokes first of all the admissibility of her action against a decision notified through the rejection, dated 23 March 2020, of her complaint made on 5 December 2019, which the applicant considers to be a new decision, adopted on the basis of a new examination of her situation, after the administration accepted the main argument developed through her first complaint. As regards the substance, the applicant relies on four pleas in law:

1. First plea in law, alleging that the decisions are contradictory in relation to the change in reasoning following the previous reimbursement of similar expenses.
2. Second plea in law, alleging the lack of a specific and thorough examination of the requests for reimbursement of the medical expenses at issue.
3. Third plea in law, alleging failure to comply with the right to be heard.
4. Fourth plea in law, alleging manifest error of assessment of the file.

Action brought on 16 December 2020 — Boquoi Handels v EUIPO (Representation of an ice crystal on a blue circular background)

(Case T-734/20)

(2021/C 53/64)

Language of the case: German

Parties

Applicant: Boquoi Handels OHG (Grünwald, Germany) (represented by: S. Lorenz, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for EU figurative mark (Representation of an ice crystal on a blue circular background) — Application for registration No 17 970 116

Contested decision: Decision of the Second Board of Appeal of EUIPO of 25 September 2020 in Case R 522/2020-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO to pay the costs.

Plea in law

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

Action brought on 15 December 2020 — Planistat Europe and Charlot v Commission**(Case T-735/20)**

(2021/C 53/65)

*Language of the case: French***Parties**

Applicants: Planistat Europe (Paris, France), Hervé-Patrick Charlot (Paris) (represented by: F. Martin Laprade, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- declare that the European Commission is non-contractually liable under the provisions of Article 340 TFEU:
 - for committing a sufficiently serious infringement of the principle of duty of care and of good administration;
 - for committing a sufficiently serious infringement of the rights of defence;
 - for committing a sufficiently serious infringement of the obligation of confidentiality;
 - thereby causing material and/or non-material damage to the company Planistat and to its director Mr Charlot;

and consequently,

- order the European Commission to pay the sum of EUR 150 000 in respect of the non-material damage suffered by Hervé-Patrick Charlot;
- order the European Commission to pay the sum of EUR 11 600 000 in respect of the material damage suffered by the applicants;
- order the European Commission to reimburse the total costs of the proceedings incurred by the company Planistat and Hervé-Patrick Charlot.

Pleas in law and main arguments

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

1. First plea, alleging infringement of the duty of care and of the right to good administration based on false accusations made by the Anti-fraud office (OLAF) and the European Commission against the applicants, whose innocence has been definitively confirmed on 16 June 2016 by the French Court of Cassation. In that regard, the applicants claim that:
 - the European Union administration did not take into account the legitimate interests of the applicants who were unjustly and falsely accused of criminal offences, and thus failed to fulfil its duty of care towards them;
 - the right to good administration clearly covers the right of everyone not to be made the object of false accusations by agents and institutions of the Union.

2. Second plea, alleging infringement of the right to good administration and infringement of the rights of defence and of the principle of the presumption of innocence based on the culpably thoughtless conduct displayed by OLAF in its false accusations of the applicants before the French authorities, carried out by letter of 19 March 2003. The applicants take the view in that regard that:
 - OLAF displayed haste incompatible with the obligation to respect a reasonable period in providing the information to the French authorities on the day following the opening of the external investigation of the applicants;
 - OLAF should have given the applicants the same treatment as that given to European officials and waited until it had additional information available to it in order to take a better-informed decision;
 - OLAF should have taken the precaution of notifying the applicants in advance, in order to receive their explanations in the context of an adversarial exchange;
 - OLAF should not have used very strong phrases expressing the sentiment that the applicants were guilty of ‘looting’ to the detriment of community funds.
3. Third plea, alleging infringement of the obligation of confidentiality with regard to personal data, infringement of the right to good administration and of the principle of the presumption of innocence based on ‘leaks’ which came from OLAF with regard to the substance of its false accusations of 19 March 2003. In that regard, the applicants take the view that:
 - OLAF did not respect the obligation of confidentiality to which it was bound in the context of its investigations;
 - OLAF infringed the principle of good administration in so far as it includes the right to have one’s affairs treated with respect for confidentiality;
 - OLAF infringed the principle of the presumption of innocence by allowing the information that was the object of its false accusation against the applicants to be leaked.
4. Fourth plea, alleging infringement of the right to good administration, as well as of the principle of the presumption of innocence on the basis of the submission of a complaint together with an application to be joined as a civil party, and of the European Commission’s public communication in July 2003. The applicants claim that:
 - the Commission displayed haste incompatible with the obligation to respect a reasonable time period;
 - the Commission should have waited for the conclusions of OLAF’s investigation in order to take a better informed decision concerning a possible submission of a complaint together with an application to be joined as a civil party;
 - the Commission did not display impartiality with regard to the applicants since it favoured its own financial interests, although those interests were not seriously threatened;
 - the Commission infringed the principle of the presumption of innocence by publishing its press release of 9 July 2003.

Action brought on 16 December 2020 — Ryanair v Commission

(Case T-737/20)

(2021/C 53/66)

Language of the case: English

Parties

Applicant: Ryanair DAC (Swords, Ireland) (represented by: E. Vahida, F. Laprévote, V. Blanc, S. Rating and I. Metaxas-Maranghidis, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the European Commission's decision (EU) of 3 July 2020 on State Aid SA.56943 (2020/N) — Latvia — COVID-19: Recapitalisation of airBaltic ⁽¹⁾; and
- order the European Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the European Commission misapplied Article 107(3)(b) TFEU and its communication Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak and committed a manifest error of assessment by finding that the aid addresses a serious disturbance in the Latvian economy, that airBaltic is eligible to aid, and that the conditions regarding distortions to competition, the State's exit and restructuring were satisfied, by violating its obligation to weigh the beneficial effects of the aid against its adverse effects on trading conditions and the maintenance of undistorted competition (*i.e.*, the 'balancing test'), and by finding that airBaltic had no significant market power.
2. Second plea in law, alleging that the decision violates specific provisions of the TFEU and the general principles of European law that have underpinned the liberalisation of air transport in the EU since the late 1980s (*i.e.*, non-discrimination, free provision of services and free establishment).
3. Third plea in law, alleging that the European Commission failed to initiate a formal investigation procedure despite serious difficulties and violated the applicant's procedural rights.
4. Fourth plea in law, alleging that the European Commission violated its duty to state reasons.

⁽¹⁾ OJ 2020, C 346/1, p. 2

Action brought on 17 December 2020 — Deutshtec v EUIPO — Group A (HOLUX)

(Case T-738/20)

(2021/C 53/67)

Language of the case: English

Parties

Applicant: Deutshtec GmbH (Petershagen/Eggersdorf, Germany) (represented by: R. Arnade, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Group A NV (Hasselt, Belgium)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union word mark HOLUX — Application for registration No 17 371 378

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 7 October 2020 in Case R 223/2020-4

Form of order sought

The applicant claims that the Court should:

- annul the contested decision and the decision of the Opposition Division of EUIPO of 26 November 2019 in case B 3 051 677 to the extent it upholds the opposition;
- order EUIPO to bear the costs.

Plea in law

- The contested decision lacks the necessary conclusion drawn from the fact that the terms ‘common metal and alloys thereof’ as well as ‘metal goods’ in Class 6 are too vague. Furthermore, it lacks a diligent analysis whether the addressees in the market would consider goods deriving from the same origin.

Action brought on 18 December 2020 — UPL Europe and Indofil Industries (Netherlands) v Commission

(Case T-742/20)

(2021/C 53/68)

Language of the case: English

Parties

Applicants: UPL Europe Ltd (Warrington Cheshire, United Kingdom) and Indofil Industries (Netherlands) BV (Amsterdam, Netherlands) (represented by: C. Mereu and P. Sellar, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- declare the application admissible and well-founded;
- annul the Commission's Implementing Regulation (EU) 2020/2087 concerning the non-renewal of the approval of the active substance mancozeb, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011 ⁽¹⁾ ('the Contested Act'); and,
- order the defendant to pay the costs of these 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 that an essential procedural requirement has been infringed by a failure to comply with the procedure in Articles 11 to 14 of Regulation 844/2012. ⁽²⁾
2. Second plea in law, alleging that the assessment procedure has been further vitiated by an infringement of the applicants' rights of defence.

3. Third plea in law, alleging that the assessment procedure was vitiated by an infringement of the principle of sound and good administration, and the defendant's failure to act with impartiality in the course of the procedure.
4. Fourth plea in law, alleging that the assessment procedure has been vitiated by a manifest error of assessment in that the defendant took the irrelevant facts of the proposed Reprotoxic 1B classification and the intrinsic properties of the substance's metabolite ETU into account.
5. Fifth plea in law, alleging that the assessment procedure has been vitiated by an infringement of the principle of legitimate expectation.

⁽¹⁾ OJ 2020 L 423, p. 50.

⁽²⁾ Commission Implementing Regulation (EU) No 844/2012 of 18 September 2012 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market (OJ 2012 L 252, p. 26).

Action brought on 21 December 2020 — Airoidi Metalli v Commission

(Case T-744/20)

(2021/C 53/69)

Language of the case: English

Parties

Applicant: Airoidi Metalli SpA (Molteno, Italy) (represented by: M. Campa, D. Rovetta, G. Pandey and V. Villante, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul Commission Implementing Regulation (EU) 2020/1428 of 12 October 2020, imposing a provisional anti-dumping duty on imports of aluminium extrusions originating in the People's Republic of China ⁽¹⁾;
- order measures of inquiry;
- order the Commission to bear its own and the applicant's legal costs in the present 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 a breach of Article 1(2) of the Basic Regulation in that the defendant incorrectly defined the product concerned by relying on Product Production Methods ('PPM'), on incorrect reference to tariff classification codes of the EU Combined Nomenclature. The defendant also erred in law by considering that products 'made in aluminium' automatically qualified as products concerned.
2. Second plea in law, alleging a breach of Articles 1(2) and 3(2) of the Basic Regulation as well as a manifest error of assessment concerning the scope of the product concerned and the evaluation of imports from the country concerned for the injury analysis purposes.
3. Third plea in law, alleging a breach of Article 2 (6) (a) of Basic Regulation in that the Commission performed a wrong choice of the 'appropriate representative' country.

4. Fourth plea in law, alleging a breach of Article 19 (a) of the Basic Regulation and Article 41 of the Charter of Fundamental Rights of the European Union and of the applicant's rights of defence as well as of the principles of proportionality and equality of arms. The applicant argues that it did not receive a proper pre-disclosure and that the system of pre-disclosure foreseen by the Basic Regulation vis-à-vis importers is unlawful.
5. Fifth plea in law, alleging a breach of Article 2(6) (a) of the Basic Regulation concerning the legal status of the Report by which the Commission establishes the existence of significant market distortions in a certain country or a certain sector in that country. The applicant argues a violation of its fundamental rights given that it could not receive the above Report in Italian language.

(¹) OJ 2020, L 336, p. 8.

Action brought on 21 December 2020 — Symphony Environmental Technologies and Symphony Environmental v Parliament and Others

(Case T-745/20)

(2021/C 53/70)

Language of the case: English

Parties

Applicants: Symphony Environmental Technologies plc (Borehamwood, United Kingdom), Symphony Environmental Ltd (Borehamwood) (represented by: G. Harvey, P. Selley, Solicitors, J. Holmes, QC and J. Williams, Barrister)

Defendants: European Parliament, Council of the European Union, European Commission

Form of order sought

The applicants claim that the Court should:

- find the defendants non-contractually liable under Article 340(2) TFEU and/or Article 41(3) of the Charter of Fundamental Rights in respect of the adoption of Article 5 and Recital 15 (insofar as they apply to oxo-biodegradable plastic) of Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (¹);
- consequently, order the defendants to pay the applicants' compensation in respect of the harm suffered, including any additional harm suffered during the course of the proceedings, and/or likely foreseeable harm, together with interest payable, at an amount and rate to be determined in the course of these proceedings;
- in the alternative, order the parties to produce to the Court, within a reasonable period of time after the date of the judgment, figures as to the amount of the compensation arrived at by agreement between the parties or, in the absence of agreement, to order the parties to produce to the Court within the same period their submissions with figures;
- in any event, order the defendants to pay the applicants' costs and expenses in connection with these proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that by their conduct in connection with the preparation and the adoption of the Article 5 prohibition, the defendants have acted unlawfully and committed a breach of their non-contractual duties owed to the applicants that must be made good under Article 340 TFEU and/or Article 41 of the Charter. The applicants allege that the adoption of the Article 5 prohibition is vitiated by procedural errors, unlawfully breaches the principle of proportionality and/or is based on manifest errors of assessment.
2. Second plea in law, alleging that on account of the defendants' (whether collective or individual) unlawful conduct, the applicants have suffered and/or are likely to suffer damage, including (a) loss of profits; (b) reputational damage; and/or (c) loss of company value.
3. Third plea in law, alleging that there is a sufficient causal connection between the defendants' (whether collective or individual) unlawful conduct and the damage sustained and/or likely to be sustained by the applicants.

(¹) OJ 2019, L 155, p. 1.

Action brought on 18 December 2020 — Grünig v Commission

(Case T-746/20)

(2021/C 53/71)

Language of the case: French

Parties

Applicant: Grünig KG (Bad Kissingen, Germany) (represented by: Y. Melin and B. Vigneron, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul, pursuant to Article 263 TFEU, Article 1(4) of Commission Implementing Regulation (EU) 2020/1336 of 25 September 2020 imposing definitive anti-dumping duties on imports of certain polyvinyl alcohols originating in the People's Republic of China in that the European Commission infringed Article 9(5) of Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union by imposing an anti-dumping duty in a discriminatory manner by granting an exemption on the basis of the customs procedure of end-use;
- order the European Commission and any parties intervening in support of the Commission to pay all the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law alleging infringement of Article 9(5) of Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union (OJ 2016 L 176, p. 21) in that the contested regulation, namely Commission Implementing Regulation (EU) 2020/1336 of 25 September 2020 imposing definitive anti-dumping duties on imports of certain polyvinyl alcohols originating in the People's Republic of China (OJ 2020 L 315, p. 1) does not impose an anti-dumping duty on all imports found to be dumped and causing harm.

The applicant considers that the Commission imposed an anti-dumping duty on imports of a product in a discriminatory manner, in breach of Article 9(5) of Regulation 2016/1036 referred to above, in that it provides for an exemption from the anti-dumping duty on the basis of the customs procedure of end-use. Consequently, the provision of Regulation (EU) 2020/1336 is unlawful and should be annulled.

Action brought on 18 December 2020 — EOC Belgium v Commission

(Case T-747/20)

(2021/C 53/72)

Language of the case: French

Parties

Applicant: EOC Belgium (Oudenaarde, Belgium) (represented by: Y. Melin, and B. Vigneron, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul Article 1(4) of Commission Implementing Regulation (EU) 2020/1336 of 25 September 2020 imposing definitive anti-dumping duties on imports of certain polyvinyl alcohols originating in the People's Republic of China in accordance with Article 263 TFEU, in that the European Commission infringed Article 9(5) of Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union, by imposing an anti-dumping duty in a discriminatory manner by granting an exemption on the basis of the end-use customs regime;
- order the European Commission and any parties intervening in support of the Commission to pay all the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law, which is, essentially, identical or similar to the plea raised in Case T-746/20, *Grünig v Commission*.

Action brought on 18 December 2020 — Correia v EESC

(Case T-750/20)

(2021/C 53/73)

Language of the case: French

Parties

Applicant: Paula Correia (Woluwe-Saint-Étienne, Belgium) (represented by: L. Levi and M. Vandenbussche, lawyers)

Defendant: European Economic and Social Committee

Form of order sought

The applicant claims that the General Court should:

- declare the present action admissible and well founded;

in consequence order:

- annulment of the decision of EESC of 8 April 2020 rejecting the applicant's request for career reconstitution and, if necessary, the annulment of the implicit decision rejecting the complaint of 8 November 2020;
- EESC to pay remuneration arrears and derived financial benefits, together with late payment interest fixed at the European Central Bank rate increased by 2 points;
- EESC to pay EUR 2 000 for non-material harm;
- the defendant to pay all the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the procedural guarantees set out in Article 41 of the Charter of Fundamental Rights of the European Union ('the Charter') and infringement of the principle of non-discrimination. The applicant claims that the way in which the European Economic and Social Committee (EESC) takes decisions regarding the promotion or reclassification of temporary agents of groups secretariats adversely affects the procedural guarantees of Article 41 of the Charter. This is true of all the decisions not to promote or reclassify the applicant since her entry into service. The applicant states that, first, those decisions lack any reasoning and, second, no legislation, general decision or communication indicates which criteria are accepted and applied to identify who amongst the temporary agents will be promoted or reclassified.
2. Second plea in law, alleging infringement of the principles of legal certainty. The applicant considers in this respect that although EESC has discretion to fix the criteria and rules for the application of Article 10 of the Conditions of Employment of Other Servants of the European Union, those criteria and rules must, however, guarantee the degree of predictability required by EU law. It is clear that this not the case since there exist no criteria, in particular clear and transparent criteria, allowing temporary agents to know how and under which conditions a promotion or reclassification will occur entailing the conclusion of a supplementary agreement.
3. Third plea in law, alleging manifest error of assessment, on the ground that the decision to reclassify the applicant only on three occasions since 2004 is vitiated by a manifest error of assessment, even if it was necessary to take into account the criteria stemming from the alleged consistent practice applicable within EESC.
4. Fourth plea in law, alleging infringement of the duty to have regard for the welfare of officials. The applicant claims that her interests were not taken into account when the authority empowered to conclude contracts decided which agents would be promoted or reclassified, and this being so since her entry into service.

Action brought on 18 December 2020 — KL v EIB

(Case T-751/20)

(2021/C 53/74)

Language of the case: French

Parties

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

Defendant: European Investment Bank

Form of order sought

The applicant claims that the Court should:

- declare the present action admissible and well founded;
- consequently, annul the EIB's decision of 18 May 2020 according to which the applicant's medical certificates from 18 March to 18 April and from 20 April to 20 May 2020 are invalid under Article 3.3 of Annex X to the administrative provisions;
- in so far as necessary, annul the decision dated 12 September 2020 rejecting the applicant's administrative action against the initial decision of 18 May 2020;
- order the EIB to pay compensation for the non-material damage suffered by the applicant;
- order the EIB to pay all the costs.

Pleas in law and main arguments

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

1. First plea, alleging infringement of Article 3.3 of Annex X to the administrative provisions. The applicant is of the opinion, *inter alia*, that that article is not applicable, on the ground that there is, in this instance, no justified case which would allow the medical service to reject the medical certificates which he has submitted.
2. Second plea, alleging infringement of the duty of care and of the principle of proportionality, as well as an abuse of rights. The applicant claims in that regard that the defendant's attitude only serves to worsen his medical situation, which is already extremely fragile, on the ground that the contested decisions, by denying the validity of his two medical certificates for the periods from 18 March to 18 April and from 20 April to 20 May 2020 and by threatening him with disciplinary proceedings, seriously exacerbate his general state of anxiety.

Action brought on 21 December 2020 — IMG v Commission

(Case T-752/20)

(2021/C 53/75)

Language of the case: French

Parties

Applicant: International Management Group (IMG) (Brussels, Belgium) (represented by: L. Levi and J.-Y. de Cara, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- declare the present action admissible and well founded;
- and therefore,
- rule that the European Commission has incurred non-contractual liability;
- order the defendant to pay compensation for the damage sustained by the applicant, valued, subject to any adjustment, at EUR 10 000 per month for a period beginning in mid-December 2015 and running until delivery of the judgment to be given, in respect of the non-material damage, and at EUR 2,1 million in respect of the material damage (to be increased by late payment interest);
- order the defendant to pay all the costs.

Pleas in law and main arguments

In support of its action seeking compensation for the material and non-material damage which it claims to have sustained as a result of the conduct of the Commission and of the European Anti-Fraud Office (OLAF) in the investigation concerning it, the applicant puts forward the following arguments:

1. As regards OLAF's misconduct, the applicant alleges the following illegalities:
 - a) As regards the legal framework of the investigation, the applicant alleges infringement of Article 1 of Regulation No 883/2013, ⁽¹⁾ Article 2 of Decision 1999/352, ⁽²⁾ Article 8.1 of the Guidelines on Investigation Procedures for OLAF staff and of the duty of due diligence.
 - b) As regards the misinterpretation of the concept of international organisation, the applicant alleges infringement of Articles 53 and 53d of Regulation No 1605/2002, ⁽³⁾ Article 43 of Regulation No 2342/2002 ⁽⁴⁾ and, where appropriate, of Article 58 of Regulation No 966/2012 ⁽⁵⁾ and Article 43 of Regulation No 1268/2012. ⁽⁶⁾ The applicant also alleges violation of international law and breach of the duty of due diligence.
 - c) As regards the conduct of the investigation, the applicant alleges infringement of Article 9 of Regulation No 883/2013, Article 8.5 of OLAF's guidelines, the principle of impartiality, the rules on the taking of evidence, the duty of due diligence and the presumption of innocence.
 - d) As regards the drafting of the report, the applicant alleges infringement of Article 9 of Regulation No 883/2013, the principle of impartiality, the rules on the taking of evidence, the duty of due diligence and the presumption of innocence.
2. As regards the misconduct of OLAF and of the Commission, the applicant submits that, on account of leaks that led to the publication of OLAF's final report, the Commission and OLAF infringed their duty of confidentiality, Article 10 of Regulation No 883/2013, Article 8 of OLAF's guidelines and Article 339 TFEU, and the duty of due diligence and care.

⁽¹⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ 2013 L 248, p. 1).

⁽²⁾ Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing the European Anti-fraud Office (OLAF) (OJ 1999 L 136, p. 20).

⁽³⁾ Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ 2002 L 248, p. 1).

⁽⁴⁾ Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ 2002 L 357, p. 1).

⁽⁵⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ 2012 L 298, p. 1).

⁽⁶⁾ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ 2012 L 362, p. 1).

Action brought on 21 December 2020 — Green Power Technologies v Commission

(Case T-753/20)

(2021/C 53/76)

Language of the case: Spanish

Parties

Applicant: Green Power Technologies, SL (Bollullos de la Mitación, Spain) (represented by: A. León González and A. Martínez Solís, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- declare and hold that OLAF, by its report of 9 July 2018, and the Commission, by its decision to ratify and validate that report in the context of the recovery proceedings initiated, infringed the EU acquis and, consequently, annul that report and the proceedings initiated by the Commission;
- declare and hold that the applicant correctly fulfilled its contractual obligations under the POWAIR project (project number: 256759) and consequently declare the expenses, the recovery of which was requested through debit notes No 3242010798 and No 3242010800 issued by the Commission, to be eligible;
- on that basis, declare that the Commission's claim for the sum of EUR 175 426,24 is unlawful and unfounded and consequently annul debit notes No 3242010798 and No 3242010800 issued by the Commission and the pre-information letter of 24 May 2019 (Ares (2019)3414531) that gave rise to that claim and the measures subsequent to it;
- in the alternative, in the event that the debit note is not held to be invalid, declare that the Commission is liable for unjust enrichment;
- order the Commission to pay the costs or, in the event that the forms of order sought in the present action are not granted, refrain from ordering the applicant to pay the costs, in view of the complexity of the present case, and the issues of fact and law that it presents.

Pleas in law and main arguments

The present action seeks, first, that the Court declare and hold that OLAF has infringed the EU acquis and, following that finding, that it annul the abovementioned report (ref. B.4(2017)4393 Case No OF/2015/0759/B4).

By this action, the applicant also requests, on the basis of Article 272 TFEU, that it be declared and held that it has correctly fulfilled its contractual obligations under the contract concluded in the context of the 7th Research Framework Programme Grant Agreement ('FP7'), as a participant in the POWAIR project (Project No 256759) and consequently that it be held that there is no need to order the repayment of the sums claimed and the payment of the damages set out in debit notes No 3242010798 and No 3242010800 issued by the Commission.

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

1. First plea in law, alleging infringement of fundamental rights of the European Union.

- The applicant submits in that regard that in the present case there has been a manifest infringement of the fundamental rights guaranteed by the Treaties and of the EU acquis. In support of this, not only are all the expenses the recovery of which is sought eligible, since all the projects were fully implemented, but in addition flagrant defects arose in the course of the proceedings which infringe the EU acquis.

2. Second plea in law, based on the eligibility of the expenses the recovery of which is sought.

- The applicant submits in that regard that OLAF and the Commission make claims based on points which are both irrelevant and incorrect.

- The applicant also maintains that neither OLAF nor the Commission have managed to understand correctly the applicant undertaking's technology-based business model, despite its arguments during the investigation phase undertaken by OLAF. Consequently, from the wording of some observations which appear in the final report and which are taken to be accurate by the Commission in the adversarial proceedings initiated, it can be inferred that evidence was obtained as the result of an incorrect and biased assessment of the reality of the applicant's subsidised activity.
 - In any event, it must be considered that OLAF's conclusion that GPTech did not have a system in place allowing it to know the cost of implementing each subsidised project is incorrect.
3. Third plea in law, based on the eligibility of the expenses claimed.
- In that regard, the applicant categorically denies having failed to comply with its contractual obligations.
 - The applicant states that it had to dedicate a large part of its resources to participation in the project. The work carried out had a marked impact on the undertaking's workers and contributed to the development of the technology plan. In other words, in short, what R & D subsidies are intended to achieve is not only an economic impact on the undertaking but also a technological impact which, in the present case, was clearly achieved.
 - The applicant states that OLAF simplistically and indiscriminately uses, as a quantitative measure of the degree of participation in the project, subjective estimates of time dedicated to specific activities, by seeking to use, as a measure of that degree of participation, the percentages of participation in tasks, although there was no commitment in any technical annex concerning such a degree of participation.
4. Fourth plea in law, based on infringement of the right to sound administration (Article 41 of the Charter) and the rights of the defence (Articles 47 and 48 of the Charter).
- As regards Annex 16 to OLAF's final report and the Commission's observations, the applicant emphasises the failure to state reasons which vitiates the present recovery procedure.
 - The applicant also highlights the fact that the conclusions reached by both OLAF and the Commission are based on documents which do not reflect the totality and the true nature of the project, either because they relate to only some of the activities that comprise the POWAIR project; or because they are based on initial documentation which cannot be used to assess the final implementation of the project; or because they designate the authors of documents by using metadata from Word files which do not reflect the true situation.
5. Fifth plea in law, based on the Commission's unjust enrichment, since the projects were implemented and completed, as the audits carried out prove.

Action brought on 21 December 2020 — Nissan Motor v EUIPO — VDL Groep (VDL E-POWER)

(Case T-755/20)

(2021/C 53/77)

Language of the case: English

Parties

Applicant: Nissan Motor Co. Ltd (Yokohama-shi, Japan) (represented by: P. Martini-Berthon, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: VDL Groep BV (Eindhoven, Netherlands)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union word mark VDL E-POWER — Application for registration No 17 895 702

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 20 October 2020 in Case R 2914/2019-1

Form of order sought

The applicant claims that the Court should:

- allow the present applicant for annulment;
- annul the contested decision;
- order EUIPO and, as the case may be, the intervener to bear their own costs and pay those of the applicant.

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 94 of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 21 December 2020 — Nissan Motor v EUIPO — VDL Groep (VDL E-POWERED)

(Case T-756/20)

(2021/C 53/78)

Language of the case: English

Parties

Applicant: Nissan Motor Co. Ltd (Yokohama-shi, Japan) (represented by: P. Martini-Berthon, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: VDL Groep BV (Eindhoven, Netherlands)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union word mark VDL E-POWERED — Application for registration No 17 895 699

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 20 October 2020 in Case R 2915/2019-1

Form of order sought

The applicant claims that the Court should:

- allow the present applicant for annulment;

- annul the contested decision;
- order EUIPO and, as the case may be, the intervener to bear their own costs and pay those of the applicant.

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 94 of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 22 December 2020 — Monster Energy v EUIPO — Frito-Lay Trading Company (MONSTER)**(Case T-758/20)**

(2021/C 53/79)

*Language of the case: English***Parties**

Applicant: Monster Energy Co. (Corona, California, United States) (represented by: P. Brownlow, Solicitor)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Frito-Lay Trading Company GmbH (Bern, Switzerland)

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 MONSTER — European Union trade mark No 9 492 158

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 5 October 2020 in Case R 2927/2019-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- annul the decision of the Cancellation Division of 22 October 2019 to the extent that it revoked the Registration for goods in Class 30;
- dismiss the application for revocation of the Registration for goods in Class 30;
- order EUIPO to bear its own costs of the proceedings and pay those of the applicant.

Plea in law

- Incorrect application of Article 58(1)(a) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.
-

**Action brought on 22 December 2020 — Monster Energy v EUIPO — Frito-Lay Trading Company
(MONSTER ENERGY)**

(Case T-759/20)

(2021/C 53/80)

Language of the case: English

Parties

Applicant: Monster Energy Co. (Corona, California, United States) (represented by: P. Brownlow, Solicitor)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Frito-Lay Trading Company GmbH (Bern, Switzerland)

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 MONSTER ENERGY — European Union trade mark No 9 500 448

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 5 October 2020 in Case R 2928/2019-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- annul the decision of the Cancellation Division of 23 October 2019 to the extent that it revoked the Registration for goods in Class 30;
- dismiss the application for revocation of the Registration for goods in Class 30;
- order EUIPO to bear its own costs of the proceedings and pay those of the applicant.

Plea in law

- Incorrect application of Article 58(1)(a) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

**Action brought on 22 December 2020 — Sinopec Chongqing SVW Chemical and Others v
Commission**

(Case T-762/20)

(2021/C 53/81)

Language of the case: English

Parties

Applicants: Sinopec Chongqing SVW Chemical Co. Ltd (Chongqing, China), Sinopec Great Wall Energy & Chemical (Ningxia) Co. Ltd (Lingwu City, China), Central-China Company, Sinopec Chemical Commercial Holding Co. Ltd (Wuhan, China) (represented by: J. Cornelis, F. Graafsma and E. Vermulst, lawyers)

Defendants: European Commission

Form of order sought

The applicants claim that the Court should:

- annul Commission Implementing Regulation (EU) 2020/1336 of 25 September 2020 imposing definitive anti-dumping duties on imports of certain polyvinyl alcohols originating in the People's Republic of China ⁽¹⁾;
- orders the European Commission to pay the applicant's costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that Article 2(6a) of Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ('Basic Regulation') mandates an approach and creates an exception that is not provided for in the WTO Anti-Dumping Agreement ('ADA'), and therefore cannot be applied.
2. Second plea in law, alleging a violation of article 2(10) Basic Regulation, by the deduction of a notional commission from the export price charged by Sinopec Central China and a manifest error of assessment in finding that Sinopec Central China acts as an agent working on a commission basis, by not observing the fair comparison requirement and by making an upward adjustment to the normal value for non-recoverable VAT.
3. Third plea in law, alleging a violation of Article 18(1) and 18(5) Basic Regulation as well as Article 6.8 of and Annex II to the WTO Anti-Dumping Agreement by using a source for facts available that is punitive and is not the most fitting or appropriate information.
4. Fourth plea in law, alleging a violation of Articles 3(2) and 3(3) Basic Regulation and manifest error of assessment when establishing price undercutting and a consequent violation of Article 3(6) basic Regulation by failing to conduct a segmented price undercutting analyses, by failing to make the necessary adjustments for quality differences and by failing to establish price undercutting for the product as a whole.
5. Fifth plea in law, alleging a violation of the applicants' rights of defence by refusing to disclose certain information necessary to be able to comment on the undercutting analysis.

⁽¹⁾ OJ 2020, L 315, p. 1.

**Action brought on 23 December 2020 — Inner Mongolia Shuangxin Environment-Friendly Material
v Commission**

(Case T-763/20)

(2021/C 53/82)

Language of the case: English

Parties

Applicant: Inner Mongolia Shuangxin Environment-Friendly Material Co. Ltd (Ordos city, China) (represented by: J. Cornelis, F. Graafsma and E. Vermulst, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul Commission Implementing Regulation (EU) 2020/1336 of 25 September 2020 imposing definitive anti-dumping duties on imports of certain polyvinyl alcohols originating in the People's Republic of China;
- orders the European Commission to pay the applicant's costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that Article 2(6a) of Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ('Basic Regulation') mandates an approach and creates an exception that is not provided for in the WTO Anti-Dumping Agreement ('ADA'), and therefore cannot be applied.
2. Second plea in law, alleging a violation of Article 2(6a)(a) Basic Regulation by the defendant's manifest errors of assessment in misinterpreting the wording of Article 2(6a)(a) of the Basic Regulation in considering that Mexican financial statements were not readily available, in breaching its duty of care by failing to consider meaningful data that would discard Turkey as the appropriate representative country, and in not selecting Mexico as the most appropriate representative country.
3. Third plea in law, alleging a violation of Article 2(6a)(a) Basic Regulation by not constructing the normal value exclusively on the basis of undistorted values of corresponding factors of production.
4. Fourth plea in law, alleging a violation of Article 2(10) Basic Regulation.
5. Fifth plea in law, alleging a violation of Article 18 Basic Regulation by resorting to facts available when this was not justified.
6. Sixth plea in law, alleging a violation of Articles 3(2) and 3(3) Basic Regulation and manifest error of assessment when establishing price undercutting and a consequent violation of Article 3(6) basic Regulation by failing to conduct a segmented price undercutting analyses, by failing to make the necessary adjustments for quality differences and by failing to establish price undercutting for the product as a whole.
7. Seventh plea in law, alleging a violation of the applicant's rights of defence by refusing to disclose certain information necessary to be able to comment on the undercutting analyses.

Action brought on 23 December 2020 — Clean Sky 2 Joint Undertaking v NG

(Case T-767/20)

(2021/C 53/83)

Language of the case: Italian

Parties

Applicant: Clean Sky 2 Joint Undertaking (represented by: M. Velardo, lawyer, and B. Mastantuono, acting as Agent)

Defendant: NG

Form of order sought

The applicant claims that the Court should:

- order the defendant to pay Clean Sky 2 Joint Undertaking the sum of EUR 56 111,31 in relation to Grant Agreement No 271 874 WISMOA under the Seventh Framework Programme of the European Union, together with interest at the rate of 3,5 % set by the European Central Bank for its main refinancing operations, from 23 May 2019 until the date of actual payment;
- order the defendant to pay the costs of these proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on the following plea in law:

The defendant failed to fulfil his contractual obligations by failing to reimburse the amount relating to staff costs, held not to be eligible for funding. As a result, the applicant issued two debit notes for a total amount of EUR 56 111,31, already paid to Alpha Consulting Service Srl, in accordance with the provisions of the grant agreement. There is no doubt whatsoever in the present case as to the facts giving rise to the obligations incumbent on the defendant as shareholder and representative of Alpha Consulting Service Srl, which has been removed from the commercial register. The objections made by that company after the debit notes were issued are generic, incomplete and not supported by evidence and, therefore, appear to be entirely unfounded. As a result, the applicant is entitled to seek recovery and reimbursement of the amount paid, plus default interest.

Order of the General Court of 14 December 2020 — Mellifera v Commission**(Case T-393/18) ⁽¹⁾**

(2021/C 53/84)

Language of the case: German

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

⁽¹⁾ OJ C 294, 20.8.2018.

Order of the General Court of 16 December 2020 — PT v EIB**(Case T-418/18) ⁽¹⁾**

(2021/C 53/85)

Language of the case: Swedish

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

⁽¹⁾ OJ C 373, 15.10.2018.

Order of the General Court of 15 December 2020 — Spain v Commission**(Case T-241/19) ⁽¹⁾**

(2021/C 53/86)

Language of the case: Spanish

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

⁽¹⁾ OJ C 187, 3.6.2019.

Order of the General Court of 15 December 2020 — Broadcom v Commission**(Case T-876/19) ⁽¹⁾**

(2021/C 53/87)

Language of the case: English

The President of the Eighth Chamber, Extended Composition has ordered that the case be removed from the register.

⁽¹⁾ OJ C 61, 24.2.2020.

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