Official Journal of the European Union

C 98

English edition

Information and Notices

Volume 64

22 March 2021

Contents

IV *Notices*

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

Court of Justice of the European Union

2021/C 98/01 Last publications of the Court of Justice of the European Union in the *Official Journal of the European Union* 1

V *Announcements*

COURT PROCEEDINGS

Court of Justice

2021/C 98/02 Case C-600/20 P: Appeal brought on 10 November 2020 by Ms Anne-Marie Klose against the judgment of the General Court (Fifth Chamber) delivered on 9 September 2020 in Case T-81/20, Anne-Marie Klose v European Union Intellectual Property Office (EUIPO) 2

2021/C 98/03 Case C-640/20 P: Appeal brought on 23 November 2020 by PV against the judgment delivered by the General Court (Fifth Chamber) on 30 January 2020 in Joined Cases T-786/16 and T-224/18, PV v Commission 2

2021/C 98/04 Case C-643/20: Request for a preliminary ruling from the Veszprémi Törvényszék (Hungary) lodged on 30 November 2020 — ENERGOTT Fejlesztő és Vagyonkezelő Kft. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága 3

2021/C 98/05 Case C-670/20: Request for a preliminary ruling from the Ráckevei Járásbíróság (Hungary) lodged on 8 December 2020 — EP and Others v ERSTE Bank Hungary Zrt. 4

2021/C 98/06 Case C-673/20: Request for a preliminary ruling from the tribunal judiciaire d'Auch (France) lodged on 9 December 2020 — EP v Préfet du Gers, Institut National de la Statistique et des Études Économiques 5

2021/C 98/07 Case C-675/20 P: Appeal brought on 11 December 2020 by Colin Brown against the judgment of the General Court (Fourth Chamber, Extended Composition) delivered on 5 October 2020 in Case T-18/19, Brown v Commission 6

EN

2021/C 98/08 | Case C-701/20: Request for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 22 December 2020 — Avis Autovermietung Gesellschaft mbH v Verein für Konsumenteninformation | 7

2021/C 98/09 | Case C-718/20 P: Appeal brought on 28 December 2020 by Zhejiang Jiuli Hi-Tech Metals Co. Ltd against the judgment of the General Court (Sixth Chamber) delivered on 15 October 2020 in Case T-307/18, Zhejiang Jiuli Hi-Tech Metals v Commission . . . . | 7

2021/C 98/10 | Case C-14/21: Request for a preliminary ruling from the Tribunale Amministrativo Regionale per la Sicilia (Italy) lodged on 8 January 2021 — Sea Watch E.V. v Ministero delle Infrastrutture e dei Trasporti, Capitaneria di Porto di Palermo . . . . | 9

2021/C 98/11 | Case C-15/21: Request for a preliminary ruling from the Tribunale Amministrativo Regionale per la Sicilia (Italy) lodged on 8 January 2021 — Sea Watch E.V. v Ministero delle Infrastrutture e dei Trasporti, Capitaneria di Porto di Porto Empedocle . . . . | 11

2021/C 98/12 | Case C-20/21: Request for a preliminary ruling from the Landgericht Frankfurt am Main (Germany) lodged on 13 January 2021 — JW, HD, XS v LOT Polish Airlines . . . . | 13

2021/C 98/13 | Case C-31/21: Request for a preliminary ruling from the Corte suprema di cassazione (Italy) lodged on 19 January 2021 — Eurocostruzioni Srl v Regione Calabria . . . . | 14

2021/C 98/14 | Case C-34/21: Request for a preliminary ruling from the Verwaltungsgericht Wiesbaden (Germany) lodged on 20 January 2021 — Hauptpersonalrat der Lehrerinnen und Lehrer beim Hessischen Kultusministerium . . . . | 15

2021/C 98/15 | Case C-35/21: Request for a preliminary ruling from the Varhoven kasatsionen sad (Bulgaria) lodged on 19 January 2021 — ‘Konservinvest’ OOD v ‘Bulkons Parvomay’ OOD . . . . | 15

2021/C 98/16 | Case C-42/21 P: Appeal brought on 27 January 2021 by Lietuvos geležinkeliai AB against the judgment of the General Court (First Chamber, Extended Composition) delivered on 18 November 2020 in Case T-814/17, Lietuvos geležinkeliai v Commission . . . . | 16

2021/C 98/17 | Case C-46/21 P: Appeal brought on 27 January 2021 by European Union Agency for the Cooperation of Energy Regulators against the judgment of the General Court (Second Chamber) delivered on 18 November 2020 in Case T-735/18, Aquind v ACER . . . . | 17

2021/C 98/18 | Case C-60/21: Action brought on 1 February 2021 — European Commission v Kingdom of Belgium | 18

General Court

2021/C 98/19 | Case T-110/19: Judgment of the General Court of 3 February 2021 — Kazembe Musonda v Council (Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant’s name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Presumption of innocence — Proportionality — Plea of illegality) . . . . | 19

2021/C 98/20 | Case T-111/19: Judgment of the General Court of 3 February 2021 — Boshab v Council (Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant’s name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Right to property — Presumption of innocence — Proportionality — Plea of illegality) . . . . | 20

2021/C 98/21 | Case T-113/19: Judgment of the General Court of 3 February 2021 — Kampete v Council (Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant’s name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Presumption of innocence — Proportionality — Plea of illegality) . . . . | 20

2021/C 98/22	Case T-116/19: Judgment of the General Court of 3 February 2021 — Kande Mupompa v Council (Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant's name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Right to property — Presumption of innocence — Proportionality — Plea of illegality)	21
2021/C 98/23	Case T-118/19: Judgment of the General Court of 3 February 2021 — Amisi Kumba v Council (Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant's name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Presumption of innocence — Proportionality — Plea of illegality)	22
2021/C 98/24	Case T-119/19: Judgment of the General Court of 3 February 2021 — Mutondo v Council (Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant's name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Presumption of innocence — Proportionality — Plea of illegality)	23
2021/C 98/25	Case T-120/19: Judgment of the General Court of 3 February 2021 — Numbi v Council (Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant's name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Presumption of innocence — Proportionality — Plea of illegality)	23
2021/C 98/26	Case T-121/19: Judgment of the General Court of 3 February 2021 — Ruhorimbere v Council (Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant's name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Presumption of innocence — Proportionality — Plea of illegality)	24
2021/C 98/27	Case T-122/19: Judgment of the General Court of 3 February 2021 — Ramazani Shadary v Council (Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant's name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Presumption of innocence — Proportionality — Plea of illegality)	25
2021/C 98/28	Case T-123/19: Judgment of the General Court of 3 February 2021 — Kanyama v Council (Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant's name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Presumption of innocence — Proportionality — Plea of illegality)	26

2021/C 98/29 — Case T-124/19: Judgment of the General Court of 3 February 2021 — Ilunga Luyoyo v Council (Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant's name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Presumption of innocence — Proportionality — Plea of illegality) 26

2021/C 98/30 — Case T-258/20: Judgment of the General Court of 3 February 2021 — Klymenko v Council (Common foreign and security policy — Restrictive measures taken having regard to the situation in Ukraine — Freezing of funds — List of the persons, entities and bodies covered by the freezing of funds and economic resources — Maintenance of the applicant's name on the list — Obligation of the Council of the European Union to verify that that decision was taken in accordance with the rights of defence and the right to effective judicial protection) 27

2021/C 98/31 — Case T-352/18: Order of the General Court of 4 February 2021 — Germann Avocats v Commission (Action for annulment and for damages — Public service contracts — Tendering procedure — Follow-up study on trade union practices on non-discrimination and diversity — Rejection of a tenderer's bid — Award criteria — Action in part manifestly lacking any foundation in law and in part manifestly inadmissible) 28

2021/C 98/32 — Case T-35/21: Action brought on 22 January 2021 — SFD v EUIPO — Allmax Nutrition (ALLNUTRITION DESIGNED FOR MOTIVATION) 28

2021/C 98/33 — Case T-38/21: Action brought on 19 January 2021 — Inivos and Inivos v Commission 29

2021/C 98/34 — Case T-40/21: Action brought on 25 January 2021 — Slovakia v Commission 30

2021/C 98/35 — Case T-50/21: Action brought on 26 January 2021 — About You v EUIPO — Safe-1 Immobilieninvest (Y/O/U YOUR ORIGINAL U) 31

2021/C 98/36 — Case T-51/21: Action brought on 26 January 2021 — About You v EUIPO — Safe-1 Immobilieninvest (Y/O/U YOUR ORIGINAL U) 32

2021/C 98/37 — Case T-69/21: Action brought on 1 February 2021 — Rotondaro v EUIPO — Pollini (COLLINI) . . . 33

2021/C 98/38 — Case T-72/21: Action brought on 3 February 2021 — Bowden and Young v Europol 33

2021/C 98/39 — Case T-74/21: Action brought on 5 February 2021 — Teva Pharmaceutical Industries and Cephalon v Commission 34

2021/C 98/40 — Case T-80/21: Action brought on 5 February 2021 — Cargolux v Commission 35

2021/C 98/41 — Case T-85/21: Action brought on 8 February 2021 — QF v Commission 36

2021/C 98/42 — Case T-602/20: Order of the General Court of 28 January 2021 — MS v Commission 36

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COURT OF JUSTICE OF THE EUROPEAN UNION

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

(2021/C 98/01)

Last publication

OJ C 88, 15.3.2021

Past publications

OJ C 79, 8.3.2021

OJ C 72, 1.3.2021

OJ C 62, 22.2.2021

OJ C 53, 15.2.2021

OJ C 44, 8.2.2021

OJ C 35, 1.2.2021

These texts are available on:

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

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Appeal brought on 10 November 2020 by Ms Anne-Marie Klose against the judgment of the General Court (Fifth Chamber) delivered on 9 September 2020 in Case T-81/20, Anne-Marie Klose v European Union Intellectual Property Office (EUIPO)

(Case C-600/20 P)

(2021/C 98/02)

Language of the case: German

Parties

Appellant: Anne-Marie Klose (represented by: I. Seher, Rechtsanwältin)

Other party to the proceedings: European Union Intellectual Property Office

By order of 11 February 2021, the Court of Justice of the European Union (Chamber determining whether appeals may proceed) decided not to allow the appeal to proceed and ordered the appellant to bear her own costs.

Appeal brought on 23 November 2020 by PV against the judgment delivered by the General Court (Fifth Chamber) on 30 January 2020 in Joined Cases T-786/16 and T-224/18, PV v Commission

(Case C-640/20 P)

(2021/C 98/03)

Language of the case: French

Parties

Appellant: PV (represented by: D. Birkenmaier, Rechtsanwalt)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— Set aside the judgment of 30 January 2020 in Joined Cases T-786/16 and T-224/18;

— Rule on the present dispute as well as on Joined Cases T-786/16 and T-224/18 as provided for in Article 170 of the Rules of Procedure of the Court of Justice;

— Order the respondent to pay the costs in respect of Case C-111/20 P as well as all the other costs of the proceedings relating to Cases T-786/16, T-224/18, T-224/18 R1 and T-224/18 R2.

Grounds of appeal and main arguments

1. The first ground of appeal relates to the incorrect interpretation of Articles 72 and 270 TFEU and of Article 23 of the Staff Regulations of Officials and to the finding of the General Court that the Staff Regulations constitute the sole source of law for ruling on disputes between agents and their institutions;

2. The second ground of appeal relates to an infringement of Article 4 TEU, of Article 41 of the Charter and of Article 11a of the Staff Regulations;

3. The third ground of appeal alleges an infringement of the general legal principle of *fraus omnia corrompit* and of Article 36 of the Statute of the Court of Justice;

4. The fourth ground of appeal relates to the finding that there was no breach of Articles 1, 3, 4, 31 and 41 of the Charter as well as of Articles 1e and 12a of the Staff Regulations;

5. The fifth ground of appeal concerns the use of 'substantively false certifications', a distorted interpretation of the third and fifth subparagraphs of Article 59(1) of the Staff Regulations and an infringement of Internal Commission Decision 92-2004 of 6 July 2014;

6. The sixth ground of appeal relates to intentionally fraudulent errors committed in regard to the application of the principle of the objection of non-performance in synallagmatic relationships;

7. The seventh ground of appeal alleges an infringement of Article 41 of the Charter and of Article 25 of the Staff Regulations as well as wilful silence relating to the fraudulent misuse of EUR 21 593,64 in salary arrears by the PMO;

8. The eighth ground of appeal relates to a distortion by omission of the consequences associated with the annulment of the first disciplinary procedure CMS 13/087;

9. The ninth ground of appeal alleges an infringement of Article 15 of the Charter;

10. The tenth ground of appeal, submitted in the alternative, alleges an infringement of the prohibition on adjudicating *ultra petita*.

Request for a preliminary ruling from the Veszprémi Törvényszék (Hungary) lodged on 30 November 2020 — ENERGOTT Fejlesztő és Vagyonkezelő Kft. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

(Case C-643/20)

(2021/C 98/04)

Language of the case: Hungarian

Referring court

Veszprémi Törvényszék

Parties to the main proceedings

Applicant: ENERGOTT Fejlesztő és Vagyonkezelő Kft.

Defendant: Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

Questions referred

1. Must Article 90(1) and (2) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ('the VAT Directive'), [1] be interpreted, having regard in particular the judgment [of 23 November 2017, *Di Maura* (C-246/16)], [2] the order [of 29 January 2020, *Porr Építési Kft.* (C-292/19)], [3] and the fundamental principles of the effectiveness of EU law and of equivalence, as meaning that Member States cannot set as the starting point of the limitation period, for the purposes of repayment of VAT relating to debts which have become definitively irrecoverable, a date prior to that on which the debt forming the basis of the VAT repayment application becomes irrecoverable?

2. Must Article 90(1) and (2) and Article 273 of the VAT Directive be interpreted, having regard in particular the judgment [of 23 November 2017, *Di Maura* (C-246/16)], the order [of 29 January 2020, *Porr Építési Kft.* (C-292/19)] and the fundamental principles of the effectiveness of EU law, equivalence and tax neutrality, as meaning that the practice of a Member State whereby, in the context of repayment of VAT relating to debts which have become irrecoverable and provided that that tax can be repaid, the authorities of the Member State responsible for applying the legislation require that, in addition to lodging a claim for the debt to which that tax relates in a winding-up procedure, the taxable person take further steps to settle that debt, is contrary to those principles?

3. Must Article 90(1) and (2) and Article 273 of the VAT Directive be interpreted, having regard in particular the judgment [of 23 November 2017, *Di Maura* (C-246/16)], the order [of 29 January 2020, *Porr Építési Kft.* (C-292/19)], and the fundamental principles of the effectiveness of EU law, equivalence and tax neutrality, as meaning that the legal practice of a Member State, whereby, in the event of non-payment, the company that provides the service in question must immediately cease to provide it since, by failing to proceed thus and instead continuing to provide that service, it will not be able to recover the VAT corresponding to the debts which have become definitively irrecoverable despite the fact that the impossibility of recovery arose subsequently, is contrary to the aforementioned provisions?

4. Must Article 90(1) and (2), Article 273 of the VAT Directive, and Articles 15 to 17 of the Charter of Fundamental Rights of the European Union be interpreted, having regard in particular the judgment [of 23 November 2017, *Di Maura* (C-246/16)], the order [of 29 January 2020, *Porr Építési Kft.* (C-292/19)], and the fundamental principles of the effectiveness of EU law, equivalence and tax neutrality, as meaning that the authorities of the Member State responsible for applying the legislation have established the requirements set out in Questions 2 to 4 referred for a preliminary ruling without any legal basis further to the judgment in *Porr Építési Kft.* (C-292/19), and that those conditions were not clear to the taxable persons concerned before those debts became definitively irrecoverable?

(1) OJ 2006 L 347, p. 1.
(2) EU:C:2017:887,
(3) EU:C:2019:901.

Request for a preliminary ruling from the Ráckevei Járásbíróság (Hungary) lodged on 8 December 2020 — EP and Others v ERSTE Bank Hungary Zrt.

(Case C-670/20)

(2021/C 98/05)

Language of the case: Hungarian

Referring court

Ráckevei Járásbíróság

Parties to the main proceedings

Applicants: EP, TA, FV and TB

Defendant: ERSTE Bank Hungary Zrt.

Questions referred

1. Having regard to the interpretation of Article 4(2) of Directive 93/13/EEC on unfair terms in consumer contracts [1] adopted in the judgment in *Andriciuc and Others*, C-186/16, [2] is a contractual term concerning foreign exchange risk which, without expressly establishing that that risk is to be borne exclusively and entirely by the debtor, contains only a declaration by the debtor in which it is stated that the latter ‘is fully aware of the possible risks of the transaction, and in particular the fact that fluctuations in the currency in question against the Hungarian forint can both increase and reduce the burden of repayment of the loan in forints[’], to be regarded as clear and unambiguous?

2. Does the contractual term described above satisfy the requirement, laid down in the judgment in *Andriciuc and Others*, C-186/16, that the consumer must be able to assess, on the basis of such a term, the potentially significant economic consequences of the assumption of foreign exchange risk with regard to his or her financial obligations, having regard to the fact that the document entitled [']Information on the general risks of foreign currency financing['], which the consumer signed when entering into the contract, makes reference in identical wording to the favourable and unfavourable effects of changes in the exchange rate, and thereby suggests that the typical trend in a stable exchange rate — also communicated by the Hungarian Banking Association — is that those favourable and unfavourable economic effects are offset in the long run?

3. Does the contractual term described above satisfy the requirement, laid down in the judgment in *Andriciuc and Others*, C-186/16, that the consumer must be able to assess, on the basis of such a term, the potentially significant economic consequences of such a term with regard to his or her financial obligations, where neither the contract nor the information document on the foreign exchange risk, which is signed when the contract is concluded, expressly or implicitly states that the increase in repayments may be significant or can also, in fact, reach any level?

4. Having regard to the interpretation of Article 4(2) of Directive 93/13/EEC on unfair terms in consumer contracts adopted in the judgment delivered in *Andriciuc and Others*, C-186/16, is a contractual term concerning the foreign exchange risk, in which it is not expressly stated that the foreign exchange risk is to be borne exclusively and entirely by the consumer, to be regarded as clear and unambiguous when it does not expressly follow from the terms of the contract that the increase in repayments may be significant and can also, in fact, reach any level?

5. Is the declaration made to that effect by the consumer, which is set out in general terms in a standard clause in the contract, sufficient per se to assess whether the information on the foreign exchange risk satisfies the requirement, laid down in the judgment delivered in *Andriciuc and Others*, C-186/16, that that information must allow the consumer to assess, on the basis of that term, the potentially significant economic consequences of the transfer of the foreign exchange risk with regard to his or her financial obligations, where no other clause in either the contract or the information document supports that finding?

6. Having regard to the content of the judgment delivered in *Andriciuc and Others*, C-186/16, is the interpretation given by the Kúria (Supreme Court, Hungary) according to which 'the fact that the defendant provided information on the foreign exchange risk in itself means that the applicant should realistically have expected that risk' in conformity with Article 4 (2) of Directive 93/13/EEC?

---

(1) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).
(2) Judgment of 20 September 2017, *Andriciuc and Others*, C-186/16, EU:C:2017:703.

Request for a preliminary ruling from the tribunal judiciaire d'Auch (France) lodged on 9 December 2020 — EP v Préfet du Gers, Institut National de la Statistique et des Études Économiques

(Case C-673/20)

(2021/C 98/06)

Language of the case: French

Referring court

Tribunal judiciaire d'Auch

Parties to the main proceedings

Applicant: EP

Defendants: Préfet du Gers, Institut National de la Statistique et des Études Économiques

Other party to the proceedings: Mayor of Thoux

Questions referred

1. Must Article 50 of the Treaty on European Union and the Agreement on the Withdrawal of the United Kingdom from the European Union be interpreted as revoking the EU citizenship of UK nationals who, before the end of the transition period, have exercised their right to freedom of movement and freedom to settle freely in the territory of another Member State, in particular for those who have lived in the territory of another Member State for more than 15 years and are subject to the UK 15-year rule, thus depriving them of any right to vote?

2. If so, is the combination of Articles 2, 3, 10, 12 and 127 of the Withdrawal Agreement, recital 6 of its Preamble, and Articles 18, 20 and 21 of the Treaty on the Functioning of the European Union to be regarded as having allowed those UK nationals to retain, without exception, the rights to EU citizenship which they enjoyed before the withdrawal of their country from the European Union?

3. If the answer to Question 2 is in the negative, is the Withdrawal Agreement not invalid in part in so far as it infringes the principles underlying EU identity, and, in particular, Articles 18, 20 and 21 of the Treaty on the Functioning of the European Union, and also Articles 39 and [40] of the Charter of Fundamental Rights of the European Union, and does it not infringe the principle of proportionality, in that it contains no provision permitting them to retain those rights without exception?

4. In any event, is Article 127(1)(b) of the Withdrawal Agreement not invalid in part in so far as it infringes Articles 18, 20 and 21 of the Treaty on the Functioning of the European Union, and also Articles 39 and 40 of the Charter of Fundamental Rights of the European Union, in that it deprives EU citizens who have exercised their right to freedom of movement and freedom to settle freely in the United Kingdom of the right to vote and to stand as candidates in municipal elections in that country and, if the General Court and the Court of Justice interpret them in the same way as the Conseil d'État (Council of State, France), does that infringement not extend to UK nationals who have exercised their freedom of movement and their freedom to settle freely in the territory of another Member State for more than 15 years and are subject to the UK 15-year rule, thus depriving them of any right to vote?

Appeal brought on 11 December 2020 by Colin Brown against the judgment of the General Court (Fourth Chamber, Extended Composition) delivered on 5 October 2020 in Case T-18/19, Brown v Commission

(Case C-675/20 P)

(2021/C 98/07)

Language of the case: English

Parties

Appellant: Colin Brown (represented by: I. Van Damme, advocaat)

Other parties to the proceedings: European Commission and Council of the European Union

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under the appeal not to annul the contested decision [1];

— conclude, on the basis of the complete record before it, that the contested decision should be annulled and order that the appellant's entitlement to the expatriation allowance and travel expenses should be restored with effect from 1 December 2017 and that the allowances which were not paid between 1 December 2017 and the date of re-establishment of the appellant's entitlement be paid to the appellant with interest; and

— order the Commission to pay the costs incurred by the appellant before the Court and the General Court.

Pleas in law and main arguments

First plea in law, alleging that the General Court erred in interpreting Article 4(1)(a) of Annex VII to the Staff Regulations as to permit or require the removal of an official's entitlement to an expatriation allowance on account of his obtaining the nationality of his place of employment, absent a change in the place of employment of the official.

Second plea in law, alleging that the application of Article 4(1)(b) of Annex VII to the Staff Regulations to the appellant by the General Court in its judgment, and the Commission in the contested decision, gives rise to unjustified discrimination.

(1) Decision of 19 March 2018 of the Office for the Administration and Payment of Individual Entitlements withdrawing the appellant's entitlement to the expatriation allowance and the payment of travel expenses with effect from 1 December 2017.

Request for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 22 December 2020 — Avis Autovermietung Gesellschaft mbH v Verein für Konsumenteninformation

(Case C-701/20)

(2021/C 98/08)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Appellant in the appeal on a point of law: Avis Autovermietung Gesellschaft mbH

Respondent in the appeal on a point of law: Verein für Konsumenteninformation

Question referred

Do the rules in Chapter VIII, in particular in Article 80(1) and (2) and Article 84(1), of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) [1] ('the GDPR'), preclude national rules which — alongside the powers of intervention of the supervisory authorities responsible for monitoring and enforcing the regulation and the options for legal redress for data subjects — empower, on the one hand, competitors and, on the other, associations, entities and chambers entitled under national law, to bring proceedings for breaches of the GDPR, independently of the infringement of specific rights of individual data subjects and without being mandated to do so by a data subject, against the infringer before the civil courts on the basis of the prohibition of unfair commercial practices or breach of a consumer protection law or the prohibition of the use of invalid general terms and conditions?

(1) OJ 2016 L 119, p. 1.

Appeal brought on 28 December 2020 by Zhejiang Jiuli Hi-Tech Metals Co. Ltd against the judgment of the General Court (Sixth Chamber) delivered on 15 October 2020 in Case T-307/18, Zhejiang Jiuli Hi-Tech Metals v Commission

(Case C-718/20 P)

(2021/C 98/09)

Language of the case: English

Parties

Appellant: Zhejiang Jiuli Hi-Tech Metals Co. Ltd (represented by: K. Adamantopoulos, dikigoros, P. Billiet, advocaat)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the contested judgment in its entirety;

— grant the form of order sought by the appellant in its action before the General Court and annul Commission Implementing Regulation (EU) No 2018/330 ([1]), in so far as it relates to the appellant, pursuant to Article 61 of the Statute of the Court of Justice;

— order the Defendant to pay the appellant's costs of this appeal and those of the proceedings before the General Court in Case T-307/18.

In the alternative, the appellant respectfully requests the Court of Justice to:

— refer the case to the General Court for it to rule on any of the appellant's pleas, as justified by the state of procedure; and

— reserve the costs.

Pleas in law and main arguments

According to the first plea, the General Court erred in law in concluding that the Commission had offered disclosure of all essential facts and considerations in good time to the appellants in the present case. Had the Commission complied with its duties under Article 20(2) and (4) of Regulation (EU) 2016/1036 ([2]) ('Basic Regulation'), the appellant would have submitted meaningful comments to the Commission and the resultant dumping determination would have been beneficial to the appellant. The General Court also distorted the facts when it held that the normal value for the appellant's casing and drilling SSSPT (seamless pipes and tubes of stainless steel) category was established by reference to product control numbers reported by the Indian producer.

According to the second plea, the contested judgment is vitiated by an error in law in considering that the legality of EU acts adopted pursuant to Article 2(7) of the Basic Regulation may not be reviewed in light of the Protocol on the Accession of the People's Republic of China to the WTO. Alternatively, the contested judgment is vitiated by an error in law by failing to recognise that Article 2(7) of the Basic Regulation is an exception from Articles 2(1) to (6) of that regulation that may specifically only be applied to China's imports into the EU by virtue of China's WTO Accession Protocol provisions 15(1)(d) and for as long as these provisions are in force. The use by the Commission of India as an analogue country in the appellant's case was erroneous under both EU and WTO law. This approach resulted in a finding by the Commission of a very high dumping margin for the appellant where there would have been none, had the Commission instead applied the provisions of Articles 2(1) to (6) of the Basic Regulation to the appellant. In addition, the General Court did not deal at all with the issue of inaccurate information provided to the Commission by the Indian producer in paragraph 154 of the contested judgment and, as a result, in subsequent parts thereof, although it had properly set out this argument of the appellant in paragraph 150 of the contested judgment.

According to the third plea, the General Court's findings are vitiated with errors in the application of Articles 2(10) and (11) as well as 11(9) of the Basic Regulation, which set out the obligation of EU Institutions to ensure, in the case of the appellant, a fair comparison between normal value and the appellant's export price.

According to the fourth plea, the General Court findings are vitiated by errors in law and distort the facts. The methodology adopted by the Commission for the determination of the coefficients applied to the normal value of the appellant's 'C' type SSSPTs; as well as the determination of the normal value of the appellant's 'casing and drilling' SSSPTs was erroneous and did not guarantee a fair normal value for the appellant under Article 2 of the Basic Regulation, thus resulting in greatly inflated dumping margins for the appellant. These General Court findings also completely disregard the WTO Appellate Body jurisprudence in *EC Fasteners*.

According to the fifth plea, the General Court erred in law by including in its findings on the impact of the price undercutting of the appellant's SSSPTs on the EU, the prices of the appellant's SSSPTs used in inward processing customs procedures.

(1) Commission Implementing Regulation (EU) 2018/330 of 5 March 2018 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ 2018, L 63, p. 15).

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

Request for a preliminary ruling from the Tribunale Amministrativo Regionale per la Sicilia (Italy) lodged on 8 January 2021 — Sea Watch E.V. v Ministero delle Infrastrutture e dei Trasporti, Capitaneria di Porto di Palermo

(Case C-14/21)

(2021/C 98/10)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per la Sicilia

Parties to the main proceedings

Applicant: Sea Watch E.V.

Defendants: Ministero delle Infrastrutture e dei Trasporti, Capitaneria di Porto di Palermo

Questions referred

(A) Does the scope of Directive 2009/16/EC [1] include — and if so, can port State control (PSC) be exercised against — a ship which has been classified as a cargo ship by the classification society of the flag State but which in practice routinely engages only in non-commercial activities such as search and rescue (SAR) (as in the case of [Sea Watch E.V.] and *SW4* [the vessel *Sea Watch 4*] on the basis of its statute)?

If the Court … should find … that the scope of Directive 2009/16/EC also includes ships [that are not actually engaged in trade], does the national legislation enshrined in Article 3 of [Legislative Decree] No 53/2011, which transposed Article 3 of Directive 2009/16/EC but in Article [3(1) of that legislative decree] instead expressly limits the scope of PSC to ships used for commercial purposes, excluding not only pleasure craft but also cargo ships that are not actually engaged in — and so are not used for — trade, represent an obstacle to the directive interpreted thus?

Lastly, can the Court reasonably consider that cargo ships which routinely carry out SAR activities for persons in distress at sea fall within the scope of the directive, in so far as it includes passenger ships, following the amendments made in 2017, thereby equating the carriage of persons rescued at sea because their lives are in danger with passenger transport?

(B) Does the fact that the ship transported a far greater number of people than the number indicated in the safety equipment certificate, albeit as a result of SAR activities, or otherwise holds a safety equipment certificate covering far fewer persons than the number actually carried, mean that the overriding factors listed in Annex I, Part II 2A or the unexpected factors listed in Annex I, Part II 2B, as referred to in Article 11 of Directive 2009/16/EC, can duly apply to it?

(C) Can and/or should the power to conduct a more detailed PSC inspection under Article 13 of Directive 2009/16/EC of ships flying the flag of Member States also include the power to ascertain which activities are carried out in practice by the ship, irrespective of those for which the class certificate and the consequent safety certificates were issued by the flag State and the relevant classification society, and therefore the power to ascertain that the ship is in possession of the certificates and, in general, fulfils the criteria and/or requirements laid down in international standards on safety, pollution prevention and on-board living and working conditions and, if so, may that power also be exercised against a ship which in practice routinely engages in SAR activities?

(D) How is Regulation 1(b) [*rectius* Article 1(b)] of the SOLAS Convention — which is specifically referred to in Article 2 of Directive 2009/16/EC and for which a consistent EU interpretation is, therefore, necessary for the purposes of and in the context of PSC — to be interpreted in so far as it provides that '(b) The Contracting Governments undertake to promulgate all laws, decrees, orders and regulations and to take all other steps which may be necessary to give the present Convention full and complete effect, so as to ensure that, from the point of view of safety of life, a ship is fit for the service for which it is intended'? More specifically, regarding the ship's fitness for the service for which it is intended, which the port States are required to assess by means of PSC inspections, are the requirements imposed in the light of the classification and the relevant safety certificates held, which were obtained on the basis of the theoretical activity declared, to be used as the sole assessment criterion, or may regard also be had to the service that the ship actually provides?

Accordingly, with regard to the abovementioned international criterion, do the administrative authorities of port States have the power not only to ascertain the compliance of the equipment and appliances on board with the requirements of the certificates issued by the flag State, based on the theoretical classification of the ship, but also to assess the conformity of the ship's certificates and the related equipment and appliances on board in the light of the activity carried out in practice, which is different from the one stated in the classification certificate?

The same points must be made for paragraph 1.3.1 of International Maritime Organisation (IMO) Resolution A.1138(31) — Procedures for Port State Control, 2019, adopted on 4 December 2019, in so far as it provides that 'Under the provisions of the relevant conventions set out in section 1.2 above, the Administration (i.e. the Government of the flag State) is responsible for promulgating laws and regulations and for taking all other steps which may be necessary to give the relevant conventions full and complete effect so as to ensure that, from the point of view of safety of life and pollution prevention, a ship is fit for the service for which it is intended and seafarers are qualified and fit for their duties.'

(E) Lastly, were it to be confirmed that the port State has the power to ascertain the possession of the certificates and the fulfilment of the criteria and/or requirements on the basis of the activity for which the ship is specifically intended:

(1) can the port State that carried out the PSC inspection require the possession of certificates and the fulfilment of criteria and/or requirements for safety and the prevention of marine pollution other than those already held and fulfilled, in relation to the activities carried out in practice, particularly in the event that SAR activities are as in the present case carried out, so as to avoid the detention of the ship?

(2) if point 1 is answered in the affirmative, can the requirement for certificates to be held and criteria and/or requirements to be fulfilled other than those already held and fulfilled, in relation to the activities carried out in practice, particularly in the event that SAR activities are as in the present case carried out, be imposed, so as to avoid the detention of the ship, only if there is a clear and reliable international and/or [EU] legal framework regarding the classification of SAR activities and related certificates and criteria and/or requirements for safety and the prevention of marine pollution?

(3) if point 2 is answered in the negative, is the requirement for the possession of certificates and the fulfilment of criteria and/or requirements other than those already held and fulfilled, in relation to the activities carried out in practice, particularly in the event that SAR activities are as in present case carried out, to be imposed on the basis of the national legislation of the flag State and/or that of the port State, and to that end, is primary legislation necessary, or is secondary legislation or even only a general administrative measure sufficient?

(4) if point 3 is answered in the affirmative, is it the responsibility of the port State to indicate during the PSC inspection, in a precise and specific manner, on the basis of which national legislation, regulation or general administrative measure (identified pursuant to point (3)) the criteria and/or technical requirements for safety and the prevention of marine pollution are to be identified — which the ship undergoing the PSC inspection must meet in order to carry out SAR activities — and exactly which corrective/remedial actions are required to ensure compliance with such legislation, regulation or administrative measures?

(5) in the absence of any legislation, regulation or general administrative measure of the port State and/or of the flag State, can the port State authority indicate, for the case at issue, the criteria and/or technical requirements for safety, the prevention of marine pollution and the protection of life and work on board, which the ship undergoing the PSC inspection must comply with in order to carry out SAR activities?

(6) if questions 4 and 5 are answered in the negative, can SAR activities, in the absence of specific guidance from the flag State to that effect, be considered authorised in the meantime and thus unable to be hindered by a detention order if the ship undergoing the PSC inspection fulfils the above criteria and/or requirements for a different category (particularly cargo ships), which the flag State has confirmed actually exist?

(1) Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (OJ 2009 L 131, p. 57).

Request for a preliminary ruling from the Tribunale Amministrativo Regionale per la Sicilia (Italy) lodged on 8 January 2021 — Sea Watch E.V. v Ministero delle Infrastrutture e dei Trasporti, Capitaneria di Porto di Porto Empedocle

(Case C-15/21)

(2021/C 98/11)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per la Sicilia

Parties to the main proceedings

Applicant: Sea Watch E.V.

Defendants: Ministero delle Infrastrutture e dei Trasporti, Capitaneria di Porto di Porto Empedocle

Questions referred

(A) Does the scope of Directive 2009/16/EC (1) include — and if so, can port State control (PSC) be exercised against — a ship which has been classified as a cargo ship by the classification society of the flag State but which in practice routinely engages only in non-commercial activities such as search and rescue (SAR) (as in the case of [Sea Watch E.V.] and *SW4* [the vessel *Sea Watch* 4] on the basis of its statute)?

If the Court … should find … that the scope of Directive 2009/16/EC also includes ships [that are not actually engaged in trade], does the national legislation enshrined in Article 3 of [Legislative Decree] No 53/2011, which transposed Article 3 of Directive 2009/16/EC but in Article [3(1) of that legislative decree] instead expressly limits the scope of PSC to ships used for commercial purposes, excluding not only pleasure craft but also cargo ships that are not actually engaged in — and so are not used for — trade, represent an obstacle to the directive interpreted thus?

Lastly, can the Court reasonably consider that cargo ships which routinely carry out SAR activities for persons in distress at sea fall within the scope of the directive, in so far as it includes passenger ships, following the amendments made in 2017, thereby equating the carriage of persons rescued at sea because their lives are in danger with passenger transport?

(B) Does the fact that the ship transported a far greater number of people than the number indicated in the safety equipment certificate, albeit as a result of SAR activities, or otherwise holds a safety equipment certificate covering far fewer persons than the number actually carried, mean that the overriding factors listed in Annex I, Part II 2A or the unexpected factors listed in Annex I, Part II 2B, as referred to in Article 11 of Directive 2009/16/EC, can duly apply to it?

(C) Can and/or should the power to conduct a more detailed PSC inspection under Article 13 of Directive 2009/16/EC of ships flying the flag of Member States also include the power to ascertain which activities are carried out in practice by the ship, irrespective of those for which the class certificate and the consequent safety certificates were issued by the flag State and the relevant classification society, and therefore the power to ascertain that the ship is in possession of the certificates and, in general, fulfils the criteria and/or requirements laid down in international standards on safety, pollution prevention and on-board living and working conditions and, if so, may that power also be exercised against a ship which in practice routinely engages in SAR activities?

(D) How is Regulation 1(b) [*rectius* Article 1(b)] of the SOLAS Convention — which is specifically referred to in Article 2 of Directive 2009/16/EC and for which a consistent EU interpretation is, therefore, necessary for the purposes of and in the context of PSC — to be interpreted in so far as it provides that '(b) The Contracting Governments undertake to promulgate all laws, decrees, orders and regulations and to take all other steps which may be necessary to give the present Convention full and complete effect, so as to ensure that, from the point of view of safety of life, a ship is fit for the service for which it is intended'? More specifically, regarding the ship's fitness for the service for which it is intended, which the port States are required to assess by means of PSC inspections, are the requirements imposed in the light of the classification and the relevant safety certificates held, which were obtained on the basis of the theoretical activity declared, to be used as the sole assessment criterion, or may regard also be had to the service that the ship actually provides?

Accordingly, with regard to the abovementioned international criterion, do the administrative authorities of port States have the power not only to ascertain the compliance of the equipment and appliances on board with the requirements of the certificates issued by the flag State, based on the theoretical classification of the ship, but also to assess the conformity of the ship's certificates and the related equipment and appliances on board in the light of the activity carried out in practice, which is different from the one stated in the classification certificate?

The same points must be made for paragraph 1.3.1 of International Maritime Organisation (IMO) Resolution A.1138(31) — Procedures for Port State Control, 2019, adopted on 4 December 2019, in so far as it provides that 'Under the provisions of the relevant conventions set out in section 1.2 above, the Administration (i.e. the Government of the flag State) is responsible for promulgating laws and regulations and for taking all other steps which may be necessary to give the relevant conventions full and complete effect so as to ensure that, from the point of view of safety of life and pollution prevention, a ship is fit for the service for which it is intended and seafarers are qualified and fit for their duties.'

(E) Lastly, were it to be confirmed that the port State has the power to ascertain the possession of the certificates and the fulfilment of the criteria and/or requirements on the basis of the activity for which the ship is specifically intended:

(1) can the port State that carried out the PSC inspection require the possession of certificates and the fulfilment of criteria and/or requirements for safety and the prevention of marine pollution other than those already held and fulfilled, in relation to the activities carried out in practice, particularly in the event that SAR activities are as in the present case carried out, so as to avoid the detention of the ship?

(2) if point 1 is answered in the affirmative, can the requirement for certificates to be held and criteria and/or requirements to be fulfilled other than those already held and fulfilled, in relation to the activities carried out in practice, particularly in the event that SAR activities are as in the present case carried out, be imposed, so as to avoid the detention of the ship, only if there is a clear and reliable international and/or [EU] legal framework regarding the classification of SAR activities and related certificates and criteria and/or requirements for safety and the prevention of marine pollution?

(3) if point 2 is answered in the negative, is the requirement for the possession of certificates and the fulfilment of criteria and/or requirements other than those already held and fulfilled, in relation to the activities carried out in practice, particularly in the event that SAR activities are as in present case carried out, to be imposed on the basis of the national legislation of the flag State and/or that of the port State, and to that end, is primary legislation necessary, or is secondary legislation or even only a general administrative measure sufficient?

(4) if point 3 is answered in the affirmative, is it the responsibility of the port State to indicate during the PSC inspection, in a precise and specific manner, on the basis of which national legislation, regulation or general administrative measure (identified pursuant to point (3)) the criteria and/or technical requirements for safety and the prevention of marine pollution are to be identified — which the ship undergoing the PSC inspection must meet in order to carry out SAR activities — and exactly which corrective/remedial actions are required to ensure compliance with such legislation, regulation or administrative measures?

(5) in the absence of any legislation, regulation or general administrative measure of the port State and/or of the flag State, can the port State authority indicate, for the case at issue, the criteria and/or technical requirements for safety, the prevention of marine pollution and the protection of life and work on board, which the ship undergoing the PSC inspection must comply with in order to carry out SAR activities?

(6) if questions 4 and 5 are answered in the negative, can SAR activities, in the absence of specific guidance from the flag State to that effect, be considered authorised in the meantime and thus unable to be hindered by a detention order if the ship undergoing the PSC inspection fulfils the above criteria and/or requirements for a different category (particularly cargo ships), which the flag State has confirmed actually exist?

(1) Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (OJ 2009 L 131, p. 57).

Request for a preliminary ruling from the Landgericht Frankfurt am Main (Germany) lodged on 13 January 2021 — JW, HD, XS v LOT Polish Airlines

(Case C-20/21)

(2021/C 98/12)

Language of the case: German

Referring court

Landgericht Frankfurt am Main

Parties to the main proceedings

Applicants: JW, HD, XS

Defendant: LOT Polish Airlines

Question referred

Must Article 7(1)(b) of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ([1]) be interpreted as meaning that the place of performance, within the meaning of that provision, in respect of a flight consisting of a confirmed single booking for the entire journey and divided into two or more legs, can also be the place of arrival of the first leg of the journey where transport on those legs of the journey is performed by two separate air carriers and the claim for compensation brought on the basis of Regulation (EC) No 261/2004 ([2]) arises from the delay of the first leg of the journey and is brought against the operating air carrier of that first leg?

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

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

Request for a preliminary ruling from the Corte suprema di cassazione (Italy) lodged on 19 January 2021 — Eurocostruzioni Srl v Regione Calabria

(Case C-31/21)

(2021/C 98/13)

Language of the case: Italian

Referring court

Corte suprema di cassazione

Parties to the main proceedings

Appellant in cassation: Eurocostruzioni Srl

Respondent in Cassation: Regione Calabria

Questions referred

1. Does Commission Regulation (EC) No 1685/2000 of 28 July 2000 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 ([1]) as regards eligibility of expenditure of operations co-financed by the Structural Funds, and in particular the provisions of point 2.1 of Rule No 1 of the Annex thereto ('proof of expenditure'), require that proof of payment by final beneficiaries must necessarily be furnished by means of receipted invoices, even if the funding was granted to the beneficiary to construct a building using its own materials, tools and labour, or may there be a derogation, other than the one specifically provided for where this is not possible, which requires the presentation of 'accounting documents of equivalent probative value'?

2. What is the correct interpretation of the phrase 'accounting documents of equivalent probative value'?

3. Specifically, do the abovementioned provisions of [Regulation (EC) No 1685/2000] preclude national and regional law and consequent implementing measures which, in the event that funding has been granted to the beneficiary in order to construct a building using its own materials, tools and labour, provide for a system of auditing the publicly funded expenditure consisting of:

   (a) prior quantification of the works on the basis of a regional price list for public works and, for items not provided for therein, the current market prices estimated by the architect;

(b) a subsequent report, with presentation of the accounts for the works, consisting of the measurement booklet and the accounting ledger, duly signed on each page by the director of works and the beneficiary undertaking, and the audit and confirmation of the works carried out, on the basis of the unit prices referred to in point (a), by an inspection committee appointed by the competent regional administrative authority?

([1]) Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds (OJ 1999 L 161, p. 1).

Request for a preliminary ruling from the Verwaltungsgericht Wiesbaden (Germany) lodged on 20 January 2021 — Hauptpersonalrat der Lehrerinnen und Lehrer beim Hessischen Kultusministerium

(Case C-34/21)

(2021/C 98/14)

Language of the case: German

Referring court

Verwaltungsgericht Wiesbaden

Parties to the main proceedings

Applicant: Hauptpersonalrat der Lehrerinnen und Lehrer beim Hessischen Kultusministerium

Defendant: Minister des Hessischen Kultusministeriums

Questions referred

1. Is Article 88(1) of Regulation (EU) 2016/679 ([1]) of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation — GDPR) to be interpreted as meaning that, in order to be a more specific rule for ensuring the protection of the rights and freedoms in respect of the processing of employees' personal data in the employment context within the meaning of Article 88(1) of Regulation (EU) 2016/679, a provision must meet the requirements imposed on such rules by Article 88(2) of Regulation (EU) 2016/679?

2. If a national rule clearly does not meet the requirements under Article 88(2) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, can it nevertheless remain applicable?

([1]) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ 2016 L 119, p. 1).

Request for a preliminary ruling from the Varhoven kasatsionen sad (Bulgaria) lodged on 19 January 2021 — 'Konservinvest' OOD v 'Bulkons Parvomay' OOD

(Case C-35/21)

(2021/C 98/15)

Language of the case: Bulgarian

Referring court

Varhoven kasatsionen sad

Parties to the main proceedings

Appellant in cassation: 'Konservinvest' OOD

Respondent in cassation: 'Bulkons Parvomay' OOD

Question referred

Does Article 9 of Regulation (EU) No 1151/2012 [1] of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs allow, outside the cases of transitional protection provided for in that provision, a national system for the registration and protection of geographical indications for agricultural products and foodstuffs covered by that regulation, and does that provision leave Member States free to apply at national level other rules that are applicable in parallel (similar to the parallel system for trade marks) in order to settle legal disputes concerning infringements of the right to such a geographical indication between local traders who produce and market agricultural products and foodstuffs covered by Regulation No 1151/2012 within the Member State in which the geographical indication was registered?

[1] 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 (OJ 2012 L 343, p. 1).

Appeal brought on 27 January 2021 by Lietuvos geležinkeliai AB against the judgment of the General Court (First Chamber, Extended Composition) delivered on 18 November 2020 in Case T-814/17, Lietuvos geležinkeliai v Commission

(Case C-42/21 P)

(2021/C 98/16)

Language of the case: English

Parties

Appellant: Lietuvos geležinkeliai AB (represented by: W. Deselaers, K. Apel, P. Kirst, Rechtsanwälte)

Other parties to the proceedings: European Commission, Orlen Lietuva AB

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal, in whole or in part, in so far as the judgment dismissed the appellant's action for annulment against the Commission Decision C(2017) 6544 final of 2 October 2017 in Case AT.39813 — Baltic Rail [1];

— annul the Decision, in whole or in part;

— in the alternative, annul or further reduce the fine imposed on Lietuvos geležinkeliai; and

— order the Commission to pay all costs related to the present proceedings and the proceedings before the General Court.

Pleas in law and main arguments

The appellant bases its appeal on four grounds.

First, the General Court has incorrectly interpreted and as a result incorrectly applied the Court's jurisprudence by which a dominant undertaking only needs to grant access to an infrastructure if the refusal is likely to eliminate all competition on the market on the part of the person requesting access, if such refusal is incapable of being objectively justified, and if the access in itself is indispensable to carrying on that person's business.

Second, the removal of a 19 kilometre rail track connecting Mažeikiai in north-western Lithuania with the Latvian border (the 'Track') 'in great haste and without having first secured the necessary funds' does not constitute an abuse of a dominant position.

Third, the General Court committed an error of law in qualifying the removal of the Track as capable of restricting competition.

Fourth, the General Court contradicted itself by referring to appellant's allegedly anticompetitive intent for the purpose of determining whether a fine should be imposed and for the purpose of assessing the level of fine, despite having found that the alleged infringement is not based on the appellant's intent, anticompetitive strategy or bad faith.

(1) Summary of Commission Decision of 2 October 2017 relating to a proceeding under Article 102 of the Treaty on the Functioning of the European Union (Case AT.39813 — Baltic Rail) (notified under document number C(2017) 6544) (OJ 2017, C 383, p. 7).

Appeal brought on 27 January 2021 by European Union Agency for the Cooperation of Energy Regulators against the judgment of the General Court (Second Chamber) delivered on 18 November 2020 in Case T-735/18, Aquind v ACER

(Case C-46/21 P)

(2021/C 98/17)

Language of the case: English

Parties

Appellant: European Union Agency for the Cooperation of Energy Regulators (ACER) (represented by: P. Martinet, E. Tremmel, Agents, B. Creve, advokat)

Other party to the proceedings: Aquind Ltd

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal in whole or in part;

— if the Court considers that the state of the proceedings so permits, dismiss the action at first instance as unfounded;

— in the alternative, refer the case back to the General Court for determination in accordance with the judgment of the Court of Justice;

— order Aquind Ltd to pay the costs of both the appeal proceedings and the proceedings before the General Court.

Pleas in law and main arguments

In the judgment under appeal, the General Court upheld the applicant's fourth plea and ninth plea and, on that basis, annulled Decision A-001-2018 of the Board of Appeal of ACER, dismissed the remainder of the application, and ordered ACER to pay the costs. In the present appeal, ACER submits that the General Court committed the following errors of law:

1. The General Court erred in law with regard to the intensity of the review undertaken by the Board of Appeal of ACER, in general and in the case at hand, with regard to errors in complex technical and economic assessments.

2. The General Court erred in law with regard to the interpretation of Article 17(1)(b) of Regulation 714/2009. [1]

(1) Règlement (CE) no 714/2009 du Parlement européen et du Conseil du 13 juillet 2009 sur les conditions d'accès au réseau pour les échanges transfrontaliers d'électricité et abrogeant le règlement (CE) no 1228/2003 (OJ 2009, L 211, p. 15).

Action brought on 1 February 2021 — European Commission v Kingdom of Belgium

(Case C-60/21)

(2021/C 98/18)

Language of the case: French

Parties

Applicant: European Commission (represented by: W. Roels, V. Uher, acting as Agents)

Defendant: Kingdom of Belgium

Form of order sought

The Commission claims that the Court should:

— Declare that, by maintaining provisions that:

by refusing the deduction of maintenance annuities or capital sums in lieu of such annuities and supplementary annuities from taxable income to debenture holders who are not resident in Belgium and who receive less than 75 % of their professional income there and who cannot benefit from the same deduction in their Member State of residence on the basis of the small amount of their taxable income in that State,

the Kingdom of Belgium has failed to fulfil its obligations under Article 45 of the Treaty on the Functioning of the European Union (TFEU) and Article 28 of the Agreement on the European Economic Area (EEA), and

— Order the Kingdom of Belgium to pay the costs.

Pleas in law and main arguments

In support of its action, the Commission relies on a single plea in law alleging that the legislation at issue is liable to deter non-resident taxpayers from exercising the freedoms of movement ensured by the Treaties and, more particularly, the freedom of movement of workers laid down in Article 45 TFEU and Article 28 of the EEA Agreement.

A non-resident taxpayer who does not derive at least 75 % of his or her taxable professional income from Belgium and who cannot effectively benefit from the deduction of maintenance annuities in his or her State of residence in the absence of sufficient taxable income in that State is deprived by Belgian legislation of the benefit of any deduction of those annuities. However, it follows from the case-law of the Court of Justice and in particular its judgment of 10 May 2012 in Case C-39/10, *European Commission* v *Estonia* that, in such a case, it is for the State of employment to take into account the personal and family circumstances of the non-resident taxpayer.

GENERAL COURT

Judgment of the General Court of 3 February 2021 — Kazembe Musonda v Council

(Case T-110/19) [1]

(Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant's name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Presumption of innocence — Proportionality — Plea of illegality)

(2021/C 98/19)

Language of the case: French

Parties

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

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

Re:

Application under Article 263 TFEU seeking annulment, first, of Council Decision (CFSP) 2018/1940 of 10 December 2018 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2018 L 134, p. 47) and, second, Council Implementing Regulation (EU) 2018/1931 of 10 December 2018 implementing Article 9 of Regulation (EC) No 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo (OJ 2018 L 314, p. 1), in so far as those acts concern the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

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

(1) OJ C 139, 15.4.2019.

Judgment of the General Court of 3 February 2021 — Boshab v Council

(Case T-111/19) [1]

(Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant's name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Right to property — Presumption of innocence — Proportionality — Plea of illegality)

(2021/C 98/20)

Language of the case: French

Parties

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

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

Re:

Application under Article 263 TFEU seeking annulment, first, of Council Decision (CFSP) 2018/1940 of 10 December 2018 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2018 L 134, p. 47) and, second, Council Implementing Regulation (EU) 2018/1931 of 10 December 2018 implementing Article 9 of Regulation (EC) No 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo (OJ 2018 L 314, p. 1), in so far as those acts concern the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Évariste Boshab to pay the costs.

[1] OJ C 139, 15.4.2019.

Judgment of the General Court of 3 February 2021 — Kampete v Council

(Case T-113/19) [1]

(Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant's name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Presumption of innocence — Proportionality — Plea of illegality)

(2021/C 98/21)

Language of the case: French

Parties

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

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

Re:

Application under Article 263 TFEU seeking the annulment, first, of Council Decision (CFSP) 2018/1940 of 10 December 2018 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2018 L 134, p. 47) and, second, Council Implementing Regulation (EU) 2018/1931 of 10 December 2018 implementing Article 9 of Regulation (EC) No 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo (OJ 2018 L 314, p. 1), in so far as those acts concern the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Ilunga Kampete to pay the costs.

(1) OJ C 139, 15.4.2019.

Judgment of the General Court of 3 February 2021 — Kande Mupompa v Council

(Case T-116/19) (1)

(Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant's name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Right to property — Presumption of innocence — Proportionality — Plea of illegality)

(2021/C 98/22)

Language of the case: French

Parties

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

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

Re:

Application under Article 263 TFEU seeking annulment, first, of Council Decision (CFSP) 2018/1940 of 10 December 2018 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2018 L 134, p. 47) and, second, Council Implementing Regulation (EU) 2018/1931 of 10 December 2018 implementing Article 9 of Regulation (EC) No 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo (OJ 2018 L 314, p. 1), in so far as those acts concern the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

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

([1]) OJ C 139, 15.4.2019.

Judgment of the General Court of 3 February 2021 — Amisi Kumba v Council

(Case T-118/19) ([1])

(Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant's name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Presumption of innocence — Proportionality — Plea of illegality)

(2021/C 98/23)

Language of the case: French

Parties

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

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

Re:

Application under Article 263 TFEU seeking annulment, first, of Council Decision (CFSP) 2018/1940 of 10 December 2018 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2018 L 134, p. 47) and, second, Council Implementing Regulation (EU) 2018/1931 of 10 December 2018 implementing Article 9 of Regulation (EC) No 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo (OJ 2018 L 314, p. 1), in so far as those acts concern the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

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

([1]) OJ C 139, 15.4.2019.

Judgment of the General Court of 3 February 2021 — Mutondo v Council

(Case T-119/19) [1]

(Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant's name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Presumption of innocence — Proportionality — Plea of illegality)

(2021/C 98/24)

Language of the case: French

Parties

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

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

Re:

Application under Article 263 TFEU seeking annulment, first, of Council Decision (CFSP) 2018/1940 of 10 December 2018 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2018 L 134, p. 47) and, second, Council Implementing Regulation (EU) 2018/1931 of 10 December 2018 implementing Article 9 of Regulation (EC) No 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo (OJ 2018 L 314, p. 1), in so far as those acts concern the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Kalev Mutondo to pay the costs.

---

(1) OJ C 139, 15.4.2019.

Judgment of the General Court of 3 February 2021 — Numbi v Council

(Case T-120/19) [1]

(Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant's name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Presumption of innocence — Proportionality — Plea of illegality)

(2021/C 98/25)

Language of the case: French

Parties

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

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

Re:

Application under Article 263 TFEU seeking annulment, first, of Council Decision (CFSP) 2018/1940 of 10 December 2018 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2018 L 134, p. 47) and, second, Council Implementing Regulation (EU) 2018/1931 of 10 December 2018 implementing Article 9 of Regulation (EC) No 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo (OJ 2018 L 314, p. 1), in so far as those acts concern the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr John Numbi to pay the costs.

(1) OJ C 139, 15.4.2019.

Judgment of the General Court of 3 February 2021 — Ruhorimbere v Council

(Case T-121/19) (1)

(Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant's name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Presumption of innocence — Proportionality — Plea of illegality)

(2021/C 98/26)

Language of the case: French

Parties

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

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

Re:

Application under Article 263 TFEU seeking annulment, first, of Council Decision (CFSP) 2018/1940 of 10 December 2018 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2018 L 134, p. 47) and, second, Council Implementing Regulation (EU) 2018/1931 of 10 December 2018 implementing Article 9 of Regulation (EC) No 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo (OJ 2018 L 314, p. 1), in so far as those acts concern the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Éric Ruhorimbere to pay the costs.

([1]) OJ C 139, 15.4.2019.

Judgment of the General Court of 3 February 2021 — Ramazani Shadary v Council

(Case T-122/19) ([1])

(Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant's name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Presumption of innocence — Proportionality — Plea of illegality)

(2021/C 98/27)

Language of the case: French

Parties

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

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

Re:

Application under Article 263 TFEU seeking annulment, first, of Council Decision (CFSP) 2018/1940 of 10 December 2018 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2018 L 134, p. 47) and, second, Council Implementing Regulation (EU) 2018/1931 of 10 December 2018 implementing Article 9 of Regulation (EC) No 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo (OJ 2018 L 314, p. 1), in so far as those acts concern the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

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

([1]) OJ C 139, 15.4.2019.

Judgment of the General Court of 3 February 2021 — Kanyama v Council

(Case T-123/19) [1]

(Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant's name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Presumption of innocence — Proportionality — Plea of illegality)

(2021/C 98/28)

Language of the case: French

Parties

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

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

Re:

Application under Article 263 TFEU seeking annulment, first, of Council Decision (CFSP) 2018/1940 of 10 December 2018 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2018 L 134, p. 47) and, second, Council Implementing Regulation (EU) 2018/1931 of 10 December 2018 implementing Article 9 of Regulation (EC) No 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo (OJ 2018 L 314, p. 1), in so far as those acts concern the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Célestin Kanyama to pay the costs.

[1] OJ C 139, 15.4.2019.

Judgment of the General Court of 3 February 2021 — Ilunga Luyoyo v Council

(Case T-124/19) [1]

(Common foreign and security policy — Restrictive measures adopted in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Retention of the applicant's name on the lists of persons covered — Obligation to state reasons — Right to be heard — Proof that inclusion and retention on the lists is well founded — Manifest error of assessment — Continuation of the factual and legal circumstances which led to the adoption of the restrictive measures — Right to private and family life — Presumption of innocence — Proportionality — Plea of illegality)

(2021/C 98/29)

Language of the case: French

Parties

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

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

Re:

Application under Article 263 TFEU seeking annulment, first, of Council Decision (CFSP) 2018/1940 of 10 December 2018 amending Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo (OJ 2018 L 134, p. 47) and, second, Council Implementing Regulation (EU) 2018/1931 of 10 December 2018 implementing Article 9 of Regulation (EC) No 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo (OJ 2018 L 314, p. 1), in so far as those acts concern the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

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

(1) OJ C 139, 15.4.2019.

Judgment of the General Court of 3 February 2021 — Klymenko v Council

(Case T-258/20) (1)

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

(2021/C 98/30)

Language of the case: French

Parties

Applicant: Oleksandr Viktorovych Klymenko (Moscow, Russia) (represented by: M. Phelippeau, lawyer)

Defendant: Council of the European Union (represented by: A. Vitro and P. Mahnič, acting as Agents)

Re:

Application under Article 263 TFEU seeking the annulment of Council Decision (CFSP) 2020/373 of 5 March 2020 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2020 L 71, p. 10) and Council Implementing Regulation (EU) 2020/370 of 5 March 2020 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2020 L 71, p. 1), in so far as those acts maintain the applicant's name 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) 2020/373 of 5 March 2020 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) 2020/370 of 5 March 2020 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 Oleksandr Viktorovych Klymenko was maintained on the list of persons, entities and bodies subject to those restrictive measures;

2. Orders the effects of Article 1 of Decision 2020/373 to be maintained in respect of Mr Klymenko until the date of expiry of the period for bringing an appeal, as provided for in the first paragraph of Article 56 of the Statute of the Court of Justice of the European Union, or, if an appeal is brought within that period, until the date of dismissal of that appeal;

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

([1]) OJ C 222, 6.7.2020.

Order of the General Court of 4 February 2021 — Germann Avocats v Commission

(Case T-352/18) ([1])

(Action for annulment and for damages — Public service contracts — Tendering procedure — Follow-up study on trade union practices on non-discrimination and diversity — Rejection of a tenderer's bid — Award criteria — Action in part manifestly lacking any foundation in law and in part manifestly inadmissible)

(2021/C 98/31)

Language of the case: English

Parties

Applicant: Germann Avocats LLC (Geneva, Switzerland) (represented by: C. Giannakopoulos and N. Skandamis, lawyers)

Defendant: European Commission (represented by: J. Estrada de Solà and A. Katsimerou, acting as Agents, and by R. van Melsen, lawyer)

Re:

First, application based on Article 263 TFEU for the annulment of the Commission's decision to reject the applicant's bid submitted in response to the call for tenders JUST/2017/RDIS/FW/EQUA/0042 ('Follow-up study on trade union practices on non-discrimination and diversity' (2017/S 215-446067)) and, secondly, application based on Article 268 TFEU for compensation for the damage allegedly suffered by the applicant following the adoption of that decision.

Operative part of the order

1. The action is dismissed.

2. Germann Avocats LLC shall pay the costs.

([1]) OJ C 301, 27.8.2018.

Action brought on 22 January 2021 — SFD v EUIPO — Allmax Nutrition (ALLNUTRITION DESIGNED FOR MOTIVATION)

(Case T-35/21)

(2021/C 98/32)

Language of the case: English

Parties

Applicant: SFD S.A. (Opole, Poland) (represented by: T. Grucelski, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Allmax Nutrition Inc. (North York, Ontario, Canada)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union figurative mark ALLNUTRITION DESIGNED FOR MOTIVATION — Application for registration No 15 971 435

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 28 October 2020 in Case R 511/2020-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— reject the opposition;

— order EUIPO and the other party before the Board of Appeal to pay the costs.

Plea in law

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

Action brought on 19 January 2021 — Inivos and Inivos v Commission

(Case T-38/21)

(2021/C 98/33)

Language of the case: English

Parties

Applicants: Inivos Ltd (London, United Kingdom) and Inivos BV (Rotterdam, Netherlands) (represented by: R. Martens and L. Hoet, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul the decision of unknown date to launch the negotiated procedure without prior publication of a contract notice for the purchase of up to 200 disinfection robots;

— annul the decision of unknown date to award the Framework Contract for Disinfection Robots for European Hospitals (Covid-19) to UVD Robots APS / Kompaï Robotics & Teamnet;

— annul the decision of 19 November 2020 to conclude the Framework Contract for Disinfection Robots for European Hospitals (Covid-19) with UVD Robots APS / Kompaï Robotics & Teamnet;

— declare that the Framework Contract for Disinfection Robots for European Hospitals (Covid-19), in particular the concluded Contracts with reference FW-00103506 and FW-00103507 are null and void;

— declare that defendant is liable for compensation on the basis of loss of opportunity.

— order defendant to pay the costs, including the costs incurred by Applicant.

Pleas in law and main arguments

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

1. First plea in law, alleging that the defendant breached the Articles 160 (1) and (2) of the Financial Regulation and of Annex 1 — Chapter 1 — Section 2 — 11 of the Financial Regulation in conjunction with a breach of the principle of good administration, because the defendant wrongfully made use of the negotiated procedure without prior publication of a contract notice for the purchase of up to 200 disinfection robots, committing a manifest error of assessment.

2. Second plea in law, alleging that the defendant breached, one the one hand, the Articles 61, 160 (1) and 167 (1) of the Financial Regulation in conjunction with the general E.U. principles of transparency, equality and non-discrimination and, on the other hand, the article 41 of the Charter of Fundamental Rights of the European Union, because the defendant and the successful tenderer (UVD Robots APS) are subject to a conflict of interest which entails a serious irregularity that renders the concluded Framework Contract null and void.

3. Third plea in law, alleging that the defendant breached the Article 160 (3) of the Financial Regulation, because the award of the Framework Contract for Disinfection Robots for European Hospitals (Covid — 19) to UVD Robots APS distorts competition.

Action brought on 25 January 2021 — Slovakia v Commission

(Case T-40/21)

(2021/C 98/34)

Language of the case: Slovak

Parties

Applicant: Slovak Republic (represented by: B. Ricziová, Agent)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Implementing Decision (EU) 2020/1734 of 18 November 2020 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) [1] in so far as it applies a financial correction to the Slovak Republic with regard to the measure 'Decoupled direct aids' in respect of the 2016 financial year (and concerning claim years 2013 and 2014) in a total amount of EUR 19 656 905,11;

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

Pleas in law and main arguments

In support of the action, the applicant relies on a single pleas in law, which is based on the infringement of Article 52(4)(a) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council [2] in conjunction with Article 34(2) of Commission Implementing Regulation (EU) No 908/2014 [3] inasmuch as the procedural guarantees under those provisions were not observed in relation to the Slovak Republic.

In its plea in law, the applicant claims that by Implementing Decision 2020/1734, the Commission excludes from European Union financing the sum of EUR 19 656 905,11, incurred by the Slovak Republic under the EAGF and which is part of the financial correction with regard to the measure 'Decoupled Direct Aids' in respect of financial year 2016 (Single Area Payment Scheme — weaknesses in LPIS update-quality, quality of on-the-spot checks and instigation of recoveries — claim year 2015), whereas according to the applicant that sum includes claim years 2013 and 2014, which were not the subject of an investigation.

(1) OJ 2020 L 390, p. 10.
(2) Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ 2013 L 347, p. 549).
(3) Commission Implementing Regulation (EU) No 908/2014 of 6 August 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, rules on checks, securities and transparency (OJ 2014 L 255, p. 59).

Action brought on 26 January 2021 — About You v EUIPO — Safe-1 Immobilieninvest (Y/O/U YOUR ORIGINAL U)

(Case T-50/21)

(2021/C 98/35)

Language of the case: English

Parties

Applicant: About You GmbH (Hamburg, Germany) (represented by: W. Mosing, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Safe-1 Immobilieninvest GmbH (Mauer, Austria)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union figurative mark Y/O/U YOUR ORIGINAL U — European Union trade mark No 10 226 901

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 19 November 2020 in Case R 529/2020-5

Form of order sought

The applicant claims that the Court should:

— hold an oral hearing;

— annul the contested decision with the consequence that EUIPO shall revoke the EUTM entirely;

— order EUIPO and, in case it intervenes in writing, the other party to the proceedings before EUIPO, to bear its/their own costs and to compensate the costs incurred by the applicant in the proceeding before the General Court and in the appellate proceeding before EUIPO.

Pleas in law

— Infringement of the requirements of evidence in terms of legal certainty and the principle of legitimate expectations;

— Infringement of Article 58 (in connection with Article 18) and Article 95 of Regulation (EU) 2017/1001 of the European Parliament and of the Council and respectively in connection with Articles 10, 19 and 27 of Commission Delegated Regulation (EU) 2018/625.

Action brought on 26 January 2021 — About You v EUIPO — Safe-1 Immobilieninvest (Y/O/U YOUR ORIGINAL U)

(Case T-51/21)

(2021/C 98/36)

Language of the case: English

Parties

Applicant: About You GmbH (Hamburg, Germany) (represented by: W. Mosing, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Safe-1 Immobilieninvest GmbH (Mauer, Austria)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union figurative mark Y/O/U YOUR ORIGINAL U — European Union trade mark No 10 226 918

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 19 November 2020 in Case R 530/2020-5

Form of order sought

The applicant claims that the Court should:

— hold an oral hearing;

— annul the contested decision with the consequence that EUIPO shall revoke the EUTM entirely;

— order EUIPO and, in case it intervenes in writing, the other party to the proceedings before EUIPO, to bear its/their own costs and to compensate the costs incurred by the applicant in the proceeding before the General Court and in the appellate proceeding before EUIPO.

Pleas in law

— Infringement of the requirements of evidence in terms of legal certainty and the principle of legitimate expectations;

— Infringement of Article 58 (in connection with Article 18) and Article 95 of Regulation (EU) 2017/1001 of the European Parliament and of the Council and respectively in connection with Articles 10, 19 and 27 of Commission Delegated Regulation (EU) 2018/625.

Action brought on 1 February 2021 — Rotondaro v EUIPO — Pollini (COLLINI)

(Case T-69/21)

(2021/C 98/37)

Language in which the application was lodged: Italian

Parties

Applicant: Carmine Rotondaro (Monaco, Monaco) (represented by: M. Locatelli, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Pollini SpA (Gatteo, Italy)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for EU figurative mark COLLINI — Application for registration No 15 841 091

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 3 December 2020 in Case R 2518/2019-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— uphold the decision of the Opposition Division and declare that the mark COLLINI is registrable as an EU trade mark in respect of all of the goods in Classes 18 and 25 as set out in application for registration No 15 841 091;

— order EUIPO to pay the costs.

Pleas in law

— Infringement of the Instructions adopted by the Executive Director of EUIPO on 22 September 2017 (Decision No EX-17-1);

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

Action brought on 3 February 2021 — Bowden and Young v Europol

(Case T-72/21)

(2021/C 98/38)

Language of the case: French

Parties

Applicants: Ian James Bowden (The Hague, Netherlands) and Janey Young (The Hague) (represented by: N. de Montigny, lawyer)

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

Form of order sought

The applicants claim that the Court should:

— annul the individual decisions of 30 March 2020 not to grant them an exception from the condition of nationality laid down in Article 12(2)(a) of the CEOS and, consequently, to terminate their respective contracts on the basis of Article 47 of the CEOS with notice to take effect 'following the expiry of the Transition Period', namely on 31 December 2020 according to the Withdrawal Agreement;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging illegality of the procedure and the criteria applied, an error of law and an error of interpretation, a lack of transparency, clarity, legal certainty, predictability and a failure to comply with the duty of sound administration in the adoption of a derogation procedure.

2. Second plea in law, alleging infringement of legitimate expectations, a lack of individual and detailed examination of the case file, arbitrary decision-making, abuse of process and a failure to state reasons.

3. Third plea in law, alleging infringement of the duty of care.

4. Fourth plea in law, alleging infringement of the right to be heard in an effective manner.

5. Fifth plea in law, alleging infringement of the principle of equal treatment and prohibition of discrimination.

6. Sixth plea in law, alleging a manifest error of assessment.

Action brought on 5 February 2021 — Teva Pharmaceutical Industries and Cephalon v Commission

(Case T-74/21)

(2021/C 98/39)

Language of the case: English

Parties

Applicants: Teva Pharmaceutical Industries Ltd (Petach Tikva, Israel), Cephalon Inc. (West Chester, Pennsylvania, United States) (represented by: D. Tayar and S. Ortoli, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission decision C(2020) 8153 Final of 26 November 2020 in its entirety;

— cancel the fines imposed on Teva Pharmaceutical Industries Ltd. and Cephalon Inc. in Article 2 of the contested decision;

— alternatively, substantially reduce the fine imposed on Teva Pharmaceuticals Industries Ltd;

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission erred legally and factually by characterising the agreement at issue as a restriction of competition by object.

2. Second plea in law, alleging that the Commission erred legally and factually in characterising the Settlement Agreement as a restriction of competition by effect.

3. Third plea in law, alleging that the Commission has erred in applying article 101, paragraph 3 TFEU.

4. Fourth plea in law, alleging that the fines imposed on Teva and Cephalon should be annulled, or that, at the very least, the fine imposed on Teva should be significantly reduced.

Action brought on 5 February 2021 — Cargolux v Commission

(Case T-80/21)

(2021/C 98/40)

Language of the case: English

Parties

Applicant: Cargolux Airlines International SA (Cargolux) (Sandweiler, Luxembourg) (represented by: G. Goeteyn and E. Aliende Rodríguez, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— order the Union, represented by the Commission, to redress the damage sustained by Cargolux because of the Commission's failure to pay the Default Interest Amount Payable and Compound Interest Amount Payable pursuant to the first paragraph of Article 266 TFEU, in compliance with the judgment of 16 December 2015, Cargolux Airlines International SA v Commission (Case T-39/11), and therefore pay the following amounts, pursuant to the second paragraph of Article 266 TFEU, Article 268 TFEU and the second paragraph of Article 340 TFEU:

  i. an amount equal to the Default Interest Amount Payable, i.e. interest on the sum of EUR 39 900 000 at the European Central Bank interest rate for its refinancing operations on 1 November 2010 (namely, 1 %), increased by 3,5 %, for the period between 15 February 2011 and 5 February 2016, which results in an amount of **EUR 8 075 972,03** or, failing that, at the interest rate the General Court considers appropriate;

  ii. an amount equal to the Compound Interest Amount Payable, i.e. interest on the amount of the Default Interest Amount Payable for the period between 5 February 2016 and the date of actual payment by the Commission of the amount claimed (or, in the event that the Court rejects Cargolux's request for the Compound Interest Amount Payable to run from 5 February 2016, at the very least for the period between the date of the application and the date of actual payment by the Commission of the amount claimed), at the European Central Bank interest rate for its refinancing operations on 1 November 2010 (namely, 1 %), increased by 3,5 % (or, failing that, at the interest rate the General Court considers appropriate);

— order the Commission to pay the entirety of Cargolux's costs of the present proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on one plea in law, alleging that the Commission is non-contractually liable to pay compensation equal to the Default Interest Amount Payable and the Compound Interest Amount Payable to Cargolux, pursuant to the second paragraph of Article 266 TFEU, Article 268 TFEU and the second paragraph of Article 340 TFEU.

Action brought on 8 February 2021 — QF v Commission

(Case T-85/21)

(2021/C 98/41)

Language of the case: French

Parties

Applicant: QF (represented by: S. Orlandi, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the decision not to include his name on the reserve list for internal competition COM/03/AD/18;

— order the European Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging failure adequately to state reasons. The applicant takes the view that the statement of reasons consists of literal assessments, which are not consistent with the grades awarded. Moreover, the selection board has not communicated the assessment criteria adopted before the tests, so that neither the applicant nor the appointing authority was able to check the legality of those criteria.

2. Second plea in law, alleging infringement of the principle of equal treatment. In that regard, the applicant relies in particular on the fact that the selection board modified, after the tests, the grades awarded by its members on the basis of an assessment grid, whereas that assessment grid was intended to ensure the equal treatment of candidates.

3. Third plea in law, alleging a manifest error of assessment committed by the selection board since that board was not in a position to justify to the requisite legal standard the manifest inconsistencies between the literal assessments and the numerical grades, having regard to a comparison with comparable assessments of other candidates.

Order of the General Court of 28 January 2021 — MS v Commission

(Case T-602/20) [1]

(2021/C 98/42)

Language of the case: German

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

---

[1] OJ C 404, 30.11.2020.

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

Publications Office
of the European Union
L-2985 Luxembourg
LUXEMBOURG

EN