Official Journal of the European Union

C 242

English edition

Information and Notices

Volume 64

21 June 2021

Contents

EN

General Court

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 242/01)

Last publication

OJ C 228, 14.6.2021

Past publications

OJ C 217, 7.6.2021

OJ C 206, 31.5.2021

OJ C 189, 17.5.2021

OJ C 182, 10.5.2021

OJ C 180, 10.5.2021

OJ C 163, 3.5.2021

These texts are available on:

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

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Appeal brought on 6 January 2021 by Deutsche Post AG against the judgment of the General Court (Fifth Chamber) delivered on 11 November 2020 in Case T-25/20, Deutsche Post v EUIPO — Pošta Slovenije (Representation of a stylised horn)

(Case C-5/21 P)

(2021/C 242/02)

Language of the case: English

Parties

Appellant: Deutsche Post AG (represented by: M. Viefhues, Rechtsanwalt)

Other parties to the proceedings: European Union Intellectual Property Office (EUIPO), Pošta Slovenije d.o.o.

By order of 5 May 2021, the Court of Justice (Chamber determining whether appeals may proceed) held that the appeal was not allowed to proceed and that Deutsche Post AG should bear its own costs.

Appeal brought on 18 January 2021 by Dermavita Co. Ltd against the judgment of the General Court (Third Chamber) delivered on 18 November 2020 in Case T-643/19, Dermavita v EUIPO — Allergan Holdings France (JUVEDERM ULTRA)

(Case C-26/21 P)

(2021/C 242/03)

Language of the case: English

Parties

Appellant: Dermavita Co. Ltd (represented by: D. Todorov, advokat)

Other parties to the proceedings: European Union Intellectual Property Office (EUIPO), Allergan Holdings France SAS

By order of 4 May 2021, the Court of Justice (Chamber determining whether appeals may proceed) held that the appeal was not allowed to proceed and that Dermavita Co. Ltd should bear its own costs.

Request for a preliminary ruling from the Sąd Rejonowy dla Warszawy — Śródmieścia w Warszawie (Poland) lodged on 8 February 2021 — E.K., S.K. v D.B.P.

(Case C-80/21)

(2021/C 242/04)

Language of the case: Polish

Referring court

Sąd Rejonowy dla Warszawy — Śródmieścia w Warszawie

Parties to the main proceedings

Applicants: E.K., S.K.

Defendant: D.B.P.

Questions referred

1. Must Articles 6(1) and 7(1) of Council Directive 93/13/EEC ([1]) of 5 April 1993 on unfair terms in consumer contracts be interpreted as precluding a judicial interpretation of national legislation under which a court finds that a contractual term is unfair not in its entirety, but only in the part thereof which renders the term unfair, as a result of which that term remains partially effective?

2. Must Articles 6(1) and 7(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts be interpreted as precluding a judicial interpretation of national legislation under which a court, having found that a contractual term is unfair, without which the contract could not continue in existence, may modify the remainder of the contract by interpreting the parties' declarations of intent, in order to prevent the contract, which is beneficial to the consumer, from being invalid?

([1]) OJ 1993 L 95, p. 29.

Request for a preliminary ruling from the Sąd Rejonowy dla Warszawy — Śródmieścia w Warszawie (Poland) lodged on 9 February 2021 — B.S., W.S. v M.

(Case C-81/21)

(2021/C 242/05)

Language of the case: Polish

Referring court

Sąd Rejonowy dla Warszawy — Śródmieścia w Warszawie

Parties to the main proceedings

Applicants: B.S., W.S.

Defendant: M.

Questions referred

1. Must Articles 6(1) and 7(1) of Council Directive 93/13/EEC ([1]) of 5 April 1993 on unfair terms in consumer contracts be interpreted as precluding a judicial interpretation of provisions of national legislation under which a court, where it finds that a contractual term is unfair, without that rendering the agreement invalid, may supplement the content of the agreement with a supplementary provision of national law?

2. Must Articles 6(1) and 7(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts be interpreted as precluding a judicial interpretation of national legislation under which a court, where it finds that a contractual term is unfair, with the result that the agreement is invalid, may supplement the content of the agreement with a supplementary provision of national law, in order to prevent the agreement from being invalid, even though the consumer consents to its being invalid?

(1) OJ 1993 L 95, p. 29.

Request for a preliminary ruling from the Sąd Rejonowy dla Warszawy-Śródmieścia w Warszawie (Poland) lodged on 9 February 2021 — B.S., Ł.S. v M.

(Case C-82/21)

(2021/C 242/06)

Language of the case: Polish

Referring court

Sąd Rejonowy dla Warszawy-Śródmieścia w Warszawie

Parties to the main proceedings

Applicants: B.S., Ł.S.

Defendant: M.

Question referred

Must Articles 6(1) and 7(1) of Council Directive 93/13/EEC (1) of 5 April 1993 on unfair terms in consumer contracts, as well as the principles of equivalence, effectiveness and legal certainty, be interpreted as precluding a judicial interpretation of national legislation to the effect that a consumer's claim for the reimbursement of amounts unduly paid on the basis of an unfair term in a contract concluded between a seller or supplier and a consumer is subject to a ten-year limitation period which begins to run from the date of each performance by the consumer, even in the case where the consumer was not aware of the unfair nature of that term?

(1) OJ 1993 L 95, p. 29.

Request for a preliminary ruling from the Augstākā tiesa (Senāts) (Latvia) lodged on 9 March 2021 — SIA 'Ogres HES' v Sabiedrisko pakalpojumu regulēšanas komisija, Ekonomikas ministrija, Finanšu ministrija

(Case C-152/21)

(2021/C 242/07)

Language of the case: Latvian

Referring court

Augstākā tiesa (Senāts)

Parties to the main proceedings

Applicant at first instance and cross-appellant: SIA 'Ogres HES'

Defendant at first instance and appellant: Sabiedrisko pakalpojumu regulēšanas komisija

Other parties to the proceedings: Ekonomikas ministrija, Finanšu ministrija

Questions referred

1. Must the obligation imposed on the public operator to purchase electricity at a price higher than the market price from producers who use renewable energy sources to generate electricity, relying on the obligation imposed on the end consumer to pay in proportion to use, be deemed to constitute intervention by the State or through State resources for the purposes of Article 107(1) of the Treaty on the Functioning of the European Union?

2. Is the concept of 'liberalisation of the market in electricity' to be interpreted as meaning that liberalisation must be deemed to have already occurred where certain aspects of free trade exist, such as, for example, contracts concluded by a public operator with suppliers from other Member States? Can liberalisation of the market in electricity be deemed to begin when the law grants some electricity users (for example, electricity users connected to the transport network or non-domestic electricity users connected to the distribution network) the right to change electricity distributor? What effect do developments in the regulation of the electricity market in Latvia have on the assessment of aid granted to electricity producers in the light of Article 107(1) of the Treaty on the Functioning of the European Union (for the purposes of the answer to question 1, in particular, the situation prior to 2007?

3. If the answers to questions 1 and 2 make clear that the aid granted to electricity producers does not constitute State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union, do the facts that the applicant now operates in a liberalised electricity market and that the payment of compensation would now afford it an advantage over other operators present on the market concerned mean that compensation for the loss must be treated as State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union?

4. If the answers to questions 1 and 2 make clear that the aid granted to electricity producers is State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union, must it be considered, in the context of the supervision of State aid provided for in that provision, that the applicant's claim for compensation for the loss sustained due to failure fully to respect the statutory right to receive a higher payment for electricity generated constitutes a request for new State aid or a request for payment of the portion of State aid not previously received?

5. If question 4 is answered to the effect that the claim for compensation must be assessed, in the context of past circumstances, as a request for payment of the portion of State aid not previously received, does if follow from Article 107(1) of the Treaty on the Functioning of the European Union that, at the present time, in order to adjudicate on the payment of that State aid, it is necessary to examine the current market situation and to take account of the legislation in force (including the limitations currently in existence to prevent overcompensation)?

6. Is it significant, for the purposes of the interpretation of Article 107(1) of the Treaty on the Functioning of the European Union, that wind power plants, unlike hydroelectric power plants, have benefitted in the past from the full amount of aid?

7. Is it significant, for the purposes of the interpretation of Article 107(1) of the Treaty on the Functioning of the European Union, that only some of the hydroelectric power plants which have not received the full amount of aid should now receive compensation?

8. Must Article 3(2) and Article 7(1) of Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid [1] be interpreted as meaning that, since the amount of the aid at issue in the present case does not exceed the threshold for *de minimis* aid, that aid should be considered to fulfil the criteria laid down for *de minimis* aid? Must Article 5(2) of Regulation No 1407/2013 be interpreted as meaning that, in the present case, in view of the conditions for preventing overcompensation set out in Commission Decision SA.43140, the treatment of the payment of damages as *de minimis* aid is liable to create unacceptable cumulation?

9. If the view is taken in the present case that State aid was granted/paid, must Article 1(b) and (c) of Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union [2] be interpreted as meaning that circumstances such as those of the present case amount to new State aid and not to existing State aid?

10. If question 9 is answered in the affirmative, in order to assess whether the applicant's situation matches that of aid which is deemed to be existing aid, as referred to in Article 1(b)(iv) of Regulation 2015/1589, must account be taken solely of the date on which the aid was effectively paid as the starting point of the limitation period for the purposes of Article 17(2) of Regulation 2015/1589?

11. If it is considered that State aid has been granted/paid, must Article 108(3) of the Treaty on the Functioning of the European Union and Articles 2(1) and (3) of Regulation 2015/1589 be interpreted as meaning that a procedure to notify State aid such as that at issue in the present case is deemed to be appropriate where the national court upholds the claim for compensation for the loss sustained on condition that a decision has been received from the Commission which approves the aid and directs the Ministry of the Economy to forward to the Commission, within two months of delivery of the judgment, the relevant declaration of aid for the business activity?

12. Is it significant, for the purpose of interpreting Article 107(1) of the Treaty on the Functioning of the European Union, that compensation for the loss sustained is claimed from a public sector body (Public Services Regulatory Commission) which, historically, has not had to bear such costs, and also that that body's budget is made up of State charges paid by public service providers belonging to regulated sectors; charges which must be ringfenced for regulatory activity?

13. Is a compensation scheme such as that at issue in the present case compatible with the principles in EU law and applicable to regulated sectors, in particular Article 12 and recital 30 of Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive), ([3]) as amended by Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009? ([4])

([1]) OJ 2013 L 352, p. 1.
([2]) OJ 2015 L 248, p. 9.
([3]) OJ 2002 L 108, p. 21, Special edition in Latvian: Chapter 13 Volume 029 P. 337.
([4]) Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, and 2002/20/EC on the authorisation of electronic communications networks and services (OJ 2009 L 337, p. 37).

Request for a preliminary ruling from the Conseil d'État (Belgium) lodged on 11 March 2021 — Pesticide Action Network Europe ASBL, Nature et Progrès Belgique ASBL, TN v État belge, represented by the Ministre des Classes moyennes, des Indépendants, des P.M.E., de l'Agriculture et de l'Intégration sociale, chargé des Grandes villes

(Case C-162/21)

(2021/C 242/08)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicants: Pesticide Action Network Europe ASBL, Nature et Progrès Belgique ASBL, TN

Defendant: État belge, represented by the Ministre des Classes moyennes, des Indépendants, des P.M.E., de l'Agriculture et de l'Intégration sociale, chargé des Grandes villes

Questions referred

1. Is Article 53 of Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ([1]) to be interpreted as allowing a Member State to grant, in certain circumstances, an authorisation for the treatment, sale or sowing of seeds treated with plant protection products?

2. If the answer to the first question is in the affirmative, can the aforementioned Article 53 be applied, in certain circumstances, to plant protection products containing active substances the marketing or use of which is restricted or prohibited in the territory of the European Union?

3. Do the 'special circumstances' required by Article 53 of the aforementioned regulation cover situations in which the occurrence of a danger is not certain but only plausible?

4. Do the 'special circumstances' required by Article 53 of the aforementioned regulation cover situations in which the occurrence of a danger is foreseeable, common and even cyclical?

5. Is the expression 'which cannot be contained by any other reasonable means', as used in Article 53 of the regulation, to be interpreted as giving equal importance, in the light of the wording of recital 8 of the regulation, on the one hand, to ensuring a high level of protection of both human and animal health and the environment and, on the other hand, to safeguarding the competitiveness of Community agriculture?

(1) OJ 2009 L 309, p. 1.

Request for a preliminary ruling from the Sąd Okręgowy w Warszawie (Poland) lodged on 17 March 2021 — Harman International Industries v AB SA

(Case C-175/21)

(2021/C 242/09)

Language of the case: Polish

Referring court

Sąd Okręgowy w Warszawie

Parties to the main proceedings

Applicant: Harman International Industries

Defendant: AB SA

Question referred

Must the second sentence of Article 36 TFEU, read in conjunction with Article 15(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark, (1) and in conjunction with the second sentence of Article 19(1) of the Treaty on European Union, be interpreted as precluding the practice of the national courts of the Member States, which is that the courts:

— when upholding claims by right holders to prohibit the importation, putting on the market, offering, advertising of goods bearing the EU trade mark, to order their withdrawal from the market or to order their destruction;

— when ruling, in proceedings to secure claims, on the seizure of goods bearing the EU trade mark,

refer in their rulings to 'goods which have not been put on the market within the European Economic Area by the right holder or with his consent', with the result that it is left to the enforcement authority, in view of the general wording of the ruling, to determine which items bearing the EU trade mark are subject to the injunctions and prohibitions granted (that is to say, which items have not been put on the market within the European Economic Area by the right holder or with his consent), while the possibility of challenging the aforementioned findings of the enforcement authority before a court in declaratory proceedings is excluded or limited by the nature of the legal remedies available to the defendant in proceedings to secure claims and in enforcement proceedings?

(1) OJ 2017 L 154, p. 1.

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 23 March 2021 — absoluts-bikes and more- GmbH & Co. KG v the-trading-company GmbH

(Case C-179/21)

(2021/C 242/10)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Appellant on a point of law: absoluts-bikes and more- GmbH & Co. KG

Respondent in the appeal on a point of law: the-trading-company GmbH

Questions referred

1. Does the mere existence of a manufacturer's guarantee trigger the information requirement under Article 6(1)(m) of Directive 2011/83/EU? ([1])

2. If Question 1 is answered in the negative: Is the information requirement under Article 6(1)(m) of Directive 2011/83 triggered by the mere mention of a manufacturer's guarantee in the trader's offering or is it triggered only if the mention of such a guarantee is readily apparent to the consumer? Is there also an information requirement if it is readily apparent to the consumer that the trader provides access to only the manufacturer's information concerning the guarantee?

3. Must the information on the existence and conditions of a manufacturer's guarantee as required under Article 6(1)(m) of Directive 2011/83 contain the same details as a guarantee under Article 6(2) of Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees ([2]) or are fewer details sufficient?

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

([2]) OJ 1999 L 171, p. 12.

Request for a preliminary ruling from the Korkein oikeus (Finland) lodged on 29 March 2021 — Soda-Club (CO2) SA, SodaStream International BV v MySoda Oy

(Case C-197/21)

(2021/C 242/11)

Language of the case: Finnish

Referring court

Korkein oikeus

Parties to the main proceedings

Appellants: Soda-Club (CO2) SA and SodaStream International BV

Respondent: MySoda Oy

Questions referred

1. Do the so-called *Bristol-Myers Squibb* criteria ([1]) developed in the Court of Justice's case-law on repackaging and relabelling in cases of parallel imports, and in particular the so-called condition of necessity, also apply in the case of repackaging or relabelling of goods, which had been put on the market in a Member State by the trade mark proprietor or with its consent, for the purposes of resale in the same Member State?

2. Where the trade mark proprietor has affixed its trade mark to the cylinder, both on the label and engraved on the neck of the cylinder, when putting a cylinder containing carbon dioxide on the market, do the *Bristol-Myers Squibb* criteria referred to above, and in particular the so-called condition of necessity, also apply when a third party refills the cylinder with carbon dioxide for the purposes of resale, removes the original label and replaces it with a label bearing that third party's own trade mark, while at the same time the trade mark of the person that put the cylinder on the market continues to be visible in the engraving on the neck of the cylinder?

3. In the situation described above, can the view be taken that the removal and replacement of the label bearing the trade mark jeopardises, in principle, the function of the trade mark as a guarantee of the origin of the cylinder, or is it of significance, with regard to the applicability of the conditions for repackaging and relabelling, that

   — it is to be assumed that the target public will perceive the label as referring exclusively to the origin of the carbon dioxide (and thus to the company that refills the cylinder); or

   — it is to be assumed that the target public will perceive the label as also referring, at least in part, to the origin of the cylinder?

4. If the removal and replacement of the label on CO_2 cylinders is to be assessed on the basis of the condition of necessity, can the fact that the labels affixed to the cylinders put on the market by the trade mark proprietor have been accidentally damaged or become detached or have been removed and replaced by a previous refilling company constitute a circumstance on the basis of which the replacement of the labels by a label of the refilling company, a process regularly carried out by the latter, is to be regarded as being necessary for putting the refilled cylinders on the market?

([1]) Judgment of the Court of Justice of 11 July 1996 (Joined Cases C-427/93, C-429/93 and C-436/93, *Bristol-Myers Squibb and Others*, EU:C:1996:282).

Request for a preliminary ruling from the Bundesfinanzgericht (Austria) lodged on 30 March 2021 — DN v Finanzamt Österreich

(Case C-199/21)

(2021/C 242/12)

Language of the case: German

Referring court

Bundesfinanzgericht

Parties to the main proceedings

Applicant: DN

Defendant: Finanzamt Österreich

Questions referred

Question 1

Question 1, referred together with Question 2:

Is the phrase 'Member State competent for his/her pension' in the second sentence of Article 67 of Regulation (EC) No 883/2004, ([1]) as amended by Regulation (EU) No 465/2012 ([2]) to be interpreted as meaning that it refers to the Member State previously competent for family benefits as the State of employment and now required to pay an old-age pension, the right to which is based on the freedom of movement of workers previously exercised in its territory?

Question 2:

Is the phrase 'rights available on the basis of receipt of pensions' in Article 68(1)(b)(ii) of Regulation No 883/2004 to be interpreted as meaning that the right to family benefits is to be regarded as being available on the basis of receipt of pensions if, first, the laws of the EU OR of the Member State governing the right to family benefits provide for receipt of pensions as a criterion and, second and additionally, the criterion of receipt of pensions is fulfilled in fact at a factual level, meaning that 'simple receipt of pensions' does not fall under Article 68(1)(b)(ii) of Regulation No 883/2004 and the Member State concerned is not to be regarded as the 'State of the pension' under EU law?

Question 3, referred in the alternative to Questions 1 and 2, if simple receipt of pensions suffices for the purpose of interpretation of the concept of the State of the pension:

In the case of receipt of an old-age pension, the right to which [accrued] under the migrant workers regulations and, prior to that, as a result of the pursuit of an activity as an employed person in a Member State in a period when neither the State of residence alone nor both States were Member States of the EU or the European Economic Area, is the phrase 'a differential supplement shall be provided, if necessary' in the second clause of the second sentence of Article 68(2) of Regulation No 883/2004 to be understood, in light of the judgment of 12 June 1980, *Laterza*, 733/79, as meaning that EU law guarantees family benefits to the maximum possible extent even in the case of receipt of pensions?

Question 4:

Is the third sentence of Article 60(1) of Regulation (EC) No 987/2009 ([3]) to be interpreted as meaning that it precludes Paragraph 2(5) of the FLAG 1967, according to which, in the case of divorce, the right to the family allowance and tax credit for the child remains vested in the parent who is the head of the household but who has not made an application either in the State of residence or in the State of the pension for as long as the adult child in education is a member of his or her household, meaning that the other parent living as a pensioner in Austria, who in fact bears the entire cost of supporting the child, can exercise the right to the family allowance and tax credit for the child against the institution of the Member State whose laws take precedence based directly on the third sentence of Article 60(1) of Regulation No 987/2009?

Question 5, referred together with Question 4:

Is the third sentence of Article 60(1) of Regulation No 987/2009 to be further interpreted as meaning that it is also necessary, in order to substantiate the standing of the EU worker as a party in the Member State family benefits procedure, that he/she is mainly responsible for the cost of maintenance within the meaning of Article 1(i)(3) of Regulation No 883/2004?

Question 6:

Are the provisions governing the dialogue procedure in Article 60 of Regulation No 987/2009 to be interpreted as meaning that that procedure must be conducted by the institutions of the Member States involved not only where family benefits are granted, but also where family benefits are recovered?

([1]) Regulation No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ 2004 L 166, p. 1, and corrigendum. OJ 2004 L 200, p. 1).

([2]) Regulation (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012 amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004 (OJ 2012 L 149, p. 4).

([3]) Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ 2009 L 284, p. 1).

Request for a preliminary ruling from the Administrativen sad Veliko Tarnovo (Bulgaria) lodged on 6 April 2021 — AGRO — EKO 2013 EOOD v Izpalnitelen direktor na Darzhaven fond 'Zemedelie'

(Case C-217/21)

(2021/C 242/13)

Language of the case: Bulgarian

Referring court

Administrativen sad Veliko Tarnovo

Parties to the main proceedings

Applicant: AGRO — EKO 2013 EOOD

Defendant: Izpalnitelen direktor na Darzhaven fond 'Zemedelie'

Questions referred

1. Does the term 'payment' used in Article 75(1) of Regulation No 1306/2013 ([1]) of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy signify the conclusion of the procedure initiated on the basis of a payment claim?

2. Does the actual receipt of the amount claimed by a farmer equate to a positive decision by the paying agency on the application for activation of payment entitlements or does the non-receipt of funds in the case of publicly notified payments for the measure concerned constitute a refusal of the claimed payment entitlements where the person has not been notified of the continuation of the procedure by way of new checks?

3. Does the time limit under Article 75(1) of Regulation 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 require the Member States to verify the eligibility conditions before its expiry, and can that verification continue only exceptionally?

4. Does failure to comply with the time limit under Article 75(1) of Regulation 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 constitute a tacit refusal to pay aid where a farmer has not been notified of the carrying out of supplementary checks and there is no written document in relation thereto?

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

Request for a preliminary ruling from the Obvodní soud pro Prahu 1 (Czech Republic) lodged on 26 March 2021 — Správa železnic, státní organizace v České dráhy a.s. and Others

(Case C-221/21)

(2021/C 242/14)

Language of the case: Czech

Referring court

Obvodní soud pro Prahu 1

Parties to the main proceedings

Applicant: Správa železnic, státní organizace

Defendants: České dráhy a.s.,

PKP CARGO INTERNATIONAL, a.s.,

PDV RAILWAY a.s.,

KŽC Doprava, s.r.o.

Questions referred

1. Does national regulation in Part Five of Zákon č. 99/1963 Sb., občanský soudní řád (Law 99/1963, Code of Civil Procedure, as amended) ('the Code of Civil Procedure' or 'CCP') meet the requirements for judicial review of a decision of a regulatory body, pursuant to Article 56(10) of Directive 2012/34/EU ([1]) of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area ('Directive 2012/34')?

2. If the response to the first question is in the affirmative, can Article 56(10) of Directive 2012/34 be interpreted such that judicial review of a decision of a regulatory body may be concluded by court settlement pursuant to Paragraph 99 CCP?

3. If the response to the first question is in the affirmative, do the requirements of the establishment of a single national regulatory body for the railway sector, pursuant to Article 55(1) of Directive 2012/34; of the functions of a regulatory body pursuant to Article 56(2), (6), (11), and (12) thereof; and of cooperation of regulatory bodies pursuant to Article 57(2) thereof, admit the possibility that the decisions of a regulatory body on the merits of the case can be substituted by judgments of individual courts of general jurisdiction, which are not bound by the regulatory body's findings of fact?

(1) OJ 2012 L 343, p. 32.

Request for a preliminary ruling from the Obvodní soud pro Prahu 1 (Czech Republic) lodged on 22 March 2021 — České dráhy, a.s.

(Case C-222/21)

(2021/C 242/15)

Language of the case: Czech

Referring court

Obvodní soud pro Prahu 1

Parties to the main proceedings

Applicant: České dráhy, a.s.

Questions referred

1. Does national regulation in Part Five of Zákon č. 99/1963 Sb., občanský soudní řád (Law 99/1963, Code of Civil Procedure) ('the Code of Civil Procedure' or 'CCP') meet the requirements for judicial review of a decision of a regulatory body, pursuant to Article 56(10) of Directive 2012/34/EU (1) of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area ('Directive 2012/34')?

2. If the response to the first question is in the affirmative, is it in accordance with Article 56(6) of Directive 2012/34 for decisions of the regulatory body to be replaced by judgments of individual courts of general jurisdiction on the merits of the case concerning the level of infrastructure charges in proceedings to which the applicants and the infrastructure manager are parties, but which excludes the regulatory body as a party?

3. If the response to the first question is in the affirmative, do the requirements of the establishment of a single national regulatory body for the railway sector, pursuant to Article 55(1) of Directive 2012/34; of the functions of a regulatory body pursuant to Article 56(2), (11), and (12) thereof; and of cooperation of regulatory bodies pursuant to Article 57(2) thereof, admit the possibility that the decisions of a regulatory body on the merits of the case can be substituted by judgments of individual courts of general jurisdiction, which are not bound by the regulatory body's findings of fact?

(1) OJ 2012 L 343, p. 32.

Request for a preliminary ruling from the Lietuvos vyriausiasis administracinis teismas (Lithuania) lodged on 9 April 2021 — 'HA.EN.' UAB v Valstybinė mokesčių inspekcija

(Case C-227/21)

(2021/C 242/16)

Language of the case: Lithuanian

Referring court

Lietuvos vyriausiasis administracinis teismas

Parties to the main proceedings

Applicant: 'HA.EN.' UAB

Defendant: Valstybinė mokesčių inspekcija

Question referred

Is Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, ([1]) in conjunction with the principle of fiscal neutrality, to be interpreted as prohibiting or not prohibiting a practice of national authorities under which the right of a taxable person to deduct input VAT is denied where that person, when acquiring items of immovable property, knew (or should have known) that the supplier, due to his insolvency, would not pay (or would not be able to pay) the output VAT into the State budget?

([1]) OJ 2006 L 347, p. 1.

Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 12 April 2021 — IA

(Case C-231/21)

(2021/C 242/17)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Appellant on a point of law: IA

Respondent authority: Bundesamt für Fremdenwesen und Asyl

Questions referred

1. Is imprisonment within the meaning of the second sentence of Article 29(2) of Regulation (EU) No 604/2013 ([1]) of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast), OJ 2013 L 180, p. 31, also to be understood as including committal — which has been declared admissible by a court — of the person concerned to the psychiatric ward of a hospital against or without his will (in this case on account of endangerment of self or others resulting from his mental illness)?

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

   a) Can the time limit laid down in the first sentence of Article 29(2) of the above-mentioned regulation in any case be extended to one year — with binding effect for the person concerned — in the event of imprisonment by the requesting Member State?

   b) If not, for what period of time is an extension permissible, for example only for that period of time

   aa) that the detention actually lasted, or

   bb) that the imprisonment is likely to last in total, in relation to the date of informing the Member State responsible in accordance with Article 9(2) of Commission Regulation (EC) No 1560/2003 ([2]) of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 (OJ 2003 L 222, p. 3), as amended by Commission Implementing Regulation (EU) No 118/2014 of 30 January 2014 (OJ 2014 L 39, p. 1),

   plus, if necessary, a reasonable period for the reorganisation of the transfer?

([1]) Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ 2013 L 180, p. 31).

([2]) Commission Implementing Regulation (EU) No 118/2014 of 30 January 2014 amending Regulation (EC) No 1560/2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (OJ 2014 L 39, p. 1).

Request for a preliminary ruling from the Landesverwaltungsgericht Steiermark (Austria) lodged on 13 April 2021 — Porr Bau GmbH v Bezirkshauptmannschaft Graz-Umgebung

(Case C-238/21)

(2021/C 242/18)

Language of the case: German

Referring court

Landesverwaltungsgericht Steiermark

Parties to the main proceedings

Complainant: Porr Bau GmbH

Respondent authority: Bezirkshauptmannschaft Graz-Umgebung

Questions referred

1. Does Article 6(1) of Directive 2008/98/EC ([1]) of the European Parliament and of the Council of 19 November 2008 preclude national legislation under which end-of-waste status is achieved only once waste or existing substances or the substances obtained from them are used directly as a substitute for raw materials or for products made from primary raw materials or they have been prepared for reuse?

   If Question 1 is answered in the negative:

2. Does Article 6(1) of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 preclude national legislation under which end-of-waste status in respect of extracted materials can be achieved at the earliest when they serve as a substitute for raw materials or for products made from primary raw materials?

   If Question 1 and/or Question 2 is/are answered in the negative:

3. Does Article 6(1) of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 preclude national legislation under which end-of-waste status in respect of extracted materials cannot be achieved if formal criteria (in particular record-keeping and documentation obligations) which have no environmentally relevant influence on the measure carried out are not complied with or are not complied with in full, even though the extracted materials demonstrably fall below the limit values (premium) to be complied with for the specific intended use?

([1]) Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ 2008 L 312, p. 3).

Request for a preliminary ruling from the Riigikohus (Estonia) lodged on 14 April 2021 — I.L. v Politsei- ja Piirivalveamet

(Case C-241/21)

(2021/C 242/19)

Language of the case: Estonian

Referring court

Riigikohus

Parties to the main proceedings

Appellant: I.L.

Respondent: Politsei- ja Piirivalveamet

Question referred

Is the first sentence of Article 15(1) of Directive 2008/115/EC ([1]) to be interpreted as meaning that Member States may keep in detention a third-country national in respect of whom there is a real risk that, while at liberty and prior to removal, he or she will commit a criminal offence, the investigation and punishment of which may substantially impede the execution of the removal process?

([1]) Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ 2008 L 348, p. 98, corrigendum OJ 2019 L 240, p. 17).

GENERAL COURT

Judgment of the General Court of 28 April 2021 — Repower v EUIPO — repowermap.org (REPOWER)

(Case T-842/16) ([1])

(EU trade mark — Invalidity proceedings — International registration designating the European Union — Word mark REPOWER — Absolute ground for invalidity — Descriptive character — Article 7(1)(c) of Regulation (EC) No 207/2009 (now Article 7(1)(c) of Regulation (EU) 2017/1001) — Obligation to state reasons — Article 75 of Regulation No 207/2009 (now Article 94 of Regulation 2017/1001))

(2021/C 242/20)

Language of the case: French

Parties

Applicant: Repower AG (Brusio, Switzerland) (represented by: R. Kunz-Hallstein and H. Kunz-Hallstein, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: repowermap.org (Bern, Switzerland) (represented by: P. González-Bueno Catalán de Ocón and W. Sakulin, lawyers)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 26 September 2016 (Case R 2311/2014-5) relating to invalidity proceedings between repowermap.org and Repower.

Operative part of the judgment

The Court:

1. Annuls the decision of the Fifth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 26 September 2016 (Case R 2311/2014-5) in so far as the application for a declaration of invalidity has been upheld in respect of voice tubes in Class 9;

2. Dismisses the action for the remainder;

3. Orders Repower AG to bear, in addition to its own costs, those incurred by EUIPO and repowermap.org.

([1]) OJ C 38, 6.2.2017.

Judgment of the General Court of 28 April 2021 — repowermap.org v EUIPO — Repower (REPOWER)

(Case T-872/16) ([1])

(EU trade mark — Invalidity proceedings — International registration designating the European Union — Word mark REPOWER — Absolute ground for invalidity — Descriptive character — No distinctive character — Article 7(1)(b) and (c) of Regulation (EC) No 207/2009 (now Article 7(1)(b) and (c) of Regulation (EU) 2017/1001) — Obligation to state reasons — Right to be heard — Article 75 of Regulation No 207/2009 (now Article 94 of Regulation 2017/1001) — Freedom of expression)

(2021/C 242/21)

Language of the case: French

Parties

Applicant: repowermap.org (Bern, Switzerland) (represented by: P. González-Bueno Catalán de Ocón and W. Sakulin, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Repower AG (Brusio, Switzerland) (represented by: R. Kunz-Hallstein and H. Kunz-Hallstein, lawyers)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 26 September 2016 (Case R 2311/2014-5) relating to invalidity proceedings between repowermap.org and Repower.

Operative part of the judgment

The Court:

1. Alters the decision of the Fifth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 26 September 2016 (Case R 2311/2014-5) in such a way as to cancel the contested mark with respect to the following services:

   — Class 37: 'Services of heating engineers';

   — Class 42: 'Scientific services and research and development relating thereto; industrial research and analyses.'

2. Dismisses the action for the remainder;

3. Orders repowermap.org to pay, in addition to its own costs, those incurred by EUIPO and Repower AG.

([1]) OJ C 30, 30.1.2017.

Judgment of the General Court of 14 April 2021 — RQ v Commission

(Case T-29/17 RENV) ([1])

(Civil service — Officials — Director-General of OLAF — Decision waiving the applicant's immunity from legal proceedings — Obligation to state reasons — Duty of assistance and duty to have regard to the welfare of officials — Legitimate expectations — Presumption of innocence — Principle of sound administration)

(2021/C 242/22)

Language of the case: French

Parties

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

Defendant: European Commission (represented by: K. Banks, J.-P. Keppenne and J. Baquero Cruz, acting as Agents)

Re:

Action under Article 270 TFEU for annulment of Commission Decision C(2016) 1449 final of 2 March 2016 concerning a request to waive the applicant's immunity from legal proceedings.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders RQ to pay the entirety of the costs, including those relating to Case T-29/17 and Case C-831/18 P.

([1]) OJ C 95, 27.3.2017.

Judgment of the General Court of 28 April 2021 –Primart v EUIPO — Bolton Cile España (PRIMART Marek Łukasiewicz)

(Case T-584/17 RENV) ([1])

(EU trade mark — Opposition proceedings — Application for EU figurative mark PRIMART Marek Łukasiewicz — Earlier national word marks PRIMA — Relative ground for refusal — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001) — Referral)

(2021/C 242/23)

Language of the case: English

Parties

Applicant: Przedsiębiorstwo Produkcyjno-Handlowe 'Primart' Marek Łukasiewicz (Wołomin, Poland) (represented by: J. Skołuda, lawyer)

Defendant: European Union Intellectual Property Office (represented by: S. Palmero Cabezas, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Bolton Cile España, SA (Madrid, Spain) (represented by: F. Celluprica, F. Fischetti and F. De Bono, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 22 June 2017 (Case R 1933/2016-4), relating to opposition proceedings between Bolton Cile España and Przedsiębiorstwo Produkcyjno-Handlowe 'Primart' Marek Łukasiewicz.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Przedsiębiorstwo Produkcyjno-Handlowe 'Primart' Marek Łukasiewicz to pay the costs.

([1]) OJ C 374, 6.11.2017.

Judgment of the General Court of 14 April 2021 — Verband Deutscher Alten und Behindertenhilfe and CarePool Hannover v Commission

(Case T-69/18) ([1])

(State aid — Independent social action — Subsidies granted to associations in a regional working group for charity action — Rejection of a complaint — Decision not to raise any objections at the end of the preliminary examination stage — Action for annulment — Status of interested party — Safeguarding of procedural rights — Substantial effect on competitive position — Admissibility — No serious difficulties — No substantial alteration to existing aid)

(2021/C 242/24)

Language of the case: German

Parties

Applicants: Verband Deutscher Alten- und Behindertenhilfe, Landesverband Niedersachsen/Bremen und Hamburg/Schleswig-Holstein eV (Hanover, Germany), CarePool Hannover GmbH (Hanover) (represented by: T. Unger, lawyer, and S. Korte, Professor)

Defendant: European Commission (represented by: K. Herrmann and F. Tomat, acting as Agents)

Interveners in support of the defendant: Diakonisches Werk evangelischer Kirchen in Niedersachsen eV (Hanover) (represented by: A. Bartosch, lawyer), Arbeiterwohlfahrt Bezirksverband Hannover eV (Hanover) (represented by: C. Jürschik, lawyer), Arbeiterwohlfahrt Bezirksverband Braunschweig eV (Braunschweig, Germany) and the eight other interveners whose names are listed in the annex to the judgment (represented by: U. Karpenstein, R. Sangi and C. Johann, lawyers)

Re:

Application under Article 263 TFEU for annulment of Commission Decision C(2017) 7686 final of 23 November 2017 on State aid schemes SA.42268 (2017/E) — Deutschland Staatliche Beihilfe zur Förderung wohlfahrtspflegerischer Aufgaben and SA.42877 (2017/E) — Deutschland CarePool Hannover GmbH implemented by Germany in favour of charitable associations for social welfare projects (OJ 2018 C 61, p. 1).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Verband Deutscher Alten- und Behindertenhilfe, Landesverband Niedersachsen/Bremen und Hamburg/Schleswig-Holstein eV and CarePool Hannover GmbH to bear their own costs and to pay those incurred by the European Commission, Diakonisches Werk evangelischer Kirchen in Niedersachsen eV, Arbeiterwohlfahrt Bezirksverband Hannover eV, Arbeiterwohlfahrt Bezirksverband Braunschweig eV and the other interveners whose names are listed in the annex.

(1) OJ C 112, 26.3.2018.

Judgment of the General Court of 5 May 2021 — ITD and Danske Fragtmænd v Commission

(Case T-561/18) (1)

(State aid — Postal sector — Compensation for the discharge of the universal service obligation — Decision not to raise any objections — Calculation of the compensation — Net avoided cost methodology — Taking into account the intangible benefits of the universal service — Use of funds granted as compensation — State guarantee of redundancy payments in the event of bankruptcy — VAT exemption for certain transactions carried out by the universal service provider — Accounting allocation of common costs between universal service activities and non-universal service activities — Capital contribution from a public undertaking in order to avoid the bankruptcy of its subsidiary — Complaint from a competitor — Decision finding no State aid after the preliminary examination stage — Existing aid — Advantages granted on a periodic basis — Whether imputable to the State — Private investor test)

(2021/C 242/25)

Language of the case: English

Parties

Applicants: ITD, Brancheorganisation for den danske vejgodstransport A/S (Padborg, Denmark), Danske Fragtmænd A/S (Åbyhøj, Denmark) (represented by: L. Sandberg-Mørch, lawyer)

Defendant: European Commission (represented by: K. Blanck and D. Recchia, acting as Agents)

Interveners in support of the applicants: Jørgen Jensen Distribution A/S (Ikast, Denmark) (represented by: L. Sandberg-Mørch and M. Honoré, lawyers), Dansk Distribution A/S (Karlslunde, Denmark) (represented by: L. Sandberg-Mørch and J. Buendía Sierra, lawyers)

Intervener in support of the defendant: Kingdom of Denmark (represented by: J. Nymann-Lindegren and M. Wolff, acting as Agents, and by R. Holdgaard, lawyer)

Re:

Application under Article 263 TFEU for annulment of Commission Decision C(2018) 3169 final of 28 May 2018, State aid SA.47707 (2018/N) on State compensations granted to PostNord for the provision of the universal postal service — Denmark.

Operative part of the judgment

The Court:

1. Annuls Commission Decision C(2018) 3169 final of 28 May 2018, State aid SA.47707 (2018/N) on State compensations granted to PostNord for the provision of the universal postal service — Denmark, in so far as it found, at the end of the preliminary examination phase, that, first, the exemption from value added tax (VAT) introduced by Administrative Decision No 1306/90 and Administrative Regulation F 6742/90, adopted by the Danish tax authorities, and, secondly, the capital increase of DKK one billion made to Post Danmark A/S by PostNord AB on 23 February 2017, did not constitute State aid;

2. Dismisses the action as to the remainder;

3. Orders ITD, Brancheorganisation for den danske vejgodstransport A/S and Danske Fragtmænd A/S to bear half of their own costs, with the rest of their costs being borne by the European Commission;

4. Orders the Commission, the Kingdom of Denmark, Jørgen Jensen Distribution A/S and Dansk Distribution A/S to bear their own costs.

([1]) OJ C 427, 26.11.2018.

Judgment of the General Court of 5 May 2021 — Pharmaceutical Works Polpharma v EMA

(Case T-611/18) ([1])

(Medicinal products for human use — Application for marketing authorisation for a generic version of the medicinal product Tecfidera — Decision of the EMA not to validate the application for marketing authorisation — Previous decision of the Commission taking the view that Tecfidera — Dimethyl fumarate was not covered by the same global marketing authorisation as Fumaderm — Plea of illegality — Admissibility — Previously authorised combination medicinal product — Subsequent marketing authorisation for a component of the combination medicinal product — Assessment of the existence of two different global marketing authorisations — Manifest error of assessment)

(2021/C 242/26)

Language of the case: English

Parties

Applicant: Pharmaceutical Works Polpharma S.A. (Starogard Gdański, Poland) (represented by: M. Martens and N. Carbonnelle, lawyers, and by S. Faircliffe, Solicitor)

Defendant: European Medicines Agency (represented by: T. Jabłoński, S. Drosos and R. Pita, acting as Agents)

Interveners in support of the defendant: European Commission (represented by: A. Sipos and L. Haasbeek, acting as Agents), Biogen Netherlands BV (Badhoevedorp, Netherlands) (represented by: C. Schoonderbeek, lawyer)

Re:

Application, first, for a declaration that the plea of illegality raised in respect of Commission Implementing Decision C(2014) 601 final of 30 January 2014 granting marketing authorisation for Tecfidera — Dimethyl fumarate, a medicinal product for human use, is admissible and well founded in so far as, in that implementing decision, the Commission considers that Tecfidera — Dimethyl fumarate is not covered by the same global marketing authorisation as Fumaderm, and, second, based on Article 263 TFEU seeking annulment of the decision of the EMA of 30 July 2018 not to validate the application submitted by the applicant with a view to obtaining a marketing authorisation for a generic version of the medicinal product Tecfidera.

Operative part of the judgment

The Court:

1. Annuls the decision of the European Medicines Agency (EMA) of 30 July 2018 not to validate the application submitted by Pharmaceutical Works Polpharma S.A. with a view to obtaining a marketing authorisation for a generic version of the medicinal product Tecfidera;

2. Dismisses the action as to the remainder;

3. Orders the EMA to bear its own costs and to pay those incurred by Pharmaceutical Works Polpharma;

4. Orders Biogen Netherlands BV and the European Commission to bear their own costs.

(1) OJ C 455, 17.12.2018.

Judgment of the General Court of 5 May 2021 — Acron and Others v Commission

(Case T-45/19) (1)

(Dumping — Imports of ammonium nitrate originating in Russia — Request for partial interim review — Termination of the partial interim review — No change of circumstances — Error of assessment — Obligation to state reasons — Rights of the defence)

(2021/C 242/27)

Language of the case: English

Parties

Applicants: Acron PAO (Veliky Novgorod, Russia), Dorogobuzh PAO (Dorogobuzh, Russia), Acron Switzerland AG (Baar, Switzerland) (represented by: T. De Meese, J. Stuyck and M. Van Nieuwenborgh, lawyers)

Defendant: European Commission (represented by: M. Gustafsson and P. Němečková, acting as Agents)

Intervener in support of the defendant: Fertilizers Europe (Brussels, Belgium) (represented by: B. O'Connor, Solicitor)

Re:

Application under Article 263 TFEU for annulment of Commission Implementing Decision (EU) 2018/1703 of 12 November 2018 terminating the partial interim review concerning imports of ammonium nitrate originating in Russia (OJ 2018 L 285, p. 97).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Acron PAO, Dorogobuzh PAO and Acron Switzerland AG to bear, in addition to their own costs, those incurred by the European Commission and by Fertilizers Europe.

(1) OJ C 122, 1.4.2019.

Judgment of the General Court of 21 April 2021 — Pech v Council

(Case T-252/19) ([1])

(Access to documents — Regulation (EC) No 1049/2001 — Second indent of Article 4(2) of Regulation No 1049/2001 — Protection of legal advice — First subparagraph of Article 4(3) of Regulation No 1049/2001 — Protection of the decision-making process — Refusal to grant full access to a legal opinion of the Council's Legal Service)

(2021/C 242/28)

Language of the case: English

Parties

Applicant: Laurent Pech (London, United Kingdom) (represented by: O. Brouwer and T. McGrath, lawyers)

Defendant: Council of the European Union (represented by: K. Pavlaki and E. Rebasti, acting as Agents)

Intervener in support of the applicant: Kingdom of Sweden (represented by: O. Simonsson, C. Meyer-Seitz, A. Runeskjöld, J. Lundberg, M. Salborn Hodgson, H. Shev, H. Eklinder and R. Shahsavan Eriksson, acting as Agents)

Re:

Application under Article 263 TFEU seeking annulment of the decision of the Council of 12 February 2019 refusing to grant full access to the opinion of its Legal Service contained in document ST 13593 2018 INIT concerning the proposal for a regulation of the European Parliament and of the Council of 2 May 2018 on the protection of the European Union's budget in case of generalised deficiencies as regards the rule of law in the Member States (COM(2018) 324 final).

Operative part of the judgment

The Court:

1. Annuls the decision of the Council of the European Union of 12 February 2019 refusing full access to document ST 13593 2018 INIT, containing the opinion of the Legal Service of the Council concerning the proposal for a regulation of the European Parliament and of the Council on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States (COM(2018) 324 final);

2. Orders the Council to bear its own costs and to pay those incurred by Mr Laurent Pech;

3. Orders the Kingdom of Sweden to bear its own costs.

([1]) OJ C 213, 24.6.2019.

Judgment of the General Court of 14 April 2021 — Al Tarazi v Council

(Case T-260/19) ([1])

(Common foreign and security policy — Restrictive measures adopted against Syria — Freezing of funds — Obligation to state reasons — Error of assessment — Rights of defence — Right to property — Right to exercise an economic activity — Right to respect for private and family life — Proportionality)

(2021/C 242/29)

Language of the case: English

Parties

Applicant: Mazen Al Tarazi (Shuwaikh, Kuwait) (represented by: G. Beck, A. Khan, R. Wilcox, Barristers, and S. Patel, Solicitor)

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

Re:

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

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Mazen Al-Tarazi to bear his own costs and to pay those incurred by the Council of the European Union.

(1) OJ C 213, 24.6.2019.

Judgment of the General Court of 14 April 2021 — SGI Studio Galli Ingegneria v Commission

(Case T-285/19) (1)

(Arbitration clause — Seventh Framework Programme for research, technological development and demonstration activities (2007-2013) — Grant agreement — The MARSOL Project — Eligible costs — OLAF investigation report finding certain expenses incurred to be ineligible — Repayment of sums paid — Burden of proof — Principle of good faith — Right to be heard — Principle of sound administration — Rights of the defence — Proportionality)

(2021/C 242/30)

Language of the case: Italian

Parties

Applicant: SGI Studio Galli Ingegneria Srl (Rome, Italy) (represented by: F. Marini, V. Catenacci and R. Viglietta, lawyers)

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

Re:

Application under Article 272 TFEU seeking primarily, in essence, a declaration that the applicant is not required to repay the amount of EUR 487 914,32 which is part of the total amount awarded to it under Grant Agreement No 619120 concerning the MARSOL Project or, in the alternative, a declaration that the amount to be repaid may not exceed EUR 100 044,99 or, in the further alternative, an order that the Commission is to reimburse the applicant for the costs incurred by the latter in implementing that project, in accordance with the provisions on unjust enrichment.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders SGI Studio Galli Ingegneria Srl to pay the costs.

(1) OJ C 213, 24.6.2019.

Judgment of the General Court of 14 April 2021 — Achema and Lifosa v Commission

(Case T-300/19) ([1])

(State aid — Market in electricity generated from renewable energy sources — Operating aid — Decision declaring the aid scheme compatible with the internal market at the end of the preliminary examination stage — Article 107(3)(c) TFEU — Infringement of procedural rights — 2008 Guidelines on State aid for environmental protection — 2014 Guidelines on State aid for environmental protection and energy 2014-2020 — Article 30 TFEU — Article 110 TFEU — Body of consistent evidence)

(2021/C 242/31)

Language of the case: English

Parties

Applicants: Achema AB (Jonava, Lithuania), Lifosa AB (Kedainiai, Lithuania) (represented by: E. Righini and N. Solárová, lawyers)

Defendant: European Commission (represented by: K. Herrmann and P. Němečková, acting as Agents)

Intervener in support of the defendant: Republic of Lithuania (represented by: K. Dieninis and R. Dzikovič, acting as Agents)

Re:

Application under Article 263 TFEU for annulment of Commission Decision C(2018) 9209 final of 8 January 2019 on State aid SA.45765 (2018/NN), concerning an aid scheme implemented by the Republic of Lithuania in support of producers of electricity from renewable energy sources (OJ 2019 C 61, p. 1).

Operative part of the judgment

The Court:

1. Annuls Commission Decision C(2018) 9209 final of 8 January 2019 on State aid SA.45765 (2018/NN), concerning an aid scheme implemented by the Republic of Lithuania in support of producers of electricity from renewable energy sources;

2. Orders the European Commission to bear its own costs and to pay those incurred by Achema AB and Lifosa AB;

3. Orders the Republic of Lithuania to bear its own costs.

([1]) OJ C 238, 15.7.2019.

Judgment of the General Court of 21 April 2021 — El-Qaddafi v Council

(Case T-322/19) ([1])

(Common foreign and security policy — Restrictive measures taken in view of the situation in Libya — Freezing of funds — List of persons, entities and bodies subject to the freezing of funds and economic resources — Restrictions on entry into and transit through the territory of the European Union — List of persons subject to restrictions on entry into and transit through the territory of the European Union — Retention of the applicant's name on the lists — Period allowed for commencing proceedings — Admissibility — Obligation to state reasons — Error of assessment)

(2021/C 242/32)

Language of the case: English

Parties

Applicant: Aisha Muammer Mohamed El-Qaddafi (Muscat, Oman) (represented by: S. Bafadhel, Barrister)

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

Re:

Application, first, pursuant to Article 263 TFEU for annulment of (i) Council Implementing Decision (CFSP) 2017/497 of 21 March 2017 implementing Decision (CFSP) 2015/1333 concerning restrictive measures in view of the situation in Libya (OJ 2017 L 76, p. 25), and Council Implementing Decision (CFSP) 2020/374 of 5 March 2020 implementing Decision (CFSP) 2015/1333 concerning restrictive measures in view of the situation in Libya (OJ 2020 L 71, p. 14), in so far as they maintain the applicant's name on the lists in Annexes I and III to Council Decision (CFSP) 2015/1333 of 31 July 2015 concerning restrictive measures in view of the situation in Libya, and repealing Decision 2011/137/CFSP (OJ 2015 L 206, p. 34), and (ii) Council Implementing Regulation (EU) 2017/489 of 21 March 2017 implementing Article 21(5) of Regulation (EU) 2016/44 concerning restrictive measures in view of the situation in Libya (OJ 2017 L 76, p. 3), and Council Implementing Regulation (EU) 2020/371 of 5 March 2020 implementing Article 21(5) of Regulation (EU) 2016/44 concerning restrictive measures in view of the situation in Libya (OJ 2020 L 71, p. 5), in so far as they maintain the applicant's name on the list in Annex II to Council Regulation (EU) 2016/44 of 18 January 2016 concerning restrictive measures in view of the situation in Libya and repealing Regulation (EU) No 204/2011 (OJ 2016 L 12, p. 1); and, second, pursuant to Article 265 TFEU for a declaration that the Council unlawfully failed to notify the acts in question to the applicant at the time of their adoption.

Operative part of the judgment

The Court:

1. Annuls Council Implementing Decision (CFSP) 2017/497 of 21 March 2017 implementing Decision (CFSP) 2015/1333 concerning restrictive measures in view of the situation in Libya, and Council Implementing Decision (CFSP) 2020/374 of 5 March 2020 implementing Decision (CFSP) 2015/1333 concerning restrictive measures in view of the situation in Libya, in so far as they maintain the name of Ms Aisha Muammer Mohamed El-Qaddafi on the lists in Annexes I and III to Council Decision (CFSP) 2015/1333 of 31 July 2015 concerning restrictive measures in view of the situation in Libya, and repealing Decision 2011/137/CFSP;

2. Annuls Council Implementing Regulation (EU) 2017/489 of 21 March 2017 implementing Article 21(5) of Regulation (EU) 2016/44 concerning restrictive measures in view of the situation in Libya, and Council Implementing Regulation (EU) 2020/371 of 5 March 2020 implementing Article 21(5) of Regulation (EU) 2016/44 concerning restrictive measures in view of the situation in Libya, in so far as they maintain the name of Ms Aisha Muammer Mohamed El-Qaddafi on the list in Annex II to Council Regulation (EU) 2016/44 of 18 January 2016 concerning restrictive measures in view of the situation in Libya and repealing Regulation (EU) No 204/2011;

3. Orders the effects of Article 1 of Implementing Decision 2020/374 to be maintained in respect of Ms Aisha Muammer Mohamed El-Qaddafi 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 any dismissal of that appeal;

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

(1) OJ C 246, 22.7.2019.

Judgment of the General Court of 28 April 2021 — Asolo v EUIPO — Red Bull (FLÜGEL)

(Case T-509/19) ([1])

(EU trade mark — Invalidity proceedings — EU word mark FLÜGEL — Earlier national word marks … VERLEIHT FLÜGEL and RED BULL VERLEIHT FLÜÜÜGEL — Relative grounds for refusal — Damage to reputation — Article 8(5) and Article 52(1)(a) of Regulation No 40/94 (now Article 8(5) and Article 60(1)(a) of Regulation (EU) 2017/1001) — Right to be heard — Article 70(2) and Article 94(1) of Regulation 2017/1001)

(2021/C 242/33)

Language of the case: English

Parties

Applicant: Asolo LTD (Limassol, Cyprus) (represented by: W. Pors and N. Dorenbosch, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Red Bull GmbH (Fuschl am See, Austria) (represented by: A. Renck and S. Petivlasova, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 15 May 2019 (Case R 201/2019-4), relating to invalidity proceedings between Red Bull and Asolo.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Asolo LTD to pay the costs.

([1]) OJ C 295, 2.9.2019.

Judgment of the General Court of 21 April 2021 — Intering and Others v Commission

(Case T-525/19) ([1])

(Public contracts — Tendering procedure — Reduction of dust and nitrogen oxide emissions at the Kosovo B thermal power plant, Units B1 and B2 — Rejection of the application — Application for annulment submitted in the reply — New claims — Manifest inadmissibility — Amendment of the selection criteria during the procedure — Equal treatment)

(2021/C 242/34)

Language of the case: German

Parties

Applicants: Intering Sh.p.k (Obiliq, Kosovo), Steinmüller Engineering GmbH (Gummersbach, Germany), Deling d.o.o. za proizvodnju, promet i usluge (Tuzla, Bosnia and Herzegovina), ZM-Vikom d.o.o. za proizvodnju, konstrukcije i montažu (Šibenik, Croatia) (represented by: R. Spielhofen, lawyer)

Defendant: European Commission (represented by: J. Estrada de Solà, B. Bertelmann and M. Kellerbauer, acting as Agents)

Re:

Application under Article 263 TFEU seeking annulment of (i) Commission Decision Ares(2019) 4979920 of 30 July 2019 not to accept the application of the applicants to participate in the restricted procedure for the award of the contract relating to the call for tenders EuropeAid/140043/DH/WKS/XK and (ii) of the decision of 18 October 2019 concerning the award of that contract.

Operative part of the judgment

The Court:

1. Annuls the decision of the European Commission of 30 July 2019 (Ares(2019)4979920) not to accept the applications of Intering Sh.p.k, Steinmüller Engineering GmbH, Deling d.o.o. za proizvodnju, promet i usluge and ZM-Vikom d.o.o. za proizvodnju, konstrukcije i montažu to participate in the restricted procedure for the award of the contract relating to the call for tenders EuropeAid/140043/DH/WKS/XK;

2. Dismisses the remainder of the action;

3. Orders the Commission to pay the costs, including those relating to the interim proceedings.

([1]) OJ C 328, 30.9.2019.

Judgment of the General Court of 28 April 2021 — Sharif v Council

(Case T-540/19) ([1])

(Common foreign and security policy — Restrictive measures taken against Syria — Freezing of funds — Error of assessment — Proportionality — Right to property — Right to exercise an economic activity)

(2021/C 242/35)

Language of the case: French

Parties

Applicant: Ammar Sharif (Damascus, Syria) (represented by: J.-P. Buyle, L. Cloquet and J. Kobeissi, lawyers)

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

Intervener in support of the defendant: European Commission (represented by: A. Bouquet, J. Norris and J. Roberti di Sarsina, acting as Agents)

Re:

Application based on Article 263 TFEU seeking annulment of Council Decision (CFSP) 2019/806 of 17 May 2019 amending Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2019 L 132, p. 36), of Council Implementing Regulation (EU) 2019/798 of 17 May 2019 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2019 L 132, p. 1), of Council Decision (CFSP) 2020/719 of 28 May 2020 amending Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2020 L 168, p. 66), and of Council Implementing Regulation (EU) 2020/716 of 28 May 2020 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2020 L 168, p. 1), in so far as those measures relate to the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Ammar Sharif to bear his own costs and to pay those incurred by the Council of the European Union;

3. Orders the European Commission to bear its own costs.

(1) OJ C 337, 7.10.2019.

Judgment of the General Court of 14 April 2021 — Romania v Commission

(Case T-543/19) (1)

(Cohesion Fund and ERDF — Article 139(6) of Regulation (EU) No 1303/2013 — Temporal application of an increased co-financing rate adopted after submission of the final application for interim payment but before acceptance of the accounts — Legitimate expectation — Obligation to state reasons — Principle of good administration)

(2021/C 242/36)

Language of the case: Romanian

Parties

Applicant: Romania (represented by: E. Gane, A. Rotăreanu and M. Chicu, acting as Agents)

Defendant: European Commission (represented by: A. Armenia, S. Pardo Quintillán and L. Mantl, acting as Agents)

Re:

Application based on Article 263 TFEU seeking annulment in part of Commission Decision C(2019) 4027 final of 23 May 2019 so far as concerns the acceptance of the accounts and the calculation of the amount chargeable to the Cohesion Fund and to the European Regional Development Fund (ERDF) for the accounting year 2017-2018 and for 'Large Infrastructure' Operational Programme CCI 2014RO16M1OP001, in applying a co-financing rate for Priority Axes 1 and 2 of that operational programme of 75 % and not 85 %.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Romania to pay the costs.

(1) OJ C 337, 7.10.2019.

Judgment of the General Court of 21 April 2021 — Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi v EUIPO — Fontana Food (GRILLOUMI)

(Case T-555/19) (1)

(EU trade mark — Opposition proceedings — Application for the EU word mark GRILLOUMI — Earlier EU collective word mark HALLOUMI — Relative ground for refusal — Likelihood of confusion — Detriment to reputation — Article 8(1)(b) and Article 8(5) of Regulation (EC) No 207/2009 (now Article 8(1)(b) and Article 8(5) of Regulation (EU) 2017/1001))

(2021/C 242/37)

Language of the case: English

Parties

Applicant: Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi (Nicosia, Cyprus) (represented by: S. Malynicz QC, S. Baran, Barrister, and V. Marsland, Solicitor)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Fontana Food AB (Tyresö, Sweden) (represented by: P. Nihlmark and L. Zacharoff, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 29 May 2019 (Case R 1355/2018-4), relating to opposition proceedings between Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi and Fontana Food.

Operative part of the judgment

The Court:

1. Annuls the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 29 May 2019 (Case R 1355/2018-4), relating to opposition proceedings between Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi and Fontana Food AB;

2. Orders EUIPO to bear its own costs and to pay those incurred by Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi;

3. Orders Fontana Food to bear its own costs.

([1]) OJ C 328, 30.9.2019.

Judgment of the General Court of 14 April 2021 — The KaiKai Company Jaeger Wichmann v EUIPO (Gymnastic or sports equipment)

(Case T-579/19) ([1])

(Community design — Multiple application for community designs representing gymnastic or sports equipment — Right of priority — Article 41 of Regulation (EC) No 6/2002 — Application under the Patent Cooperation Treaty — Article 4 of the Paris Convention for the Protection of Industrial Property — Priority period)

(2021/C 242/38)

Language of the case: German

Parties

Applicant: The KaiKai Company Jaeger Wichmann GbR (Munich, Germany) (represented by: J. Hellmann-Cordner, lawyer)

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

Re:

Action brought against the decision of the Third Board of Appeal of EUIPO of 13 June 2019 (Case R 573/2019-3) concerning an application for registration of gymnastic or sports equipment as community designs claiming the right of priority of an international patent application filed under the Patent Cooperation Treaty.

Operative part of the judgment

The Court:

1. Annuls the decision of the Third Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 13 June 2019 (Case R 573/2019-3);

2. Dismisses the action as to the remainder;

3. Orders EUIPO to pay the costs.

(1) OJ C 337, 7.10.2019.

Judgment of the General Court of 28 April 2021 — Point Tec Products Electronic v EUIPO — Compagnie des montres Longines, Francillon (representation of two extended wings around a triangle)

(Case T-615/19) (1)

(EU trade mark — Opposition proceedings — International registration designating the European Union — Figurative mark representing two extended wings around a triangle — Earlier EU figurative mark representing two extended wings around a rectangle — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001) — Article 72(2) of Regulation 2017/1001)

(2021/C 242/39)

Language of the case: English

Parties

Applicant: Point Tec Products Electronic GmbH (Ismaning, Germany) (represented by: D. Wiedemann, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Compagnie des montres Longines, Francillon S.A. (Saint-Imier, Switzerland) (represented by: P. González-Bueno Catalán de Ocón, lawyer)

Re:

Action brought against the decision of the Fifth Board of Appeal of OHIM of 8 July 2019 (Case R 2427/2018 5), relating to opposition proceedings between Compagnie des montres Longines, Francillon and Point Tec Products Electronic.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Point Tec Products Electronic GmbH to pay the costs.

(1) OJ C 363, 28.10.2019.

Judgment of the General Court of 28 April 2021 — Linde Material Handling v EUIPO — Verti Aseguradora (VertiLight)

(Case T-644/19) (1)

(EU trade mark — Opposition proceedings — Application for EU word mark VertiLight — Earlier national word mark VERTI — Relative ground for refusal — No damage to reputation — No link between the marks at issue — Article 8(5) of Regulation (EC) No 207/2009 (now Article 8(5) of Regulation (EU) 2017/1001))

(2021/C 242/40)

Language of the case: English

Parties

Applicant: Linde Material Handling GmbH (Aschaffenburg, Germany) (represented by: J.-C. Plate and R. Kaase, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Verti Aseguradora, Compañía de seguros y reaseguros, SA (Madrid, Spain) (represented by: A. Sanz Cerralbo, lawyer)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 5 July 2019 (Case R 1849/2018-5), relating to opposition proceedings between Verti Aseguradora, Compañía de seguros y reaseguros, and Linde Material Handling.

Operative part of the judgment

The Court:

1. Annuls the decision of the Fifth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 5 July 2019 (Case R 1849/2018-5);

2. Orders EUIPO to bear its own costs and to pay those incurred by Linde Material Handling GmbH;

3. Orders Verti Aseguradora, Compañía de seguros y reaseguros, SA, to bear its own costs.

(1) OJ C 383, 11.11.2019.

Judgment of the General Court of 21 April 2021 — Hasbro v EUIPO — Kreativni Događaji (MONOPOLY)

(Case T-663/19) (1)

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

(2021/C 242/41)

Language of the case: English

Parties

Applicant: Hasbro, Inc. (Pawtucket, Rhode Island, United States) (represented by: J. Moss, Barrister)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Kreativni Događaji d.o.o. (Zagreb, Croatia) (represented by: R. Kunze, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 22 July 2019 (Case R 1849/2017-2), relating to invalidity proceedings between Kreativni Događaji and Hasbro.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Hasbro, Inc., to pay the costs, including those incurred by Kreativni Događaji d.o.o. for the purposes of the proceedings before the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO).

(1) OJ C 413, 9.12.2019.

Judgment of the General Court of 5 May 2021 — Falqui v Parliament

(Case T-695/19) ([1])

(Institutional law — Single statute for Members of the European Parliament — Members of the European Parliament elected in Italian constituencies — Adoption by the Ufficio di Presidenza della Camera dei deputati (Office of the President of the Italian Chamber of Deputies, Italy) of Decision No 14/2018, on pensions — Change in the amount of pensions for Italian national members of parliament — Corresponding change by the European Parliament in the amount of the pensions of certain former Members of the European Parliament elected in Italy — Acquired rights — Legal certainty — Legitimate expectations — Proportionality)

(2021/C 242/42)

Language of the case: Italian

Parties

Applicant: Enrico Falqui (Florence, Italy) (represented by: F. Sorrentino and A. Sandulli, lawyers)

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

Re:

Application based on Article 263 TFEU seeking annulment, first, of the note of 8 July 2019 prepared by the Parliament relating to the adjustment of the amount of the pension that the applicant receives following the entry into force, on 1 January 2019, of Decision No 14/2018 of the Ufficio di Presidenza della Camera dei deputati, second, of the note of 11 April 2019 prepared by the Head of the 'Members' Salaries and Social Entitlements' Unit of the Parliament's Directorate-General for Finance concerning the application of the pensions that the applicant receives following the entry into force, on 1 January 2019, of Decision No 14/2018 of the Ufficio di Presidenza della Camera dei deputati and, third, of the opinion SJ-0836/18 of the legal service of the Parliament of 11 January 2019.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Enrico Falqui to bear his own costs and to pay those incurred by the European Parliament.

([1]) OJ C 406, 2.12.2019.

Judgment of the General Court of 28 April 2021 — Correia v EESC

(Case T-843/19) ([1])

(Civil service — EESC staff — Members of the temporary staff — Refusal to regrade — Action for annulment — Time limit for complaints — Burden of proving expiry of the time limit — Act adversely affecting an official — Admissibility — Equal treatment — Legal certainty — Action for damages — Non-material damage)

(2021/C 242/43)

Language of the case: French

Parties

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

Defendant: European Economic and Social Committee (represented by: M. Pascua Mateo, X. Chamodraka and K. Gambino, acting as Agents, and by B. Wägenbaur, lawyer)

Re:

Application based on Article 270 TFEU seeking, first, annulment of the decision of the EESC adopted on a date unknown to the applicant, which the applicant became aware of on 12 April 2019, refusing to regrade her in grade AST 7 in the 2019 regrading process and, secondly, compensation for the non-material damage suffered by the applicant on account of that decision.

Operative part of the judgment

The Court:

1. Annuls the decision of the European Economic and Social Committee (EESC) refusing to regrade Mrs Paula Correia in the 2019 regrading process;

2. Orders the EESC to pay Mrs Correia the sum of EUR 2 000 in respect of the non-material damage she suffered;

3. Orders the EESC to pay the costs.

(1) OJ C 45, 10.2.2020.

Judgment of the General Court of 28 April 2021 — West End Drinks v EUIPO — Pernod Ricard (The King of SOHO)

(Case T-31/20) (1)

(EU trade mark — Opposition proceedings — Application for EU figurative mark The King of SOHO — Earlier EU word mark SOHO — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2021/C 242/44)

Language of the case: French

Parties

Applicant: West End Drinks Ltd (London, United Kingdom) (represented by: C. Hawkes, Solicitor, C. Hall, Barrister, and B. Niemann Fadani, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Pernod Ricard (Paris, France) (represented by: T. de Haan, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 16 October 2019 (Case R 1543/2018-1), relating to opposition proceedings between Pernod Ricard and West End Drinks.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Dismisses the cross-claim as inadmissible;

3. With regard to the main action, orders West End Drinks Ltd to bear its own costs and to pay the costs incurred, in the context of the present proceedings, by the European Union Intellectual Property Office (EUIPO) and Pernod Ricard;

4. With regard to the cross-claim, orders Pernod Ricard to bear its own costs and to pay the costs incurred by EUIPO, and orders West End Drinks to bear its own costs.

(1) OJ C 87, 16.3.2020.

Judgment of the General Court of 21 April 2021 — Chanel v EUIPO — Huawei Technologies (Representation of a circle containing two interlaced curves)

(Case T-44/20) (1)

(EU trade mark — Opposition proceedings — Application for EU figurative mark representing a circle containing two interlaced curves — Earlier national figurative mark representing two interrupted circles interlaced horizontally — Earlier national figurative mark representing a circle containing two interrupted circles interlaced horizontally — Relative grounds for refusal — No likelihood of confusion — No similarity between the signs — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001) — No damage to reputation — Article 8(5) of Regulation No 207/2009 (now Article 8(5) of Regulation 2017/1001))

(2021/C 242/45)

Language of the case: English

Parties

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

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Huawei Technologies Co. Ltd (Shenzhen, China) (represented by: M. Edenborough, QC)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 28 November 2019 (Case R 1041/2019-4), relating to opposition proceedings between Chanel and Huawei Technologies.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Chanel to pay the costs.

(1) OJ C 103, 30.3.2020.

Judgment of the General Court of 28 April 2021 — FCA Italy v EUIPO — Bettag (Pandem)

(Case T-191/20) (1)

(EU trade mark — Opposition proceedings — Application for the EU word mark Pandem — Earlier national and international word marks PANDA — Relative ground for refusal — No likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2021/C 242/46)

Language of the case: English

Parties

Applicant: FCA Italy SpA (Turin, Italy) (represented by: F. Jacobacci and E. Truffo, lawyers)

Defendant: European Union Intellectual Property Office (represented by: G. Sakalaitė-Orlovskienė and J. Crespo Carrillo, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Christoph Bettag (Aachen, Germany) (represented by: M. Metzner, A. Hönninger and M. Zeis, lawyers)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 4 February 2020 (Case R 1483/2019-5), relating to opposition proceedings between FCA Italy and Mr Bettag.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders FCA Italy SpA to pay the costs.

([1]) OJ C 201, 15.6.2020.

Judgment of the General Court of 14 April 2021 — Berebene v EUIPO — Consorzio vino Chianti Classico (GHISU)

(Case T-201/20) ([1])

(EU trade mark — Opposition proceedings — Application for the EU figurative mark GHISU — Earlier collective national figurative mark CHIANTI CLASSICO — Relative ground for refusal — Article 8(5) of Regulation (EC) No 207/2009 (now Article 8(5) of Regulation (EU) 2017/1001) — Taking unfair advantage of the distinctiveness or reputation of the earlier mark)

(2021/C 242/47)

Language of the case: Italian

Parties

Applicant: Berebene Srl (Rome, Italy) (represented by: A. Massimiani, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Consorzio vino Chianti Classico (Radda in Chianti, Italy) (represented by: S. Corona and F. Corona, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 23 January 2020 (Case R 592/2019-1), relating to opposition proceedings between Consorzio vino Chianti Classico and Berebene.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Berebene Srl to pay the costs.

([1]) OJ C 191, 8.6.2020.

Judgment of the General Court of 21 April 2021 — Apologistics v EUIPO — Kerckhoff (APO)

(Case T-282/20) ([1])

(EU trade mark — Invalidity proceedings — EU word mark APO — Absolute grounds for refusal — Descriptiveness — Article 7(1)(c) of Regulation (EC) No 207/2009 (now Article 7(1)(c) of Regulation (EU) 2017/1001) — Lack of distinctiveness — Article 7(1)(b) of Regulation No 207/2009 (now Article 7(1)(b) of Regulation 2017/1001))

(2021/C 242/48)

Language of the case: German

Parties

Applicant: Apologistics GmbH (Markkleeberg, Germany) (represented by: H. Hug and S. Schreiber, lawyers)

Defendant: European Union Intellectual Property Office (represented by: M. Eberl and A. Söder, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Markus Kerckhoff (Bergisch Gladbach, Germany) (represented by: M. Douglas, lawyer)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 25 February 2020 (Case R 982/2019-5), concerning invalidity proceedings between M. Kerckhoff and Apologistics.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Apologistics GmbH to pay the costs.

([1]) OJ C 215, 29.6.2020.

Judgment of the General Court of 28 April 2021 — Klaus Berthold v EUIPO — Thomann (HB Harley Benton)

(Case T-284/20) ([1])

(EU trade mark — Opposition proceedings — International registration designating the European Union — Figurative mark HB Harley Benton — Earlier EU word mark HB — Earlier national trade name — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) and (4) of Regulation (EU) 2017/1001)

(2021/C 242/49)

Language of the case: German

Parties

Applicant: Klaus Berthold Besitzgesellschaft GmbH & Co. KG (Thalhausen, Germany) (represented by: E. Strauß, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Thomann GmbH (Burgebrach, Germany)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 11 March 2020 (Case R 1359/2019-4), relating to opposition proceedings between Thomann GmbH and Klaus Berthold Besitzgesellschaft GmbH & Co. KG.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Klaus Berthold Besitzgesellschaft GmbH & Co. KG to pay the costs.

(1) OJ C 222, 6.7.2020.

Judgment of the General Court of 5 May 2021 — Capella v EUIPO — Cobi.bike (GOBI)

(Case T-286/20) (1)

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

(2021/C 242/50)

Language of the case: German

Parties

Applicant: Capella EOOD (Sofia, Bulgaria) (represented by: R. Klenke, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Cobi.bike GmbH (Frankfurt am Main, Germany) (represented by: A. Molnar, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 14 February 2020 (Case 1685/2019-2), relating to opposition proceedings between Cobi.bike and Capella.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Capella EOOD to bear its own costs and to pay those incurred by the European Union Intellectual Property Office (EUIPO) and by Cobi.bike GmbH.

(1) OJ C 222, 6.7.2020.

Judgment of the General Court of 28 April 2021 — Nosio v EUIPO — Tros del Beto (ACCUSÌ)

(Case T-300/20) (1)

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

(2021/C 242/51)

Language of the case: English

Parties

Applicant: Nosio SpA (Mezzocorona, Italy) (represented by: J. Graffer, G. Rubino and A. Ottolini, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Tros del Beto, SLU (Marçà, Spain)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 13 March 2020 (Case R 871/2019-1), relating to opposition proceedings between Tros del Belo and Nosio.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders each party to bear its own costs.

(1) OJ C 247, 27.7.2020.

Judgment of the General Court of 28 April 2021 — Comercializadora Eloro v EUIPO — Zumex Group (JUMEX)

(Case T-310/20) (1)

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

(2021/C 242/52)

Language of the case: Spanish

Parties

Applicant: Comercializadora Eloro, SA (Ecatepec, Mexico) (represented by: J. L. Gracia Albero, P. Merino Baylos and E. Cebollero González, lawyers)

Defendant: European Union Intellectual Property Office (represented by: S. Palmero Cabezas, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Zumex Group, SA (Moncada, Spain) (represented by: M. C. March Cabrelles, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 9 March 2020 (Case R 534/2019-2), relating to opposition proceedings between Zumex Group and Comercializadora Eloro.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Comercializadora Eloro, SA to pay the costs incurred by the European Union Intellectual Property Office (EUIPO) and by Zumex Group, SA.

(1) OJ C 240, 20.7.2020.

Judgment of the General Court of 28 April 2021 — France Agro v EUIPO — Chafay (Choumicha Saveurs)

(Case T-311/20) ([1])

(EU trade mark — Invalidity proceedings — EU figurative mark Choumicha Saveurs — Absolute ground for refusal — Bad faith — Declaration of invalidity — Article 52(1)(b) of Regulation (EC) No 207/2009 (now Article 59(1)(b) of Regulation (EU) 2017/1001)

(2021/C 242/53)

Language of the case: French

Parties

Applicant: France Agro (Avignon, France) (represented by: C. de Haas, lawyer)

Defendant: European Union Intellectual Property Office (represented by: A Folliard-Monguiral and V. Ruzek, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Choumicha Chafay (Casablanca, Morocco) (represented by: B. Lafont, lawyer)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 9 March 2020 (Case R 1621/2019-5), relating to invalidity proceedings between Ms Chafay and France Agro.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders France Agro to pay the costs.

([1]) OJ C 240, 20.7.2020.

Judgment of the General Court of 21 April 2021 — Hell Energy Magyarország v EUIPO (HELL)

(Case T-323/20) ([1])

(EU trade mark — Application for the EU word mark HELL — Absolute grounds for refusal — No distinctive character — Descriptive character — Article 7(1)(b) and (c) of Regulation (EU) 2017/1001)

(2021/C 242/54)

Language of the case: Hungarian

Parties

Applicant: Hell Energy Magyarország Kft. (Budapest, Hungary) (represented by: Á. László and B. Mező, lawyers)

Defendant: European Union Intellectual Property Office (represented by: M. Kondás and P. Sipos, acting as Agents)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 25 March 2020 (Case R 1712/2019-2), concerning an application for registration of the word sign HELL as an EU trade mark.

Operative part of the judgment

The Court:

1. Annuls the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 25 March 2020 (Case R 1712/2019-2);

2. Orders each party to bear its own costs.

(1) OJ C 240, 20.7.2020.

Judgment of the General Court of 21 April 2021 — Bibita Group v EUIPO — Benkomers (Beverage bottles)

(Case T-326/20) (1)

(Community design — Invalidity proceedings — Registered Community design representing a beverage bottle — Prior international design — Ground for invalidity — Conflict with a prior design — Individual character — Informed user — Degree of freedom of the designer — Different overall impression — Article 6 and Article 25(1)(d)(iii) of Regulation (EC) No 6/2002)

(2021/C 242/55)

Language of the case: English

Parties

Applicant: Bibita Group (Tirana, Albania) (represented by: C. Seyfert, lawyer)

Defendant: European Union Intellectual Property Office (represented by: G. Sakalaitė-Orlovskienė and J. Crespo Carrillo, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO: Benkomers OOD (Sofia, Bulgaria)

Re:

Action brought against the decision of the Third Board of Appeal of EUIPO of 27 April 2020 (Case R 1070/2018 3), relating to invalidity proceedings between Bibita Group and Benkomers.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Bibita Group to pay the costs.

(1) OJ C 247, 27.7.2020.

Judgment of the General Court of 21 April 2021 — Robert Klingel v EUIPO (MEN+)

(Case T-345/20) (1)

(EU trade mark — Application for registration of the EU figurative mark MEN+ — Absolute ground for refusal — Lack of distinctiveness — Article 7(1)(b) of Regulation (EU) 2017/1001 — Examination of the facts — Article 95(1) of Regulation 2017/1001 — Obligation to state reasons)

(2021/C 242/56)

Language of the case: German

Parties

Applicant: Robert Klingel OHG (Pforzheim, Germany) (represented by: M. Zick, lawyer)

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

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 27 March 2020 (Case R 1906/2019-1) concerning an application for registration of the figurative sign MEN+ as an EU trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Robert Klingel OHG to pay the costs.

(1) OJ C 247, 27.7.2020.

Judgment of the General Court of 28 April 2021 — Freistaat Bayern v EUIPO (GEWÜRZSOMMELIER)

(Case T-348/20) (1)

(EU trade mark — Application for EU word mark GEWÜRZSOMMELIER — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EU) 2017/1001 — Neologism)

(2021/C 242/57)

Language of the case: German

Parties

Applicant: Freistaat Bayern (Germany) (represented by: V. Lehmann, lawyer)

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

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 26 March 2020 (Case R 2430/2019-2) concerning an application for registration of the word sign GEWÜRZSOMMELIER as an EU trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Freistaat Bayern to pay the costs.

(1) OJ C 247, 27.7.2020.

Judgment of the General Court of 14 April 2021 — Ryanair v Commission (SAS, Denmark; COVID-19)

(Case T-378/20) (1)

(State aid — Danish air transport market — Aid granted by Denmark to an airline amid the COVID-19 pandemic — Guarantee — Decision not to raise any objections — Commitments as a condition to make the aid compatible with the internal market — Aid intended to make good the damage caused by an exceptional occurrence — Freedom of establishment — Free provision of services — Equal treatment — Duty to state reasons)

(2021/C 242/58)

Language of the case: English

Parties

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

Defendant: European Commission (represented by: F. Tomat, L. Flynn and S. Noë, acting as Agents)

Interveners in support of the defendant: Kingdom of Denmark (represented by: J. Nymann-Lindegren and M. Søndahl Wolff, acting as Agents, and by R. Holdgaard, lawyer), French Republic (represented by: E. de Moustier and P. Dodeller, acting as Agents), SAS AB (Stockholm, Sweden) (represented by: F. Sjövall, lawyer)

Re:

Application under Article 263 TFEU for annulment of Commission Decision C(2020) 2416 final of 15 April 2020 on State Aid SA.56795 (2020/N) — Denmark — Compensation for the damage caused by the COVID-19 outbreak to Scandinavian Airlines.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Ryanair DAC to bear its own costs and to pay those of the European Commission, including the costs relating to the request for confidential treatment;

3. Orders the Kingdom of Denmark, the French Republic and SAS AB to bear their own costs.

([1]) OJ C 255, 3.8.2020.

Judgment of the General Court of 14 April 2021 — Ryanair v Commission (SAS, Sweden; Covid-19)

(Case T-379/20) ([1])

(State aid — Swedish air transport market — Aid granted by Sweden to an airline amid the COVID-19 pandemic — Guarantee — Decision not to raise any objections — Commitments as a condition to make the aid compatible with the internal market — Aid intended to make good the damage caused by an exceptional occurrence — Freedom of establishment — Free provision of services — Equal treatment — Duty to state reasons)

(2021/C 242/59)

Language of the case: English

Parties

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

Defendant: European Commission (represented by: F. Tomat, D. Zukowska, L. Flynn and S. Noë, acting as Agents)

Interveners in support of the defendant: French Republic (represented by: E. de Moustier and P. Dodeller, acting as Agents), Kingdom of Sweden (represented by: C. Meyer-Seitz, A. Runeskjöld, M. Salborn Hodgson, H. Shev, H. Eklinder, R. Shahsavan Eriksson, O. Simonsson and J. Lundberg, acting as Agents), SAS AB (Stockholm, Sweden) (represented by: F. Sjövall, lawyer)

Re:

Application under Article 263 TFEU for annulment of Commission Decision C(2020) 2784 final of 24 April 2020 on State Aid SA.57061 (2020/N) — Sweden — Compensation for the damage caused by the COVID-19 outbreak to Scandinavian Airlines.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Ryanair DAC to bear its own costs and to pay those of the European Commission, including the costs relating to the request for confidential treatment;

3. Orders the French Republic, the Kingdom of Sweden and SAS AB to bear their own costs.

(1) OJ C 255, 3.8.2020.

Judgment of the General Court of 21 April 2021 — Lee v EUIPO (Table knives, forks and spoons)

(Case T-382/20) (1)

(Community design — Application for a Community design representing table knives, forks and spoons — Lack of priority claim — Application for restitutio in integrum — Article 67(1) and (2) Regulation (EC) No 6/2002 — Duty of due care)

(2021/C 242/60)

Language of the case: English

Parties

Applicant: Keun Jig Lee (Paju-si, South Korea) (represented by: F. Jacobacci and B. La Tella, lawyers)

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

Re:

Action brought against the decision of the Third Board of Appeal of EUIPO of 8 April 2020 (Case R 2559/2019-3), relating to an application for *restitutio in integrum*.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Keun Jig Lee to pay the costs.

(1) OJ C 271, 17.8.2020.

Judgment of the General Court of 14 April 2021 — Ryanair v Commission (Finnair I; Covid-19)

(Case T-388/20) (1)

(State aid — Finnish air transport market — Aid granted by Finland to Finnair in the context of the COVID-19 pandemic — State guarantee on a loan — Decision not to raise any objections — Temporary Framework for State aid measures — Measure intended to remedy a serious disturbance in the economy of a Member State — Failure to weigh the beneficial effects of the aid against its adverse effects on trading conditions and the maintenance of undistorted competition — Equal treatment — Freedom of establishment — Freedom to provide services — Duty to state reasons)

(2021/C 242/61)

Language of the case: English

Parties

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

Defendant: European Commission (represented by: L. Flynn, S. Noë and F. Tomat, acting as Agents)

Interveners in support of the defendant: Kingdom of Spain (represented by: L. Aguilera Ruiz, acting as Agent), French Republic (represented by: E. de Moustier and P. Dodeller, acting as Agents), Republic of Finland (represented by: H. Leppo, acting as Agent)

Re:

Application under Article 263 TFEU for annulment of Commission Decision C(2020) 3387 final of 18 May 2020 on State Aid SA.56809 (2020/N) — Finland — COVID-19: State loan guarantee for Finnair.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Ryanair DAC to bear its own costs and to pay those of the European Commission, including the costs relating to the request for confidential treatment;

3. Orders the Kingdom of Spain, the French Republic and the Republic of Finland to bear their own costs.

(1) OJ C 262, 10.8.2020.

Judgment of the General Court of 5 May 2021 — Grangé and Van Strydonck v EUIPO — Nema (âme)

(Case T-442/20) (1)

(EU trade mark — Opposition proceedings — Application for EU word mark âme — Earlier international figurative mark AMEN — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001 — Counteraction of visual and phonetic similarities through conceptual differences — Conditions for counteraction)

(2021/C 242/62)

Language of the case: English

Parties

Applicants: Isaline Grangé (Edegem, Belgium), Alizée Van Strydonck (Strombeek-Bever, Belgium) (represented by: M. De Vroey, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Nema Srl (San Lazzaro di Savena, Italy)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 4 June 2020 (Case R 2960/2019-4), relating to opposition proceedings between Nema, on the one hand, and Ms Grangé and Ms Van Strydonck, on the other.

Operative part of the judgment

The Court:

1. Annuls the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 4 June 2020 (Case R 2960/2019-4);

2. Orders EUIPO to bear its own costs and to pay those incurred by Ms Isaline Grangé and Ms Alizée Van Strydonck, including the costs necessarily incurred by Ms Grangé and Ms Van Strydonck for the purposes of the proceedings before the Board of Appeal.

(1) OJ C 297, 7.9.2020.

Order of the General Court of 20 April 2021 — Inclusion Alliance for Europe v Commission

(Case T-539/13 RENV) ([1])

(Action for annulment and for damages — Seventh Framework Programme for research, technological development and demonstration activities (2007-2013) — MARE, Senior and ECRN projects — Commission decision to recover sums unduly paid — Applicant which has stopped responding to the Court's requests — No need to adjudicate)

(2021/C 242/63)

Language of the case: Italian

Parties

Applicant: Inclusion Alliance for Europe GEIE (Bucharest, Romania)

Defendant: European Commission (represented by: F. Moro, acting as Agent)

Re:

Application, first, under Article 263 TFEU seeking annulment of Commission Decision C(2013) 4693 final of 17 July 2013 concerning the recovery from the applicant of the total sum of EUR 212 411,89, plus interest, that had been paid to it in the context of the MARE, Senior and ECRN projects, and, secondly, under Article 268 TFEU, seeking compensation for the material and non-material harm which the applicant claims to have suffered as a result of that decision.

Operative part of the order

1. There is no longer any need to adjudicate on the action.

2. The European Commission and Inclusion Alliance for Europe GEIE shall bear their own costs relating to the proceedings in Cases T-539/13, C-378/16 P-R, C-378/16 P and T-539/13 RENV.

([1]) OJ C 15, 18.1.2014.

Order of the General Court of 23 April 2021 — Target Brands v EUIPO — The a.r.t. company b&s (ART CLASS)

(Case T-202/20) ([1])

(EU trade mark — Opposition proceedings — Revocation of the contested decision — Disappearance of the subject matter of the proceedings — No need to adjudicate)

(2021/C 242/64)

Language of the case: English

Parties

Applicant: Target Brands Inc. (Minneapolis, Minnesota, United States) (represented by: A. Norris, Barrister)

Defendant: European Union Intellectual Property Office (represented by: H. O'Neill, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO intervening before the General Court: The a.r.t. company b&s, SA (Quel, Spain) (represented by: J. Villamor Muguerza, lawyer)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 23 January 2020 (Case R 1597/2019-5) relating to opposition proceedings between The a.r.t. company b&s and Target Brands.

Operative part of the order

1. There is no longer any need to adjudicate on the action.

2. The European Union Intellectual Property Office (EUIPO) shall bear its own costs and pay those incurred by Target Brands Inc.

(1) OJ C 201, 15.6.2020.

Order of the General Court of 23 April 2021 — Target Brands v EUIPO — The a.r.t. company b&s (art class)

(Case T-221/20) (1)

(EU trade mark — Opposition proceedings — Revocation of the contested decision — Disappearance of the subject matter of the proceedings — No need to adjudicate)

(2021/C 242/65)

Language of the case: English

Parties

Applicant: Target Brands Inc. (Minneapolis, Minnesota, United States) (represented by: A. Norris, Barrister)

Defendant: European Union Intellectual Property Office (represented by: H. O'Neill, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO intervening before the General Court: The a.r.t. company b&s, SA (Quel, Spain) (represented by: J. Villamor Muguerza, lawyer)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 7 February 2020 (Case R 1596/2019-5) relating to opposition proceedings between The a.r.t. company b&s and Target Brands.

Operative part of the order

1. There is no longer any need to adjudicate on the action.

2. The European Union Intellectual Property Office (EUIPO) shall bear its own costs and pay those incurred by Target Brands Inc.

(1) OJ C 201, 15.6.2020.

Order of the General Court of 14 April 2021 — ZU v Commission

(Case T-462/20) (1)

(Action for annulment and for damages — Civil service — Officials — Request for information — Rejection of a complaint — No act adversely affecting the applicant — Action manifestly inadmissible)

(2021/C 242/66)

Language of the case: English

Parties

Applicant: ZU (represented by: C. Bernard-Glanz, lawyer)

Defendant: European Commission (represented by: I. Melo Sampaio, L. Vernier and D. Milanowska, acting as Agents)

Re:

Application pursuant to Article 270 TFEU seeking, in the first place, annulment, first, of the Commission's letter of 5 September 2019 refusing to answer the applicant's questions and, second, of the Commission's letter of 6 April 2020 rejecting his complaint and, in the second place, compensation for the damage allegedly suffered by the applicant as a result of those measures.

Operative part of the order

1. The action is dismissed.

2. ZU shall pay all of the costs.

([1]) OJ C 329, 5.10.2020.

Order of the President of the General Court of 12 April 2021 — Kühne v Parliament

(Case T-486/20 R)

(Application for interim relief — Civil service — Officials — Reassignment — Application for suspension of operation of a measure — Application for interim measures — No prima facie case)

(2021/C 242/67)

Language of the case: German

Parties

Applicant: Verena Kühne (Berlin, Germany) (represented by: O. Schmechel, lawyer)

Defendant: European Parliament (represented by: L. Darie and B. Schäfer, acting as Agents)

Re:

APPLICATION under Articles 278 and 279 TFEU for the grant of interim measures (i) suspending the operation of the decision of the Parliament of 2 July 2020 reassigning the applicant to the European Parliament's liaison office in Luxembourg (Luxembourg) with effect from 1 September 2020 and (ii) maintaining the applicant's employment in her current post at the European Parliament's liaison office in Berlin or other measures appropriate for maintaining the status quo in the interim pending the decision on the substance.

Operative part of the order

1. The application for interim measures is rejected.

2. The order of 4 September 2020, Kühne v Parliament (T-468/20 R), is revoked.

3. The costs are reserved.

Order of the President of the General Court of 13 April 2021 — PJ v EIT

(Case T-12/21 R)

(Application for interim relief — Civil service — Measures for the organisation of work during the health crisis — Prohibition of teleworking outside the country of employment — Application for an exemption — Refusal decision — Application for suspension of operation of a measure — Application for interim measures — Urgency — Prima facie case — Balancing of interests)

(2021/C 242/68)

Language of the case: French

Parties

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

Defendant: European Institute of Innovation and Technology (represented by: P. Juanes Burgos, acting as Agent, and by A. Duron, lawyer)

Re:

APPLICATION under Articles 278 and 279 TFEU for (i) the suspension of operation of the decision of the EIT of 17 December 2020 to refuse the applicant's request to telework from her place of origin and (ii) an order that EIT should authorise her to telework from her place of origin until restrictions relating to the health crisis imposed by the German and Hungarian national authorities are lifted.

Operative part of the order

1. The operation of the decision of the Director of the European Institute of Innovation and Technology (EIT) of 17 December 2020, refusing PJ's request to telework from her place of origin, is suspended.

2. The EIT shall authorise PJ to telework from the place of residence of her children subject to this being justified by the circumstances relating to the COVID-19 pandemic and without prejudice to the requirement that PJ travel to her place of employment on an ad hoc basis for reasons relating to the interests of the service.

3. The costs are reserved.

Action brought on 8 April 2021 — Lackmann Fleisch- und Feinkostfabrik v EUIPO — Schuju (Хозяин)

(Case T-184/21)

(2021/C 242/69)

Language in which the application was lodged: German

Parties

Applicant: Lackmann Fleisch- und Feinkostfabrik GmbH (Bühl, Germany) (represented by: A. Lingenfelser, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Peter Schuju (Borchen, Germany)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: EU word mark Хозяин — EU trade mark No 12 244 679

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 9 December 2020 in Case R 2729/2019-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and dismiss the application for a declaration of invalidity No 19 847 C (EU trade mark No 12 244 679) with an award of 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 8 April 2021 — Lackmann Fleisch- und Feinkostfabrik v EUIPO — Schuju (Хозяйка)

(Case T-185/21)

(2021/C 242/70)

Language in which the application was lodged: German

Parties

Applicant: Lackmann Fleisch- und Feinkostfabrik GmbH (Bühl, Germany) (represented by: A. Lingenfelser, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Peter Schuju (Borchen, Germany)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Хозяйка — EU trade mark No 12 344 529

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 16 November 2020 in Case R 2717/2019-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and dismiss the application for revocation No 42 860 C (EU trade mark No 12 344 529) with award of 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 April 2021 — Múka v Commission

(Case T-214/21)

(2021/C 242/71)

Language of the case: English

Parties

Applicant: Ondřej Múka (Prague, Czech Republic) (represented by: P. Kočí, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the European Commission's decision No C(2021) 1320 final of 21 February 2021 and decision No COMP/B2/JP *Gestdem 2020/5901 of 27 October 2020, refusing access to documents required by the applicant based on the request dated 17 September 2020 and the confirmatory application dated 12 November 2020, pursuant to Regulation (EC) No 1049/2001;

— order the European Commission to provide the applicant with all information and documents required under the request dated 17 September 2020 within 30 days since legal force of the judgment; and

— order the European Commission to bear its own costs and to pay those of the applicant within 30 days since legal force of the judgment.

Pleas in law and main arguments

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

1. First plea in law, alleging that the exception based on Article 4(3) of Regulation (EC) No 1049/2001 ([1]) cannot be applied as both notification procedures based on which the European Commission issued the notification decisions were already terminated.

2. Second plea in law, alleging that the European Commission omitted to carry out a concrete, individual examination of the documents at issue and to provide specific reasons how the disclosure of documents at issue could specifically and actually undermine the interest protected by Article 4 of Regulation (EC) No 1049/2001.

3. Third plea in law, alleging that the European Commission breached the rules and purpose of Regulation (EC) No 1049/2001 to give the fullest possible effect to the right of public access to documents. The European Commission has not ensured the easiest and widest possible exercise of the right of public access to documents despite the explicit requirements set out in Regulation (EC) No 1049/2001. Thus, the European Commission violated recital 4 and recital 11 and Article 1(a), (b) and (c) of Regulation (EC) No 1049/2001.

4. Fourth plea in law, alleging that the European Commission omitted to comply with the obligation to provide at least partial access to the requested documents, by refusing access to all of the requested documents, without providing necessary reasoning in this respect. Thus, the European Commission violated Article 4(6) of Regulation (EC) No 1049/2001.

5. Fifth plea in law, alleging that the risk of threatening the European Commission's investigation strategies is non-existent. The subject matter of the applicant's request for information was access to documents related to the adequacy of support for electricity produced by renewable sources in the Czech Republic and calculations of the values of the internal rate of return on investments and other specifically determined documents, and not information regarding the decision-making process of the European Commission or its specific investigative strategies, preliminary assessments of the cases or planning of procedural steps.

6. Sixth plea in law, alleging that Regulation (EU) No 1589/2015 ([2]) does not prohibit the provision of the requested documents required under Regulation (EC) No 1049/2001. Thus, the European Commission was obliged to proceed with the request and the confirmatory application, in compliance with Regulation (EC) No 1049/2001.

7. Seventh plea in law, alleging that the European Commission's requirement imposed on the applicant to demonstrate an overriding public interest in disclosure of requested documents is contrary to Regulation (EC) No 1049/2001 and its principles. Moreover, in the present case, the existing overriding public interest (in disclosure of the requested documents) lies in the control of legislative procedure and management of public funds. Such interest outweighs any exceptions presented by the European Commission and relies heavily on the documents requested by the applicant.

([1]) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

([2]) Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ 2015 L 248, p. 9).

Action brought on 28 April 2021 — Jalkh v Parliament

(Case T-230/21)

(2021/C 242/72)

Language of the case: French

Parties

Applicant: Jean-François Jalkh (Gretz-Armainvilliers, France) (represented by: F. Wagner, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul European Parliament Decision P9_TA(2021)0092 of 25 March 2021 on the request for waiver of the immunity of the applicant (2020/2110 IMM) and effectively waiving his immunity;

— order the European Parliament to pay all the costs.

Pleas in law and main arguments

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

1. First plea in law, plea of illegality against Article 32 of Communication No 0011/2019 of 19 November 2019. The applicant takes the view that that the fact that a Member cannot take a copy of the file allows it to be manipulated before it is communicated to the members of the Committee on Legal Affairs of the Parliament ('the JURI Committee'). According to him, that provision constitutes a manifest violation of the rights of the defence and of the right to a fair trial, and infringement of the general principle of equality of arms and of fairness in proceedings.

2. Second plea in law, alleging breach of essential procedural requirements. The plea is divided into four parts.

   — First part, alleging the offence of forgery and usage of forged documents committed by the rapporteur of the JURI Committee and its Chair.

   — Second part, alleging violation of the 'priority of criminal over administrative and civil actions' rule.

   — Third part, alleging infringement by the Parliament of Article 7 of Communication No 0011/2019 of 19 November 2019.

   — Fourth part, alleging infringement of Article 9 of the European Parliament's Rules of Procedure.

3. Third plea in law, alleging infringement of Article 8 of Protocol No 7 on the privileges and immunities of the European Union (OJ 2012 C 326, p. 266; 'the Protocol').

4. Fourth plea in law, alleging infringement of Article 9 of the Protocol. In this regard, the applicant claims a blatant case of *fumus persecutionis*.

Action brought on 3 May 2021 — Saure v Commission

(Case T-232/21)

(2021/C 242/73)

Language of the case: German

Parties

Applicant: Hans-Wilhelm Saure (Berlin, Germany) (represented by: C. Partsch, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission's decision to reject the applicant's request for access to documents of the Commission (file number Gestdem 2021/0550) by refusing to provide him with copies of all of the correspondence that it has exchanged, since 1 April 2020, with the company AstraZeneca plc or with its subsidiaries as well as with the Federal Chancellery of Germany or with the Federal Ministry of Health, relating to the company AstraZeneca plc or its subsidiaries, and in particular to the quantity of Covid-19 vaccines offered by AstraZeneca plc and its delivery deadlines;

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

Pleas in law and main arguments

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

1. First plea in law: The applicant has a right to access the contested documents of the European Commission pursuant to Article 2(1) of Regulation (EC) No 1049/2001. ([1]) The refusal by the Commission infringes that provision.

2. Second plea in law: No ground for exclusion laid down by Regulation No 1049/2001 precludes the applicant's right of access. The Commission did not put forward any grounds for exclusion and no such grounds are apparent.

([1]) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

Action brought on 3 May 2021 — Meta Cluster v EUIPO (Clustermedizin)

(Case T-233/21)

(2021/C 242/74)

Language of the case: German

Parties

Applicant: Meta Cluster GmbH (Pyrbaum, Germany) (represented by: H. Baumann, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for EU word mark Clustermedizin — Application for registration No 18 203 454

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 22 February 2021 in Case R 2127/2020-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision.

Pleas in law

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

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

Action brought on 30 April 2021 — Cristalfarma v EUIPO — Reinhard Kosch (STILAXX)

(Case T-234/21)

(2021/C 242/75)

Language of the case: English

Parties

Applicant: Cristalfarma Srl (Milano, Italy) (represented by: R. Almaraz Palmero, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Reinhard Kosch (Weyregg, Austria)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union word mark STILAXX — Application for registration No 16 160 152

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 11 February 2021 in Case R 1339/2019-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO and the intervener party, Reinhard Kosch, to pay all the costs of the dispute before the General Court, including those relating to the procedure before the Fifth Board of Appeal.

Plea in law

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

Action brought on 3 May 2021 — FZ and Others v Commission

(Case T-236/21)

(2021/C 242/76)

Language of the case: French

Parties

Applicants: FZ and 15 other applicants (represented by: J.-N. Louis, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul the Commission's decision establishing the applicants' pay slip for the month of July 2020 in so far as it applies, for the first time, the new correction coefficients applicable to their salary, with retroactive effect from 1 October 2019 and 1 January 2020;

— order the defendant to pay the costs.

Pleas in law and main arguments

In support of their action, the applicants allege infringement of Articles 64 and 65 of the Staff Regulations and of the principle of equal treatment in terms of equivalence of purchasing power, manifest error of assessment and infringement of the principle of legal certainty and of the duty of care.

In order to set the correction coefficient applicable to the salary of the applicants who are posted outside the European Union, Eurostat should collect data specific to their place of employment, in accordance with the rules for the application of Articles 64 and 65 of the Staff Regulations, set out in Annex XI thereto. The collection of the data used to set the correction coefficient is carried out under an international cooperation agreement between Eurostat, the OECD and the UN.

The coefficients set on the basis of those data fell from January 2018 to January 2019 from 239,7 to 94,0 whereas, for that same period, the coefficients applied to the salaries of UN personnel were increased to take account of inflation.

In 2017, the Congolese franc (CDF) underwent a sharp devaluation as against the dollar (USD) and the euro, which, coupled with substantial inflation, resulted in a significant increase in prices in USD, according to the analysis of the IMF. Furthermore, the statistical data of both the Central Bank of Congo and the UN and the IMF, show a parallel trend of the USD and the CDF in relation to the euro.

Action brought on 4 May 2021 — Ryanair v Commission

(Case T-238/21)

(2021/C 242/77)

Language of the case: English

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the defendant's decision of 17 August 2020 on State Aid SA.57543 — Denmark and SA.58342 — Sweden — COVID-19: *Recapitalisation of SAS AB* ([1]); and

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the defendant misapplied the *Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak* and Article 107(3) (b) TFEU by finding that SAS AB is eligible for the aid and by failing to assess whether there were other more appropriate and less distortive measures available besides the recapitalisation. The applicant also complains that the defendant misapplied the *Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak* and Article 107(3) (b) TFEU by finding that the amount of recapitalisation was proportionate, by failing to apply proper conditions regarding the exit of the State, by failing to properly assess the beneficiary's significant market power and apply corresponding remedies, by failing to prevent aggressive commercial expansion, by violating its obligation to weigh the beneficial effects of the aid against its adverse effects on trading conditions and the maintenance of undistorted competition (*i.e.*, the 'balancing test'), and, finally, by requiring the late submission of a restructuring plan.

2. Second plea in law, alleging that the defendant violated specific provisions of the TFEU and the general principles of European law that have underpinned the liberalisation of air transport in the EU since the late 1980s (*i.e.*, non-discrimination, the free provision of services — applied to air transport through Regulation (EC) No 1008/2008 ([2]) — and free establishment).

3. Third plea in law, alleging that the defendant failed to initiate a formal investigation procedure despite serious difficulties and violated the applicant's procedural rights.

4. Fourth plea in law, alleging that the defendant violated its duty to state reasons.

([1]) OJ 2021 C 50, p. 3-5.
([2]) Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast) (Text with EEA relevance) (OJ 2008 L 293, p. 3–20).

Action brought on 30 April 2021 — Dana Astra v Council

(Case T-239/21)

(2021/C 242/78)

Language of the case: English

Parties

Applicant: Dana Astra IOOO (Minsk, Belarus) (represented by: M. Lester, G. Forwood, and M. Vangenechten, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicants claim that the Court should:

— Annul Council Decision (CFSP) 2021/353 of 25 February 2021 amending Decision 2012/642/CFSP concerning restrictive measures against Belarus, and Council Implementing Regulation (EU) 2021/339 of 25 February 2021 implementing Article 8a of Regulation (EC) 765/2006 insofar as they apply to the Applicant; and

— Order the Council to bear its own costs and to pay the costs of the Applicant.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law, alleging errors of assessment and failure to give reasons in finding that Dana Holdings/Dana Astra is benefiting from or supporting the Lukashenka regime.

Action brought on 3 May 2021 — FJ and Others v EEAS

(Case T-246/21)

(2021/C 242/79)

Language of the case: French

Parties

Applicants: FJ and six other applicants (represented by: J.-N. Louis, lawyer)

Defendant: European External Action Service

Form of order sought

The applicants claim that the Court should:

— annul the Commission's decision establishing the applicants' pay slip for the month of July 2020 in so far as it applies, for the first time, the new correction coefficients applicable to their salary, with retroactive effect from 1 October 2019 and 1 January 2020;

— order the defendant to pay the costs.

Pleas in law and main arguments

In support of their action, the applicants allege infringement of Articles 64 and 65 of the Staff Regulations and of the principle of equal treatment in terms of equivalence of purchasing power, manifest error of assessment and infringement of the principle of legal certainty and of the duty of care.

In order to set the correction coefficient applicable to the salary of the applicants who are posted outside the European Union, Eurostat should collect data specific to their place of employment, in accordance with the rules for the application of Articles 64 and 65 of the Staff Regulations, set out in Annex XI thereto. The collection of the data used to set the correction coefficient is carried out under an international cooperation agreement between Eurostat, the OECD and the UN.

The coefficients set on the basis of those data fell from January 2018 to January 2019 from 239,7 to 94,0 whereas, for that same period, the coefficients applied to the salaries of UN personnel were increased to take account of inflation.

In 2017, the Congolese franc (CDF) underwent a sharp devaluation as against the dollar (USD) and the euro, which, coupled with substantial inflation, resulted in a significant increase in prices in USD, according to the analysis of the IMF. Furthermore, the statistical data of both the Central Bank of Congo and the UN and the IMF, show a parallel trend of the USD and the CDF in relation to the euro.

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

Publications Office
of the European Union
L-2985 Luxembourg
LUXEMBOURG

EN