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Information and Notices

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Contents

IV *Notices*

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

Court of Justice of the European Union

2021/C 263/01 Last publications of the Court of Justice of the European Union in the *Official Journal of the European Union* 1

V *Announcements*

COURT PROCEEDINGS

Court of Justice

2021/C 263/02 Joined Cases C-294/19 and C-304/19: Judgment of the Court (Sixth Chamber) of 29 April 2021 (requests for a preliminary ruling from the Curtea de Apel Constanța — Romania) — Agenția de Plăți şi Intervenție pentru Agricultură — Centrul Județean Tulcea v SC Piscicola Tulcea SA (C-294/19), Ira Invest SRL v Agenția de Plăți şi Intervenție pentru Agricultură — Centrul Județean Tulcea (C-304/19) (References for a preliminary ruling — Agriculture — Common agricultural policy (CAP) — Direct support schemes — Eligible hectare — Aquaculture facility — Land use — Actual use for agricultural purposes — Use complying with the entries in the land register) 2

2021/C 263/03 Case C-383/19: Judgment of the Court (Fifth Chamber) of 29 April 2021 (request for a preliminary ruling from the Sąd Rejonowy w Ostrowie Wielkopolskim — Poland) — Powiat Ostrowski v Ubezpieczeniowy Fundusz Gwarancyjny (Reference for a preliminary ruling — Compulsory insurance against civil liability in respect of the use of motor vehicles — Directive 2009/103/EC — Article 3, first paragraph — Obligation to take out a contract of insurance — Scope — Local government authority which has acquired a vehicle by judicial means — Registered vehicle which is on private land and intended to be destroyed) 3

EN

2021/C 263/04 Case C-480/19: Judgment of the Court (Second Chamber) of 29 April 2021 (request for a preliminary ruling from the Korkein hallinto-oikeus — Finland) — proceedings brought by E (Reference for a preliminary ruling — Article 63 TFEU — Free movement of capital — Income tax — Income from capital — Income distributed by a resident undertaking for collective investment in transferable securities (UCITS) constituted in accordance with contract law — Income distributed by a UCITS established in another Member State and constituted in accordance with statute — Difference in treatment — Article 65 TFEU — Objectively comparable situations) 3

2021/C 263/05 Case C-617/19: Judgment of the Court (Fifth Chamber) of 29 April 2021 (request for a preliminary ruling from the Tribunale amministrativo regionale per il Lazio — Italy) — Granarolo SpA v Ministero dell'Ambiente e della Tutela del Territorio e del Mare, Ministero dello Sviluppo economico, Comitato nazionale per la gestione della direttiva 2003/87/CE e per il supporto nella gestione delle attività di progetto del protocollo di Kyoto (Reference for a preliminary ruling — Environment — Directive 2003/87/EC — Greenhouse gas emission allowance trading scheme — Article 3(e) — Concept of 'installation' — Article 3(f) — Concept of 'operator' — Points 2 and 3 of Annex I — Aggregation rule — Aggregation of the capacities of the activities in an installation — Transfer of an electricity and heat cogeneration unit by the owner of an industrial facility — Contract for the supply of energy between the transferor and transferee undertakings — Updating of the greenhouse gas emissions permit) 4

2021/C 263/06 Case C-704/19: Judgment of the Court (Ninth Chamber) of 29 April 2021 — European Commission v Kingdom of Spain (Failure of a Member State to fulfil obligations — State aid — Aid for the deployment of digital terrestrial television in remote and less urbanised areas of the Comunidad Autónoma de Castilla-La Mancha (Autonomous Community of Castilla-La Mancha, Spain) — Decision (EU) 2016/1385 — Aid which is unlawful and incompatible with the internal market — Failure to comply within the time limit) 5

2021/C 263/07 Case C-192/21: Request for a preliminary ruling from the Tribunal Superior de Justicia de Castilla y León (Spain) lodged on 26 March 2021 — Clemente v Comunidad de Castilla y León (Dirección General de la Función Pública) 5

2021/C 263/08 Case C-196/21: Request for a preliminary ruling from the Tribunalul Ilfov (Romania) lodged on 26 March 2021 — SR v EW 6

2021/C 263/09 Case C-201/21 P: Appeal brought on 30 March 2021 by Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi against the judgment of the General Court (Second Chamber) delivered on 20 January 2021 in Case T-328/17 RENV, Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi v EUIPO — M. J. Dairies (BBQLOUMI) 6

2021/C 263/10 Case C-230/21: Request for a preliminary ruling from the Raad voor Vreemdelingenbetwistingen (Belgium) lodged on 9 April 2021 — X, acting in her own name and as legal representative of her minor children, Y and Z v Belgische Staat 7

2021/C 263/11 Case C-240/21: Request for a preliminary ruling from the Landgericht Ravensburg (Germany) lodged on 14 April 2021 — SA and Others v Daimler AG 7

2021/C 263/12 Case C-247/21: Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 20 April 2021 — Luxury Trust Automobil GmbH 9

2021/C 263/13 Case C-261/21: Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 21 April 2021 — F. Hoffmann-La Roche Ltd and Others v Autorità Garante della Concorrenza e del Mercato 9

2021/C 263/14 Case C-265/21: Request for a preliminary ruling from the Cour d'appel de Bruxelles (Belgium) lodged on 26 April 2021 — AB, AB-CD v Z EF 10

2021/C 263/15 Case C-266/21: Request for a preliminary ruling from the Sofiyski gradski sad (Bulgaria) lodged on 26 April 2021 — Criminal proceedings against HV 11

2021/C 263/16 Case C-270/21: Request for a preliminary ruling from the Korkein hallinto-oikeus (Finland) lodged on 27 April 2021 — A 12

General Court

2021/C 263/17 Case T-119/17 RENV: Judgment of the General Court of 12 May 2021 — Alba Aguilera and Others v EEAS (Civil service — Officials — Temporary agents — Contract staff — Remuneration — EEAS staff posted to a third country — Article 10 of Annex X to the Staff Regulations — Annual assessment of allowance for living conditions — Decision on reduction of the allowance for living conditions for staff posted to Ethiopia from 30 to 25 % — Regional coherence — Manifest errors of assessment) 13

2021/C 263/18 Cases T-816/17 and T-318/18: Judgment of the General Court of 12 May 2021 — Luxembourg and Amazon v Commission (State aid — Aid implemented by Luxembourg in favour of Amazon — Decision declaring the aid incompatible with the internal market and unlawful and ordering its recovery — Tax ruling — Transfer pricing — Selective tax advantage — Transfer pricing arrangement — Functional analysis) 13

2021/C 263/19 Case T-218/18: Judgment of the General Court of 19 May 2021 — Deutsche Lufthansa v Commission (State aid — Aviation sector — Operational aid granted by Germany to Frankfurt-Hahn airport — Decision not to raise objections — Action for annulment — Status as an interested party — Safeguard of procedural rights — Admissibility — Guidelines on aid in the aviation sector — Doubts as to the compatibility of the aid with the internal market — Article 4(4) of Regulation (EU) 2015/1589 — Serious difficulties) 14

2021/C 263/20 Case T-254/18: Judgment of the General Court of 19 May 2021 — China Chamber of Commerce for Import and Export of Machinery and Electronic Products and Others v Commission (Dumping — Imports of certain cast iron articles originating in China — Definitive anti-dumping duty — Action for annulment — Admissibility — Association — Standing to bring proceedings — Interest in bringing proceedings — Injury determination — Calculation of the import volume — Macroeconomic and microeconomic indicators — Sampling — Calculation of the EU industry's cost of production — Prices charged intra-group — Causal link — Attribution and non-attribution analysis — No assessment of injury by segment — Assessment of the significance of undercutting — Confidential treatment of information — Rights of the defence — PCN-by-PCN methodology — Product comparability — Calculation of the normal value — Analogue country — Adjustment for VAT — Determination of the selling, general and administrative costs and profit) 15

2021/C 263/21 Cases T-516/18 and T-525/18: Judgment of the General Court of 12 May 2021 — Luxembourg and Others v Commission (State aid — Aid implemented by Luxembourg in favour of ENGIE — Decision declaring the aid incompatible with the internal market and unlawful and ordering its recovery — Tax rulings — State resources — Advantage — Combined effect of two tax measures — Participation exemption regime — Taxation of profit distributions — Abuse of law — Selectivity — Reference framework — Finding of a derogation — Comparability of situations — Parent-subsidiary arrangement — Group of companies — Recovery — Indirect harmonisation — Procedural rights — Obligation to state reasons) 16

2021/C 263/22 Case T-387/19: Judgment of the General Court of 12 May 2021 — DF and DG v EIB (Civil service — Staff of the EIB — Remuneration — Decision refusing entitlement to an installation allowance upon return to headquarters — Liability) 17

2021/C 263/23 Case T-510/19: Judgment of the General Court of 19 May 2021 — Puma v EUIPO — Gemma Group (Representation of a bounding feline) (EU trade mark — Opposition proceedings — Application for the EU figurative mark representing a bounding feline — Earlier international figurative marks representing a bounding feline — Relative ground for refusal — No injury to reputation — Article 8 (5) of Regulation (EC) No 207/2009 (now Article 8(5) of Regulation (EU) 2017/1001)) 18

2021/C 263/24 Case T-789/19: Judgment of the General Court of 12 May 2021 — Moerenhout and Others v Commission (Law governing the institutions — European citizens' initiative — Trade with territories under military occupation — Refusal of registration — Manifest lack of powers of the Commission — Article 4(2)(b) of Regulation (EU) No 211/2011 — Common commercial policy — Article 207 TFEU — Common foreign and security policy — Article 215 TFEU — Obligation to state reasons — Article 4(3) of Regulation No 211/2011) 18

2021/C 263/25 Case T-256/20: Judgment of the General Court of 19 May 2021 — Steinel v EUIPO (GluePro) (EU trade mark — Application for EU word mark GluePro — Absolute grounds for refusal — Descriptive character — Article 7(1)(c) of Regulation (EU) 2017/1001 — No distinctive character — Article 7(1)(b) of Regulation 2017/1001) 19

2021/C 263/26 Case T-324/20: Judgment of the General Court of 19 May 2021 — Yongkang Kugooo Technology v EUIPO — Ford Motor Company (kugoo) (EU trade mark — Opposition proceedings — Application for EU figurative mark kugoo — Earlier EU and national word marks KUGA and earlier EU word mark KUGA ENERGI — 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)) 20

2021/C 263/27 Case T-465/20: Judgment of the General Court of 19 May 2021 — Ryanair v Commission (TAP; Covid-19) (State aid — Portuguese air transport market — Aid provided by Portugal to TAP owing to the COVID-19 pandemic — State loan — Decision not to raise any objections — Point 22 of the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty — Company belonging to a group — Intrinsic difficulties not resulting from an arbitrary allocation of costs within the group — Difficulties which are too serious to be dealt with by the group itself — Duty to state reasons — Maintenance of the effects of the decision) 20

2021/C 263/28 Case T-535/20: Judgment of the General Court of 19 May 2021 — Müller v EUIPO (TIER SHOP) (EU trade mark — Application for EU figurative mark TIER SHOP — Absolute grounds for refusal — Descriptive character — No distinctive character — Article 7(1)(b) and (c) of Regulation (EU) 2017/1001 — Interest in bringing proceedings — Obligation to state reasons — Article 72(4) and the first sentence of Article 94(1) of Regulation 2017/1001) 21

2021/C 263/29 Case T-628/20: Judgment of the General Court of 19 May 2021 — Ryanair v Commission (Spain; Covid-19) (State aid — Spain — Recapitalisation measures to support undertakings that are systemic and strategic for the Spanish economy in response to the COVID-19 pandemic — Decision not to raise any objections — Temporary Framework for State aid — Measure aimed at remedying a serious disturbance in the economy of a Member State — Measure aimed at the whole of the economy of a Member State — Principle of non-discrimination — Freedom to provide services and freedom of establishment — Proportionality — Criterion requiring that the beneficiaries of the aid are established in Spain — Failure to weigh the beneficial effects of the aid against its adverse effects on trading conditions and the maintenance of undistorted competition — Article 107(3)(b) TFEU — Concept of 'aid scheme' — Obligation to state reasons) 22

2021/C 263/30 Case T-643/20: Judgment of the General Court of 19 May 2021 — Ryanair v Commission (KLM; Covid-19) (State aid — Netherlands — State guarantee for loans and subordinated loan by the State to KLM amid the COVID-19 pandemic — Temporary Framework for State aid measures — Decision not to raise any objections — Decision declaring the aid compatible with the internal market — Aid granted previously to another company in the same group of companies — Duty to state reasons — Maintenance of the effects of the decision) 22

2021/C 263/31 Case T-158/20: Order of the General Court of 21 May 2021 — TrekStor v EUIPO — Yuneec Europe (Breeze) (EU trade mark — Opposition proceedings — Application for EU word mark Breeze — Earlier EU word mark Breeze — Relative ground for refusal — Comparison of the goods — Likelihood of confusion — Article 8(1)(a) and (b) of Regulation (EC) No 207/2009 (now Article 8(1)(a) and (b) of Regulation (EU) 2017/1001) — Action manifestly lacking any foundation in law) 23

2021/C 263/32 Case T-672/20: Order of the General Court of 17 May 2021 — Kerstens v Commission (Action for annulment — Civil service — Officials — Request for assistance — Rejection of the complaint — Time limit for bringing an action — Starting point — Date on which the person concerned could have known the content of the decision — Delay — Inadmissibility) 24

2021/C 263/33 Case T-38/21 R: Order of the President of the General Court of 21 May 2021 — Inivos and Inivos v Commission (Application for interim relief — Public procurement — Negotiated procedure without prior publication of a contract notice — Application for suspension of operation of a measure — No urgency) 24

2021/C 263/34 Case T-235/21: Action brought on 28 April 2021 — Bulgaria v Commission 25

2021/C 263/35 Case T-242/21: Action brought on 4 May 2021 — Pšonka v Council 26

2021/C 263/36 Case T-243/21: Action brought on 4 May 2021 — Pšonka v Council 27

2021/C 263/37 Case T-251/21: Action brought on 11 May 2021 — Tigercat International v EUIPO — Caterpillar (Tigercat) 28

2021/C 263/38 Case T-252/21: Action brought on 11 May 2021 — Hrebenyuk v EUIPO (Shape of a stand-up collar) 29

2021/C 263/39 Case T-260/21: Action brought on 12 May 2021 — E. Breuninger v Commission 29

2021/C 263/40 Case T-264/21: Action brought on 17 May 2021 — Établissement Amra v EUIPO — eXpresio (Shape of a rebound shoe with the word elements ‘Aerower Jumper1 M’) 30

2021/C 263/41 Case T-265/21: Action brought on 18 May 2021 — Sunshine Smile v EUIPO (PlusDental+) 31

2021/C 263/42 Case T-266/21: Action brought on 17 May 2021 — Casanova v EIB 31

2021/C 263/43 Case T-267/21: Action brought on 19 May 2021 — Amort and Others v Commission 32

2021/C 263/44 Case T-271/21: Action brought on 19 May 2021 — Ortis v Commission 33

2021/C 263/45 Case T-274/21: Action brought on 19 May 2021 — Synadiet and Others v Commission 35

2021/C 263/46 Case T-275/21: Action brought on 20 May 2021 — Louis Vuitton Malletier v EUIPO — Wisniewski (Representation of a chequerboard pattern) 36

2021/C 263/47 Case T-198/18: Order of the General Court of 12 May 2021 — Chrysses Demetriades & Co. and Provident Fund of the Employees of Chrysses Demetriades & Co. v Council and Others 37

2021/C 263/48 Case T-199/18: Order of the General Court of 12 May 2021 — SCF Terminal (Cyprus) and SHB v Council and Others 37

2021/C 263/49 Case T-588/20: Order of the General Court of 21 May 2021 — MP v Commission 37

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 263/01)

Last publication

OJ C 252, 28.6.2021

Past publications

OJ C 242, 21.6.2021

OJ C 228, 14.6.2021

OJ C 217, 7.6.2021

OJ C 206, 31.5.2021

OJ C 189, 17.5.2021

OJ C 182, 10.5.2021

These texts are available on:

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

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Sixth Chamber) of 29 April 2021 (requests for a preliminary ruling from the Curtea de Apel Constanța — Romania) — Agenția de Plăți şi Intervenție pentru Agricultură — Centrul Județean Tulcea v SC Piscicola Tulcea SA (C-294/19), Ira Invest SRL v Agenția de Plăți şi Intervenție pentru Agricultură — Centrul Județean Tulcea (C-304/19)

(Joined Cases C-294/19 and C-304/19) [1]

(References for a preliminary ruling — Agriculture — Common agricultural policy (CAP) — Direct support schemes — Eligible hectare — Aquaculture facility — Land use — Actual use for agricultural purposes — Use complying with the entries in the land register)

(2021/C 263/02)

Language of the case: Romanian

Referring court

Curtea de Apel Constanța

Parties to the main proceedings

Applicants: Agenția de Plăți şi Intervenție pentru Agricultură — Centrul Județean Tulcea (C-294/19), Ira Invest SRL (C-304/19)

Defendants: SC Piscicola Tulcea SA (C-294/19), Agenția de Plăți şi Intervenție pentru Agricultură — Centrul Județean Tulcea (C-304/19)

Operative part of the judgment

Article 2(h) and Article 34(2) of Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 and Article 4(1)(e) and Article 32(2) of Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Regulation No 73/2009 must be interpreted as meaning that areas categorised under national law as intended for aquaculture activities, but that are or have been actually used for agricultural purposes, are agricultural areas.

[1] OJ C 288, 26.8.2019.

Judgment of the Court (Fifth Chamber) of 29 April 2021 (request for a preliminary ruling from the Sąd Rejonowy w Ostrowie Wielkopolskim — Poland) — Powiat Ostrowski v Ubezpieczeniowy Fundusz Gwarancyjny

(Case C-383/19) ([1])

(Reference for a preliminary ruling — Compulsory insurance against civil liability in respect of the use of motor vehicles — Directive 2009/103/EC — Article 3, first paragraph — Obligation to take out a contract of insurance — Scope — Local government authority which has acquired a vehicle by judicial means — Registered vehicle which is on private land and intended to be destroyed)

(2021/C 263/03)

Language of the case: Polish

Referring court

Sąd Rejonowy w Ostrowie Wielkopolskim

Parties to the main proceedings

Applicant: Powiat Ostrowski

Defendant: Ubezpieczeniowy Fundusz Gwarancyjny

Operative part of the judgment

The first paragraph of Article 3 of Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability, is to be interpreted as meaning that the conclusion of contract of insurance against civil liability in respect of the use of a motor vehicle is compulsory where the vehicle concerned is registered in a Member State, as long as that vehicle has not been officially withdrawn from use in accordance with the applicable national rules.

([1]) OJ C 280, 19.8.2019.

Judgment of the Court (Second Chamber) of 29 April 2021 (request for a preliminary ruling from the Korkein hallinto-oikeus — Finland) — proceedings brought by E

(Case C-480/19) ([1])

(Reference for a preliminary ruling — Article 63 TFEU — Free movement of capital — Income tax — Income from capital — Income distributed by a resident undertaking for collective investment in transferable securities (UCITS) constituted in accordance with contract law — Income distributed by a UCITS established in another Member State and constituted in accordance with statute — Difference in treatment — Article 65 TFEU — Objectively comparable situations)

(2021/C 263/04)

Language of the case: Finnish

Referring court

Korkein hallinto-oikeus

Party to the main proceedings

E

joined party: Veronsaajien oikeudenvalvontayksikkö

Operative part of the judgment

Articles 63 and 65 TFEU must be interpreted as precluding a tax practice of a Member State according to which, for the purpose of the taxation of income of a natural person residing in that Member State, the income received from an undertaking for collective investment in transferable securities (UCITS) constituted in accordance with statute and established in another Member State cannot be equated with income received from UCITS established in the first Member State on the ground that the latter do not have the same legal form.

(1) OJ C 295, 2.9.2019.

Judgment of the Court (Fifth Chamber) of 29 April 2021 (request for a preliminary ruling from the Tribunale amministrativo regionale per il Lazio — Italy) — Granarolo SpA v Ministero dell'Ambiente e della Tutela del Territorio e del Mare, Ministero dello Sviluppo economico, Comitato nazionale per la gestione della direttiva 2003/87/CE e per il supporto nella gestione delle attività di progetto del protocollo di Kyoto

(Case C-617/19) (1)

(Reference for a preliminary ruling — Environment — Directive 2003/87/EC — Greenhouse gas emission allowance trading scheme — Article 3(e) — Concept of 'installation' — Article 3(f) — Concept of 'operator' — Points 2 and 3 of Annex I — Aggregation rule — Aggregation of the capacities of the activities in an installation — Transfer of an electricity and heat cogeneration unit by the owner of an industrial facility — Contract for the supply of energy between the transferor and transferee undertakings — Updating of the greenhouse gas emissions permit)

(2021/C 263/05)

Language of the case: Italian

Referring court

Tribunale amministrativo regionale per il Lazio

Parties to the main proceedings

Applicant: Granarolo SpA

Defendants: Ministero dell'Ambiente e della Tutela del Territorio e del Mare, Ministero dello Sviluppo economico, Comitato nazionale per la gestione della direttiva 2003/87/CE e per il supporto nella gestione delle attività di progetto del protocollo di Kyoto

Intervener: E.ON Business Solutions Srl, formerly E.ON Connecting Energies Italia Srl

Operative part of the judgment

Article 3(e) and (f) of Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC, as amended by Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009, read in conjunction with points 2 and 3 of Annex I to Directive 2003/87, must be interpreted as not precluding an owner of a production facility which has a thermal power facility the activity of which comes under Annex I from being able to obtain the updating of its greenhouse gas emissions permit within the meaning of Article 7 of that directive where it has transferred a cogeneration unit situated on the same industrial site as that production facility, implementing an activity the capacity of which is below the threshold provided for in Annex I, to an undertaking specialising in the energy sector, whilst at the same time concluding with that undertaking a contract providing, inter alia, that the energy produced by that cogeneration unit will be provided to that production facility in the event that the thermal power facility and the cogeneration unit do not constitute a single installation within the meaning of Article 3(e) of that directive and where, in any event, the owner of the production facility is no longer the operator of the cogeneration unit within the meaning of Article 3(f) of that directive.

(1) OJ C 399, 25.11.2019.

Judgment of the Court (Ninth Chamber) of 29 April 2021 — European Commission v Kingdom of Spain

(Case C-704/19) ([1])

(Failure of a Member State to fulfil obligations — State aid — Aid for the deployment of digital terrestrial television in remote and less urbanised areas of the Comunidad Autónoma de Castilla-La Mancha (Autonomous Community of Castilla-La Mancha, Spain) — Decision (EU) 2016/1385 — Aid which is unlawful and incompatible with the internal market — Failure to comply within the time limit)

(2021/C 263/06)

Language of the case: Spanish

Parties

Applicant: European Commission (represented by: B. Stromsky, P. Arenas and P. Němečková, acting as Agents)

Defendant: Kingdom of Spain (represented by: S. Jiménez García, acting as Agent)

Operative part of the judgment

The Court:

1. Declares that, by failing to take, within the prescribed time limit, all the measures necessary to recover from Telecom Castilla-La Mancha SA the State aid declared unlawful and incompatible with the internal market by Article 1 of Commission Decision (EU) 2016/1385 of 1 October 2014 on State aid SA.27408 (C 24/10) (ex NN 37/10, ex CP 19/09) implemented by the authorities of Castilla-La Mancha for the deployment of digital terrestrial television in remote and less urbanised areas, by failing to demonstrate that all outstanding payments of that aid have been cancelled and by failing to notify the European Commission, within the prescribed time limit, of the measures taken to comply with that decision, the Kingdom of Spain has failed to fulfil its obligations under the fourth paragraph of Article 288 TFEU and Articles 3 and 4 of that decision

2. Orders the Kingdom of Spain to pay the costs.

([1]) OJ C 413, 9.12.2019.

Request for a preliminary ruling from the Tribunal Superior de Justicia de Castilla y León (Spain) lodged on 26 March 2021 — Clemente v Comunidad de Castilla y León (Dirección General de la Función Pública)

(Case C-192/21)

(2021/C 263/07)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de Castilla y León

Parties to the main proceedings

Appellant: Clemente

Respondent: Comunidad de Castilla y León (Dirección General de la Función Pública)

Questions referred

1. Must the concept of 'comparable permanent worker' in Clause 4(1) of the framework agreement on fixed-term contracts concluded on 18 March 1999 between the general cross-industry organisations (ETUC, UNICE and CEEP) annexed to Council Directive 1999/70 of 28 June 1999 ([1]) be interpreted as meaning that, for the purposes of consolidating a personal grade, a period of service as an interim civil servant undertaken by a permanent civil servant before he or she obtained permanent status must be accorded the same treatment as service undertaken by another career civil servant?

2. Must Clause 4(1) of the framework agreement on fixed-term contracts concluded on 18 March 1999 between the general cross-industry organisations (ETUC, UNICE and CEEP) annexed to Council Directive 1999/70 of 28 June 1999 be interpreted as meaning that both (i) the fact that the period in question has already been taken into account to enable the individual to become a career civil servant and (ii) the design of the civil service career progression arrangements established in national legislation, are objective grounds that justify why a period of service as an interim civil servant undertaken by a permanent civil servant before he or she obtained permanent status should not be taken into account for the purposes of consolidating the individual's personal grade?

(1) Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP (OJ 1999 L 175, p. 43).

Request for a preliminary ruling from the Tribunalul Ilfov (Romania) lodged on 26 March 2021 — SR v EW

(Case C-196/21)

(2021/C 263/08)

Language of the case: Romanian

Referring court

Tribunalul Ilfov

Parties to the main proceedings

Appellant-applicant: SR

Appellant-defendant: EW

Interveners: FB, CX, IK

Question referred

Where a court decides to summon interveners in civil proceedings, is the 'applicant', within the meaning of Article 5 of Regulation (EC) No 1393/2007, (1) the court in the Member State which decides to summon the interveners or the litigant in the proceedings pending before that court?

(1) Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000 (OJ 2007 L 324, p. 79).

Appeal brought on 30 March 2021 by Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi against the judgment of the General Court (Second Chamber) delivered on 20 January 2021 in Case T-328/17 RENV, Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi v EUIPO — M. J. Dairies (BBQLOUMI)

(Case C-201/21 P)

(2021/C 263/09)

Language of the case: English

Parties

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

Other parties to the proceedings: European Union Intellectual Property Office (EUIPO), M. J. Dairies EOOD

By order of 21 May 2021 of the Vice-President, the Court of Justice held that the appeal is dismissed as inadmissible and that Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi shall bear its own costs.

Request for a preliminary ruling from the Raad voor Vreemdelingenbetwistingen (Belgium) lodged on 9 April 2021 — X, acting in her own name and as legal representative of her minor children, Y and Z v Belgische Staat

(Case C-230/21)

(2021/C 263/10)

Language of the case: Dutch

Referring court

Raad voor Vreemdelingenbetwistingen

Parties to the main proceedings

Applicant: X, acting in her own name and as legal representative of her minor children, Y and Z

Defendant: Belgische Staat

Questions referred

1. Should EU law, in particular Article 2(f), read in conjunction with Article 10(3)(a), of Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification [1] be interpreted as meaning that a refugee who is an 'unaccompanied minor', and who resides in a Member State, must be 'unmarried' under her national law in order to enjoy the right to family reunification with relatives in the direct ascending line?

2. If so, can a refugee minor whose marriage contracted abroad is not recognised for public policy reasons be regarded as an 'unaccompanied minor' within the meaning of Articles 2(f) and 10(3) of Directive 2003/86/EC?

[1] OJ 2003 L 251, p. 12.

Request for a preliminary ruling from the Landgericht Ravensburg (Germany) lodged on 14 April 2021 — SA and Others v Daimler AG

(Case C-240/21)

(2021/C 263/11)

Language of the case: German

Referring court

Landgericht Ravensburg

Parties to the main proceedings

Applicants: SA, FT, LH, IL, TN

Defendant: Daimler AG

Questions referred

1. Are Articles 18(1), 26(1) and 46 of Directive 2007/46/EC, [1] read in conjunction with Article 5(2) of Regulation (EC) No 715/2007, [2] also intended to protect the interests of individual purchasers of motor vehicles?

   If so:

2. Does this also include the interest of an individual purchaser of a vehicle in not purchasing a vehicle which does not comply with the requirements of EU law, and in particular in not purchasing a vehicle equipped with a prohibited defeat device within the meaning of Article 5(2) of Regulation (EC) No 715/2007?

   Irrespective of the answers to Questions 1 and 2:

3. Is it incompatible with EU law if a purchaser who has unintentionally purchased a vehicle placed on the market by the manufacturer with a prohibited defeat device within the meaning of Article 5(2) of Regulation (EC) No 715/2007 is able to assert civil claims for damages against the vehicle manufacturer on the basis of tortious liability — including, in particular, a claim for reimbursement of the purchase price paid for the vehicle against return and transfer of ownership of the vehicle — only in exceptional cases where the vehicle manufacturer has acted with intent and in a manner contrary to accepted principles of morality?

   If so:

4. Does EU law require that the purchaser of a vehicle has a civil claim for damages against the vehicle manufacturer on the basis of tortious liability in the event of any culpable (negligent or intentional) act on the part of the vehicle manufacturer in relation to the placing on the market of a vehicle equipped with a prohibited defeat device within the meaning of Article 5(2) of Regulation (EC) No 715/2007?

   Irrespective of the answers to Questions 1 to 4:

5. Is it incompatible with EU law if, under national law, the purchaser of a vehicle must accept offsetting the benefit of the actual use made of the motor vehicle where he or she seeks, by way of compensation based on tortious liability, reimbursement from the manufacturer of the purchase price of a vehicle placed on the market by the manufacturer with a prohibited defeat device within the meaning of Article 5(2) of Regulation (EC) No 715/2007 against return and transfer of ownership of the vehicle?

   If not:

6. Is it incompatible with EU law for that benefit of use to be calculated on the basis of the full purchase price without any deduction being made for the reduction in value of the vehicle resulting from its being equipped with a prohibited defeat device and/or in view of the purchaser's inadvertent use of a vehicle which does not comply with EU law?

   Irrespective of the answers to Questions 1 to 6:

7. Inasmuch as it also refers to orders for reference in accordance with the second paragraph of Article 267 TFEU, is Paragraph 348(3), point 2, of the Zivilprozessordnung (German Code of Civil Procedure; 'the ZPO') incompatible with the right conferred on the national courts to request a preliminary ruling pursuant to the second paragraph of Article 267 TFEU and must it therefore not be applied to orders for reference?

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[1] Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) (OJ 2007 L 263, p. 1).

[2] Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (OJ 2007 L 171, p. 1).

Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 20 April 2021 — Luxury Trust Automobil GmbH

(Case C-247/21)

(2021/C 263/12)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Appellant on a point of law: Luxury Trust Automobil GmbH

Defendant authority: Finanzamt Österreich, Baden Mödling office

Questions referred

1. Is Article 42(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, ([1]) in conjunction with Article 197(1)(c) of that directive (as amended by Directive 2010/45/EU ([2])), to be interpreted as meaning that the person to whom the supply is made is to be designated as liable for payment of VAT if the invoice, which does not show the amount of value added tax, states: 'Exempt intra-Community triangular transaction'?

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

   a) Can such a mention on the invoice be amended so as to apply retroactively (by stating: 'Intra-Community triangular transaction in accordance with Article 25 of the Austrian Law on turnover tax ("the UStG"). Liability for payment of VAT is transferred to the customer')?

   b) Is it necessary for the invoice recipient to receive the amended invoice in order for an amendment to be effective?

   c) Does the effect of the amendment apply retroactively to the original date of invoicing?

3. Is Article 219a of Directive 2006/112/EC (as amended by Directive 2010/45/EU and the Corrigendum ([3])) to be interpreted as meaning that the rules on invoicing to be applied are those of the Member State whose provisions would be applicable if a 'customer' has not (yet) been designated on the invoice as the person liable for payment of VAT; or are the rules to be applied those of the Member State whose provisions would be applicable if the designation of the 'customer' as the person liable for payment of VAT is accepted as valid?

([1]) OJ 2006 L 347, p. 1.
([2]) Council Directive of 13 July 2010 amending Directive 2006/112/EC on the common system of value added tax as regards the rules on invoicing (OJ 2010 L 189, p. 1).
([3]) Corrigendum to Directive 2010/45 amending Directive 2006/112 (OJ 2010 L 299, p. 46).

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 21 April 2021 — F. Hoffmann-La Roche Ltd and Others v Autorità Garante della Concorrenza e del Mercato

(Case C-261/21)

(2021/C 263/13)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellants: F. Hoffmann-La Roche Ltd, Novartis AG, Novartis Farma SpA, Roche SpA

Respondent: Autorità Garante della Concorrenza e del Mercato

Questions referred

1. In a case where a party's application seeks directly to assert an infringement of the principles expressed by the Court of Justice in that case in order to secure the setting-aside of the judgment under appeal, can the national court, against whose decisions there is no judicial remedy under national law, determine whether the principles expressed by the Court of Justice in the same case have been applied correctly in that specific case, or is that determination a matter for the Court of Justice?

2. Has judgment No 4990/2019 of the Consiglio di Stato (Council of State) infringed, in the sense asserted by the parties, the principles expressed by the Court of Justice in the judgment of 23 January 2018 [in Case C-179/16] in relation (a) to the inclusion in the same relevant market of the two medicinal products without taking account of the views of authorities which had held that the off-label demand and supply of Avastin was unlawful; and (b) to the failure to verify the allegedly misleading nature of the information disseminated by the undertakings?

3. Do Articles 4(3) and 19(1) TEU and Articles 2(1) and (2) and 267 TFEU, read also in the light of Article 47 of the Charter of Fundamental Rights of the European Union, preclude a system such as that concerning Article 106 of the codice del processo amministrativo (Code of Administrative Procedure, Italy) and Articles 395 and 396 of the codice di procedura civile (Code of Civil Procedure, Italy), inasmuch as that system does not permit the use of the remedy of an application for revision to challenge judgments of the Council of State that conflict with judgments of the Court of Justice, and in particular with the legal principles asserted by the Court of Justice in a preliminary ruling on questions referred to it?

Request for a preliminary ruling from the Cour d'appel de Bruxelles (Belgium) lodged on 26 April 2021 — AB, AB-CD v Z EF

(Case C-265/21)

(2021/C 263/14)

Language of the case: French

Referring court

Cour d'appel de Bruxelles

Parties to the main proceedings

Appellants: AB, AB-CD

Respondent: Z EF

Questions referred

1. Must the concept of 'matters relating to a contract', within the meaning of Article 5(1) of Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ([1]) ('the Brussels I Regulation'):

   a. be interpreted as requiring the establishment of a legal obligation freely assumed by one person towards another, which forms the basis of the applicant's action, and is that the position even if the obligation was not freely assumed by the defendant and/or towards the applicant?

   b. If the answer is in the affirmative, what must the degree of connection between the legal obligation freely assumed and the applicant and/or the defendant be?

2. Does the concept of 'action' on which the applicant 'relies', like the criterion used to distinguish whether an action comes under the concept of matters relating to a contract, within the meaning of Article 5(1) of the Brussels I Regulation, or under 'matters relating to tort, delict or quasi-delict', within the meaning of Article 5(3) of that regulation (C-59/19, paragraph 32), entail verification of whether the interpretation of the legal obligation freely assumed seems to be indispensable for the purpose of assessing the basis of the action?

3. Does the legal action whereby an applicant seeks a declaration that he or she is the owner of an asset in his or her possession in reliance on a double contract of sale, the first entered into by the original joint owner of that asset (the spouse of the defendant, who is also an original joint owner) with the person who sold the asset to the applicant, and the second between the latter two parties, come within the concept of matters relating to a contract within the meaning of Article 5(1) of the Brussels I Regulation?

   a. Is the answer different if the defendant relies on the fact that the first contract was not a contract of sale but a contract of deposit?

   b. If one of those situations comes within the concept of matters relating to a contract, which contract must be taken into consideration for the purpose of determining the place of the obligation which serves as the basis of the claim?

4. Must Article 4 of Regulation (EC) No 593/2008 of 17 June 2008 on the law applicable to contractual obligations (Rome I) ([2]) be interpreted as applying to the situation referred to by the third question referred for a preliminary ruling and, if so, which contract must be taken into consideration?

([1]) OJ 2001 L 12, p. 1.
([2]) OJ 2008 L 177, p. 6.

Request for a preliminary ruling from the Sofiyski gradski sad (Bulgaria) lodged on 26 April 2021 — Criminal proceedings against HV

(Case C-266/21)

(2021/C 263/15)

Language of the case: Bulgarian

Referring court

Sofiyski gradski sad

Defendant at first instance

HV

Questions referred

1. Do judicial decisions in criminal proceedings by which, in the case of offences consisting of a breach of road traffic regulations and moderate bodily harm caused by negligence, the administrative sanction of suspension of the right to drive a vehicle for a specified period is imposed on the offender fall within the scope of Article 2(4) and Article 4(1)(d) of Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions?

2. Do the provisions of Article 11(2) and the first to third subparagraphs of Article 11(4) of Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences constitute a basis for the Member State in which the holder of a driving licence issued by that State is habitually resident to refuse to recognise and enforce an administrative sanction, in the form of a temporary withdrawal of the right to drive a vehicle, imposed in another Member State for the offence of breaching road traffic regulations and negligently causing moderate bodily harm to another person, an offence committed at a time when the offender held a driving licence issued by the State of residence, for which the driving licence originally issued by the State of conviction had been exchanged?

Request for a preliminary ruling from the Korkein hallinto-oikeus (Finland) lodged on 27 April 2021 — A

(Case C-270/21)

(2021/C 263/16)

Language of the case: Finnish

Referring court

Korkein hallinto-oikeus

Parties to the main proceedings

Appellant: A

Other party: Opetushallitus

Questions referred

1. Is Article 3(1)(a) of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications ('Professional Qualifications Directive'), as amended by Directive 2013/55/EU ([1]) of the European Parliament and of the Council of 20 November 2013, to be interpreted as meaning that a regulated profession is to be regarded as a profession for which, on the one hand, the qualification requirements are laid down in a regulation adopted by the Minister for Education of a Member State and the content of the pedagogical competence required of a nursery school teacher is regulated in a professional standard and the Member State has had the profession of nursery school teacher entered in the database of regulated professions set up at the Commission, but for which, on the other hand, according to the wording of the regulation concerning the qualification requirements of that profession, the employer is granted discretion in assessing whether the qualification requirements are met, in particular as regards the requirement of pedagogical competence, and the nature of the evidence regarding the existence of pedagogical competence is not regulated either in the regulation in question or in any other laws, regulations or administrative provisions?

2. If the first question is answered in the affirmative: Can a certificate relating to a professional qualification and issued by the competent authority of the home Member State, the award of which is subject to work experience in the profession in question, be regarded as an attestation of competence or other evidence of formal qualifications within the meaning of Article 13(1) of the Professional Qualifications Directive if the professional experience on which the certificate is based originates from the home Member State during the period in which it was a Soviet Socialist Republic and from the host Member State, but not from the home Member State in the period after it had regained its independence?

3. Is Article 3(3) of the Professional Qualifications Directive to be interpreted as meaning that a professional qualification which is based on a qualification obtained at an educational establishment situated in the geographical territory of a Member State at a time when that Member State did not exist as an independent State but as a Soviet Socialist Republic and on professional experience gained on the basis of that qualification in the Soviet Socialist Republic in question before the Member State had regained its independence is to be regarded as a professional qualification obtained in a third country, with the result that the assertion of that professional qualification requires, in addition, three years' professional experience in the home Member State in the period after it had regained its independence?

([1]) Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation') (OJ 2013 L 354, p. 132).

GENERAL COURT

Judgment of the General Court of 12 May 2021 — Alba Aguilera and Others v EEAS

(Case T-119/17 RENV) [1]

(Civil service — Officials — Temporary agents — Contract staff — Remuneration — EEAS staff posted to a third country — Article 10 of Annex X to the Staff Regulations — Annual assessment of allowance for living conditions — Decision on reduction of the allowance for living conditions for staff posted to Ethiopia from 30 to 25 % — Regional coherence — Manifest errors of assessment)

(2021/C 263/17)

Language of the case: French

Parties

Applicants: Ruben Alba Aguilera (Addis Ababa, Ethiopia) and the 27 other applicants whose names are listed in the annex to the judgment (represented by: S. Orlandi, lawyer)

Defendant: European External Action Service (represented by: S. Marquardt and R. Spáč, acting as Agents, and M. Troncoso Ferrer, C. García Fernández and F.-M. Hislaire, lawyers)

Re:

APPICATION under Article 270 TFUE seeking the annulment of the decision of the EEAS of 19 April 2016 ADMIN(2016) 7, fixing the ALC referred to in Article 10 of Annex X to the Staff Regulations –Financial Year 2016, in so far as that decision reduces, as of 1 January 2016, the allowance for living conditions paid to European Union staff posted in Ethiopia.

Operative part of the judgment

The Court:

1. Annuls the decision of the Director-General for Budget and Administration of the European External Action Service (EEAS) 19 April 2016, fixing the allocation for living conditions referred to in Article 10 of Annex X to the Staff Regulations — Financial Year 2016, in so far as it reduces, as of 1 January 2016, the allowance for living conditions paid to European Union staff posted in Ethiopia.

2. Orders the EEAS to pay the costs incurred in Cases T-119/17, C-427/18 P and T-119/17 RENV.

[1] OJ C 129, 24.4.2017.

Judgment of the General Court of 12 May 2021 — Luxembourg and Amazon v Commission

(Cases T-816/17 and T-318/18) [1]

(State aid — Aid implemented by Luxembourg in favour of Amazon — Decision declaring the aid incompatible with the internal market and unlawful and ordering its recovery — Tax ruling — Transfer pricing — Selective tax advantage — Transfer pricing arrangement — Functional analysis)

(2021/C 263/18)

Language of the case: English and French

Parties

Applicant in Case T-816/17: Grand Duchy of Luxembourg (represented by: T. Uri, acting as Agent, and by D. Waelbroeck, A. Steichen and J. Bracker, lawyers)

Applicants in Case T-318/18: Amazon EU Sàrl (Luxembourg, Luxembourg), Amazon.com, Inc. (Seattle, Washington, United States) (represented by: D. Paemen, M. Petite and A. Tombiński, lawyers)

Defendant: European Commission (represented, in Case T-816/17, by P. Stancanelli, P.-J. Loewenthal and F. Tomat, acting as Agents, and by M. Chammas, lawyer, and, in Case T-318/18, by P.-J. Loewenthal and F. Tomat, acting as Agents)

Intervener in support of the applicant in Case T-816/17: Ireland (represented by: J. Quaney and A. Joyce, acting as Agents, and by P. Gallagher, Senior Counsel, B. Doherty, Barrister, and S. Kingston, Senior Counsel)

Re:

Actions pursuant to Article 263 TFEU for the annulment of Commission Decision (EU) 2018/859 of 4 October 2017 on State aid SA.38944 (2014/C) (ex 2014/NN) implemented by Luxembourg in favour of Amazon (OJ 2018 L 153, p. 1).

Operative part of the judgment

The Court:

1. Joins Cases T-816/17 and T-318/18 for the purposes of the present judgment;

2. Annuls Commission Decision (EU) 2018/859 of 4 October 2017 on State aid SA.38944 (2014/C) (ex 2014/NN) implemented by Luxembourg in favour of Amazon;

3. Orders the European Commission to bear its own costs and to pay those incurred by the Grand Duchy of Luxembourg, Amazon.com, Inc. and Amazon EU Sàrl;

4. Orders Ireland to bear its own costs.

([1]) OJ C 72, 26.2.2018.

Judgment of the General Court of 19 May 2021 — Deutsche Lufthansa v Commission

(Case T-218/18) ([1])

(State aid — Aviation sector — Operational aid granted by Germany to Frankfurt-Hahn airport — Decision not to raise objections — Action for annulment — Status as an interested party — Safeguard of procedural rights — Admissibility — Guidelines on aid in the aviation sector — Doubts as to the compatibility of the aid with the internal market — Article 4(4) of Regulation (EU) 2015/1589 — Serious difficulties)

(2021/C 263/19)

Language of the case: German

Parties

Applicant: Deutsche Lufthansa AG (Cologne, Germany) (represented by: A. Martin-Ehlers, lawyer)

Defendant: European Commission (represented by: K. Herrmann, T. Maxian Rusche and S. Noë, acting as Agents)

Interveners in support of the defendant: Federal Republic of Germany (represented by: J. Möller, R. Kanitz, S. Heimerl and S. Costanzo, acting as Agents), Land Rheinland-Pfalz (Germany) (represented by: R. van der Hout and C. Wagner, lawyers)

Re:

Application under Article 263 TFEU seeking annulment of Commission Decision C(2017) 5289 final of 31 July 2017, on State aid SA.47969 (2017/N) implemented by Germany concerning operating aid granted to Frankfurt-Hahn airport.

Operative part of the judgment

The Court:

1. Annuls Commission Decision C(2017) 5289 final of 31 July 2017, on State aid SA.47969 (2017/N) implemented by Germany concerning operating aid granted to Frankfurt-Hahn airport;

2. Orders the European Commission to pay its own costs and bear those incurred by Deutsche Lufthansa AG;

3. Orders the Federal Republic of Germany and the Land Rheinland-Pfalz to bear their own costs.

(1) OJ C 190, 4.6.2018.

Judgment of the General Court of 19 May 2021 — China Chamber of Commerce for Import and Export of Machinery and Electronic Products and Others v Commission

(Case T-254/18) (1)

(Dumping — Imports of certain cast iron articles originating in China — Definitive anti-dumping duty — Action for annulment — Admissibility — Association — Standing to bring proceedings — Interest in bringing proceedings — Injury determination — Calculation of the import volume — Macroeconomic and microeconomic indicators — Sampling — Calculation of the EU industry's cost of production — Prices charged intra-group — Causal link — Attribution and non-attribution analysis — No assessment of injury by segment — Assessment of the significance of undercutting — Confidential treatment of information — Rights of the defence — PCN-by-PCN methodology — Product comparability — Calculation of the normal value — Analogue country — Adjustment for VAT — Determination of the selling, general and administrative costs and profit)

(2021/C 263/20)

Language of the case: English

Parties

Applicants: China Chamber of Commerce for Import and Export of Machinery and Electronic Products (Beijing, China), and the nine other applicants whose names are listed in the annex to the judgment (represented by: R. Antonini, E. Monard and B. Maniatis, lawyers)

Defendant: European Commission (represented by: T. Maxian Rusche and P. Němečková, acting as Agents)

Interveners in support of the defendant: EJ Picardie (Saint-Crépin-Ibouvillers, France), and the seven other interveners whose names are listed in the annex to the judgment (represented by: U. O'Dwyer, B. O'Connor, Solicitors, and M. Hommé, lawyer)

Re:

Action under Article 263 TFEU seeking the annulment of Commission Implementing Regulation (EU) 2018/140 of 29 January 2018 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain cast iron articles originating in the People's Republic of China and terminating the investigation on imports of certain cast iron articles originating in India (OJ 2018 L 25, p. 6), in so far as it concerns the applicants.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders China Chamber of Commerce for Import and Export of Machinery and Electronic Products and the other applicants whose names are listed in the annex to pay the costs.

(1) OJ C 211, 18.6.2018.

Judgment of the General Court of 12 May 2021 — Luxembourg and Others v Commission

(Cases T-516/18 and T-525/18) ([1])

(State aid — Aid implemented by Luxembourg in favour of ENGIE — Decision declaring the aid incompatible with the internal market and unlawful and ordering its recovery — Tax rulings — State resources — Advantage — Combined effect of two tax measures — Participation exemption regime — Taxation of profit distributions — Abuse of law — Selectivity — Reference framework — Finding of a derogation — Comparability of situations — Parent-subsidiary arrangement — Group of companies — Recovery — Indirect harmonisation — Procedural rights — Obligation to state reasons)

(2021/C 263/21)

Language of the case: French

Parties

Applicant in Case T-516/18: Grand Duchy of Luxembourg (represented by: T. Uri, acting as Agent, and D. Waelbroeck, lawyer)

Applicants in Case T-525/18: Engie Global LNG Holding Sàrl (Luxembourg, Luxembourg), Engie Invest International SA (Luxembourg), and Engie (Courbevoie, France) (represented by: B. Le Bret, M. Struys and C. Rydzynski, lawyers)

Defendant: European Commission (represented by: B. Stromsky and S. Noë, acting as Agents)

Intervener in support of the applicant in Case T-516/18: Ireland (represented by: J. Quaney, M. Browne and A. Joyce, acting as Agents, assisted by P. Gallagher and S. Kingston, Senior Counsel, as well as B. Doherty, Barrister)

Re:

Application under Article 263 TFEU seeking annulment of Commission Decision (EU) 2019/421 of 20 June 2018 on State aid SA.44888 (2016/C) (ex 2016/NN) implemented by Luxembourg in favour of ENGIE (OJ 2019 L 78, p. 1).

Operative part of the judgment

The Court:

1. Joins Cases T-516/18 and T-525/18 for the purposes of the judgment;

2. Dismisses the actions;

3. Orders the Grand Duchy of Luxembourg to bear its own costs and to pay those incurred by the European Commission in Case T-516/18;

4. Orders Engie Global LNG Holding Sàrl, Engie Invest International SA and Engie to bear their own costs and to pay those incurred by the Commission in Case T-525/18;

5. Orders Ireland to bear its own costs.

([1]) OJ C 399, 5.11.2018.

Judgment of the General Court of 12 May 2021 — DF and DG v EIB

(Case T-387/19) ([1])

(Civil service — Staff of the EIB — Remuneration — Decision refusing entitlement to an installation allowance upon return to headquarters — Liability)

(2021/C 263/22)

Language of the case: French

Parties

Applicants: DF and DG (represented by: L. Levi and A. Blot, lawyers)

Defendant: European Investment Bank (represented by: M. Loizou and K. Carr, acting as Agents, and J. Currall and B. Wägenbaur, lawyers)

Re:

ACTION brought under Article 270 TFUE and Article 50a of the Statute of the Court of Justice of the European Union and seeking, first, the annulment (i) of the EIB's decisions of 6 March 2018 and 28 February 2019 not to grant the applicants the benefit of an installation allowance, (ii) of the EIB's decisions of 19 and 27 March 2019 confirming the decision not to grant the installation allowance, and rejecting their request to launch a conciliation procedure, (iii) of the EIB's decisions of 14 June 2019 confirming the decision not to grant the installation allowance and, second, compensation for harm allegedly suffered by the applicants as a result of those decisions.

Operative part of the judgment

The Court:

(1) Annuls the decisions of the European Investment Bank (EIB) of 6 March 2018 and 19 March 2019 not to grant DF the payment of the installation allowance provided for in Article 5 of Annex VII to the EIB Staff Rules.

(2) Annuls the decisions of the EIB of 28 February and 27 March 2019 not to grant DG the payment of the installation allowance provided for in Article 5 of Annex VII to the EIB Staff Rules.

(3) Orders the EIB to pay to DF and DG, subject to the calculation of the amounts, the installation allowance provided for in Articles 5 and 17 of Annex VII to the EIB Staff Rules, increased by late interest, from the date of delivery of this judgment, calculated at the level of the European Central Bank (ECB) rate plus two points, until the date of payment in full by the EIB.

(4) Dismisses the action for the remainder.

(5) Orders the EIB to bear the costs.

([1]) OJ C 288, 26.8.2019.

Judgment of the General Court of 19 May 2021 — Puma v EUIPO — Gemma Group (Representation of a bounding feline)

(Case T-510/19) ([1])

(EU trade mark — Opposition proceedings — Application for the EU figurative mark representing a bounding feline — Earlier international figurative marks representing a bounding feline — Relative ground for refusal — No injury to reputation — Article 8(5) of Regulation (EC) No 207/2009 (now Article 8(5) of Regulation (EU) 2017/1001))

(2021/C 263/23)

Language of the case: English

Parties

Applicant: Puma SE (Herzogenaurach, Germany) (represented by: P. González-Bueno Catalán de Ocón, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Gemma Group Srl (Cerasolo Ausa, Italy)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 30 April 2019 (Case R 2057/2018-4), relating to opposition proceedings between Puma and Gemma Group.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Puma SE to bear its own costs and to pay those incurred by the European Union Intellectual Property Office (EUIPO).

([1]) OJ C 328, 30.9.2019.

Judgment of the General Court of 12 May 2021 — Moerenhout and Others v Commission

(Case T-789/19) ([1])

(Law governing the institutions — European citizens' initiative — Trade with territories under military occupation — Refusal of registration — Manifest lack of powers of the Commission — Article 4(2)(b) of Regulation (EU) No 211/2011 — Common commercial policy — Article 207 TFEU — Common foreign and security policy — Article 215 TFEU — Obligation to state reasons — Article 4(3) of Regulation No 211/2011)

(2021/C 263/24)

Language of the case: French

Parties

Applicants: Tom Moerenhout (Humbeek, Belgium) and the six other applicants whose names are listed in the annex to the judgment (represented by: G. Devers, lawyer)

Defendant: European Commission (represented by: I. Martínez del Peral and S. Delaude, acting as Agents)

Re:

Action under Article 263 TFEU for annulment of Commission Decision (EU) 2019/1567 of 4 September 2019 on the proposed citizens' initiative entitled 'Ensuring Common Commercial Policy conformity with EU Treaties and compliance with international law' (OJ 2019 L 241, p. 12).

Operative part of the judgment

The Court:

1. Annuls Commission Decision (EU) 2019/1567 of 4 September 2019 on the proposed citizens' initiative entitled 'Ensuring Common Commercial Policy conformity with EU Treaties and compliance with international law';

2. Orders the European Commission to pay the costs.

([1]) OJ C 45, 10.2.2020.

Judgment of the General Court of 19 May 2021 — Steinel v EUIPO (GluePro)

(Case T-256/20) ([1])

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

(2021/C 263/25)

Language of the case: German

Parties

Applicant: Steinel GmbH (Herzebrock-Clarholz, Germany) (represented by: M. Breuer and K. Freudenstein, lawyers)

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

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 14 February 2020 (Case R 2516/2019-2), relating to an application for registration of the word sign GluePro as an EU trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Steinel GmbH to pay the costs.

([1]) OJ C 215, 29.6.2020.

Judgment of the General Court of 19 May 2021 — Yongkang Kugooo Technology v EUIPO — Ford Motor Company (kugoo)

(Case T-324/20) ([1])

(EU trade mark — Opposition proceedings — Application for EU figurative mark kugoo — Earlier EU and national word marks KUGA and earlier EU word mark KUGA ENERGI — 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 263/26)

Language of the case: English

Parties

Applicant: Yongkang Kugooo Technology Co. Ltd (Yongkang, China) (represented by: P. Pérot, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Ford Motor Company (Dearborn, Michigan, United States)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 24 March 2020 (Case R 65/2019-4), relating to opposition proceedings between Ford Motor Company and Yongkang Kugooo Technology.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Yongkang Kugooo Technology Co. Ltd to pay the costs.

([1]) OJ C 247, 27.7.2020.

Judgment of the General Court of 19 May 2021 — Ryanair v Commission (TAP; Covid-19)

(Case T-465/20) ([1])

(State aid — Portuguese air transport market — Aid provided by Portugal to TAP owing to the COVID-19 pandemic — State loan — Decision not to raise any objections — Point 22 of the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty — Company belonging to a group — Intrinsic difficulties not resulting from an arbitrary allocation of costs within the group — Difficulties which are too serious to be dealt with by the group itself — Duty to state reasons — Maintenance of the effects of the decision)

(2021/C 263/27)

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: L. Flynn, V. Bottka and S. Noë, acting as Agents)

Interveners in support of the defendant: French Republic (represented by: P. Dodeller and E. de Moustier, acting as Agents), Republic of Poland (represented by: B. Majczyna, acting as Agent), Portuguese Republic (represented by: L. Inez Fernandes, P. Barros da Costa and S. Jaulino, acting as Agents, and by N. Mimoso Ruiz, lawyer)

Re:

Application under Article 263 TFEU for annulment of Commission Decision C(2020) 3989 final of 10 June 2020 on State aid SA.57369 (2020/N) COVID-19 — Portugal — Aid to TAP.

Operative part of the judgment

The Court:

1. Annuls Commission Decision C(2020) 3989 final of 10 June 2020 on State aid SA.57369 (2020/N) — COVID-19 — Portugal — Aid to TAP;

2. Orders the effects of the annulment of that decision to be suspended pending the adoption of a new decision by the European Commission under Article 108 TFEU; those effects are to be suspended for a period not exceeding two months from the date of delivery of this judgment if the Commission decides to adopt such a new decision under Article 108(3) TFEU, and for a reasonable further period if the Commission decides to initiate the procedure under Article 108(2) TFEU;

3. Orders the Commission to bear its own costs and to pay those incurred by Ryanair DAC;

4. Orders the French Republic, the Republic of Poland and the Portuguese Republic to bear their own respective costs.

(1) OJ C 287, 31.8.2020.

Judgment of the General Court of 19 May 2021 — Müller v EUIPO (TIER SHOP)

(Case T-535/20) (1)

(EU trade mark — Application for EU figurative mark TIER SHOP — Absolute grounds for refusal — Descriptive character — No distinctive character — Article 7(1)(b) and (c) of Regulation (EU) 2017/1001 — Interest in bringing proceedings — Obligation to state reasons — Article 72(4) and the first sentence of Article 94(1) of Regulation 2017/1001)

(2021/C 263/28)

Language of the case: German

Parties

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

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

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 29 June 2020 (Case R 2600/2019-5), concerning an application for registration of the figurative sign TIER SHOP as an EU trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Müller GmbH & Co. KG to bear its own costs and to pay those incurred by the European Union Intellectual Property Office (EUIPO).

(1) OJ C 348, 19.10.2020.

Judgment of the General Court of 19 May 2021 — Ryanair v Commission (Spain; Covid-19)

(Case T-628/20) ([1])

(State aid — Spain — Recapitalisation measures to support undertakings that are systemic and strategic for the Spanish economy in response to the COVID-19 pandemic — Decision not to raise any objections — Temporary Framework for State aid — Measure aimed at remedying a serious disturbance in the economy of a Member State — Measure aimed at the whole of the economy of a Member State — Principle of non-discrimination — Freedom to provide services and freedom of establishment — Proportionality — Criterion requiring that the beneficiaries of the aid are established in Spain — Failure to weigh the beneficial effects of the aid against its adverse effects on trading conditions and the maintenance of undistorted competition — Article 107(3)(b) TFEU — Concept of 'aid scheme' — Obligation to state reasons)

(2021/C 263/29)

Language of the case: English

Parties

Applicant: Ryanair DAC (Swords, Ireland) (represented by: F.C. Laprévote, E. Vahida, V. Blanc, I.G. Metaxas Maranghidis and S. Rating, 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 and S. Centeno Huerta, acting as Agents), French Republic (represented by: P. Dodeller and T. Stehelin, acting as Agents)

Re:

Application under Article 263 TFEU for annulment of Commission Decision C(2020) 5414 final of 31 July 2020 on State Aid SA.57659 (2020/N) — Spain — COVID-19 — Recapitalisation fund.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Ryanair DAC to bear its own costs and to pay those incurred by the European Commission;

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

([1]) OJ C 414, 30.11.2020.

Judgment of the General Court of 19 May 2021 — Ryanair v Commission (KLM; Covid-19)

(Case T-643/20) ([1])

(State aid — Netherlands — State guarantee for loans and subordinated loan by the State to KLM amid the COVID-19 pandemic — Temporary Framework for State aid measures — Decision not to raise any objections — Decision declaring the aid compatible with the internal market — Aid granted previously to another company in the same group of companies — Duty to state reasons — Maintenance of the effects of the decision)

(2021/C 263/30)

Language of the case: English

Parties

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

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

Interveners in support of the defendant: French Republic (represented by: E. de Moustier and P. Dodeller, acting as Agents), Kingdom of the Netherlands (represented by: J. Langer, acting as Agent, and by I. Rooms, lawyer), Koninklijke Luchtvaart Maatschappij NV (Amstelveen, Netherlands) (represented by: K. Schillemans, H. Vanderveen and P. Huizing, lawyers)

Re:

Application under Article 263 TFEU for annulment of Commission Decision C(2020) 4871 final of 13 July 2020 on State Aid SA.57116 (2020/N) — The Netherlands — COVID-19: State loan guarantee and State loan for KLM.

Operative part of the judgment

The Court:

1. Annuls Commission Decision C(2020) 4871 final of 13 July 2020 on State aid SA.57116 (2020/N) — The Netherlands — COVID-19: State loan guarantee and State loan for KLM;

2. Orders the effects of the annulment of that decision to be suspended pending the adoption of a new decision by the European Commission under Article 108 TFEU; those effects are to be suspended for a period not exceeding two months from the date of delivery of this judgment if the Commission decides to adopt such a new decision under Article 108(3) TFEU, and for a reasonable further period if the Commission decides to initiate the procedure under Article 108(2) TFEU;

3. Orders the Commission to bear its own costs and to pay those incurred by Ryanair DAC;

4. Orders the Kingdom of the Netherlands, the French Republic and Koninklijke Luchtvaart Maatschappij NV to bear their own respective costs.

(1) OJ C 423, 7.12.2020.

Order of the General Court of 21 May 2021 — TrekStor v EUIPO — Yuneec Europe (Breeze)

(Case T-158/20) (1)

(EU trade mark — Opposition proceedings — Application for EU word mark Breeze — Earlier EU word mark Breeze — Relative ground for refusal — Comparison of the goods — Likelihood of confusion — Article 8(1)(a) and (b) of Regulation (EC) No 207/2009 (now Article 8(1)(a) and (b) of Regulation (EU) 2017/1001) — Action manifestly lacking any foundation in law)

(2021/C 263/31)

Language of the case: German

Parties

Applicant: TrekStor Ltd (Hong Kong, China) (represented by: O. Spieker, A. Schönfleisch, N. Willich and N. Achilles, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Yuneec Europe GmbH (Kaltenkirchen, Germany)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 14 January 2020 (Case R 470/2020-4), relating to opposition proceedings between Yuneec Europe and TrekStor.

Operative part of the order

1. The action is dismissed.

2. TrekStor Ltd is ordered to pay the costs.

(1) OJ C 191, 8.6.2020.

Order of the General Court of 17 May 2021 — Kerstens v Commission

(Case T-672/20) (1)

(Action for annulment — Civil service — Officials — Request for assistance — Rejection of the complaint — Time limit for bringing an action — Starting point — Date on which the person concerned could have known the content of the decision — Delay — Inadmissibility)

(2021/C 263/32)

Language of the case: French

Parties

Applicant: Petrus Kerstens (La Forclaz, Switzerland) (represented by: C. Mourato, lawyer)

Defendant: European Commission (represented by: T. Bohr, acting as Agent)

Re:

Application under Article 270 TFEU seeking the annulment of the decisions of the Commission of 20 and 31 January 2020 rejecting, respectively, the request for assistance D/517/19 and the request for assistance D/516/19 lodged by the applicant pursuant to Article 24 of the Staff Regulations of Officials of the European Union.

Operative part of the order

1. The action is dismissed as inadmissible.

2. Mr Petrus Kerstens shall pay the costs.

(1) OJ C 9, 11.1.2021.

Order of the President of the General Court of 21 May 2021 — Inivos and Inivos v Commission

(Case T-38/21 R)

(Application for interim relief — Public procurement — Negotiated procedure without prior publication of a contract notice — Application for suspension of operation of a measure — No urgency)

(2021/C 263/33)

Language of the case: English

Parties

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

Defendant: European Commission (represented by: B. Araujo Arce and M. Ilkova, acting as Agents)

Re:

Application under Articles 278 and 279 TFEU to suspend the operation of 'Framework contracts for disinfection robots for European hospitals (COVID-19)' FW-00103506 and FW-00103507, concluded by the Commission on 19 November 2020 with two tenderers.

Operative part of the order

1. The application for interim relief is dismissed.

2. The costs are reserved.

Action brought on 28 April 2021 — Bulgaria v Commission

(Case T-235/21)

(2021/C 263/34)

Language of the case: Bulgarian

Parties

Applicant: Republic of Bulgaria (represented by: Ts. Mitova and L. Zaharieva)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul Commission Implementing Decision (EU) 2021/261 of 17 February 2021 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD), ([1]) in so far as its budget item 6200 excludes from European Union financing under the EAGF expenditure incurred by the Republic of Bulgaria in the amount of EUR 7 656 848,97, and

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

Pleas in law and main arguments

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

1. Infringement of Article 52 of Regulation 1306/2013, ([2]) read in conjunction with Article 34 of Regulation 908/2014 ([3]) and the 2015 Guidelines on the calculation of the financial corrections, ([4]) of the rights of the defence and of the principles of sincere cooperation, the right to be heard and good administration, due to a change, in the context of the conformity clearance procedure, of the legal basis for the exclusion from European Union financing of the expenditure at issue in the contested decision.

2. Infringement of Article 296 TFEU due to the statement of reasons of Decision 2021/261 being incomplete and contradictory.

3. Infringement of Article 54(5)(a) of Regulation 1306/2013, read in conjunction with Article 54(1) thereof, due to misinterpretation on the part of the European Commission to the effect that, in the present case, the 18-month time limit laid down in Article 54(1) of Regulation 1306/2013 started running from the 'reception, by the paying agency', of OLAF's final reports.

4. Infringement of Article 54(5)(c) of Regulation 1306/2013, read in conjunction with Article 54(1), of Article 325 TFEU and of the principles of subsidiarity and procedural autonomy due to the European Commission's unfounded and incorrect conclusion that the paying agency failed to act with the requisite care in order to recover the contested sums and acted negligently by failing to initiate an administrative recovery procedure within the time limits prescribed in Article 54(1) of Regulation 1306/2013.

5. The amount of the expenditure excluded from European Union financing established in the contested decision does not comply with the rules under Article 54 of Regulation 2013/1306 and infringes the principle of proportionality.

(1) OJ 2021 L 59, p. 10.
(2) Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ 2013 L 347, p. 549).
(3) Commission Implementing Regulation (EU) No 908/2014 of 6 August 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, rules on checks, securities and transparency (OJ 2014 L 255, p. 59).
(4) C(2015) 3675 final.

Action brought on 4 May 2021 — Pšonka v Council

(Case T-242/21)

(2021/C 263/35)

Language of the case: Czech

Parties

Applicant: Artem Viktorovyč Pšonka (Kramatorsk, Ukraine) (represented by: M. Mleziva, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— Annul Council Decision (CFSP) 2021/394 of 4 March 2021 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine, (1) and Council Implementing Regulation (EU) 2021/391 of 4 March 2021 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine, (2) in so far as that decision and that regulation relate to the applicant;

— Declare that the Council of the European Union to bear its own costs and order it to pay the costs incurred by the applicant.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the right to sound administration

   — The applicant claims in support of his action, inter alia, that the Council of the European Union did not exercise due care and attention in the adoption of the contested decision, since before the adoption of the contested decision it did not address the applicant's arguments and the evidence he had adduced, which supports his case, and it relied primarily on the brief summary by the Prosecutor-General's Office of Ukraine and did not request any supplementary information on the course of the investigations in Ukraine.

2. Second plea in law, alleging an infringement of the applicant's right to property

   — The applicant claims in this connection that the restrictive measures which have been taken against him are disproportionate, go beyond what is necessary and amount to an infringement of guarantees under international law of protection of the applicant's right to property.

3. Third plea in law, alleging an infringement of the applicant's fundamental rights as guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms.

— The applicant claims in this connection that in the adoption of the restrictive measures his rights to a fair trial and to the presumption of innocence were infringed, as were his rights of the defence and his right to the protection of private property.

(1) OJ 2021 L 77, p. 29.
(2) OJ 2021 L 77, p. 2.

Action brought on 4 May 2021 — Pšonka v Council

(Case T-243/21)

(2021/C 263/36)

Language of the case: Czech

Parties

Applicant: Viktor Pavlovyč Pšonka (Kiev, Ukraine) (represented by: M. Mleziva, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— Annul Council Decision (CFSP) 2021/394 of 4 March 2021 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine, (1) and Council Implementing Regulation (EU) 2021/391 of 4 March 2021 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine, (2) in so far as that decision and that regulation relate to the applicant;

— Declare that the Council of the European Union to bear its own costs and order it to pay the costs incurred by the applicant.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the right to sound administration

— The applicant claims in support of his action, inter alia, that the Council of the European Union did not exercise due care and attention in the adoption of the contested decision, since before the adoption of the contested decision it did not address the applicant's arguments and the evidence he had adduced, which supports his case, and it relied primarily on the brief summary by the Prosecutor-General's Office of Ukraine and did not request any supplementary information on the course of the investigations in Ukraine.

2. Second plea in law, alleging an infringement of the applicant's right to property

— The applicant claims in this connection that the restrictive measures which have been taken against him are disproportionate, go beyond what is necessary and amount to an infringement of guarantees under international law of protection of the applicant's right to property.

3. Third plea in law, alleging an infringement of the applicant's fundamental rights as guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms.

— The applicant claims in this connection that in the adoption of the restrictive measures his rights to a fair trial and to the presumption of innocence were infringed, as were his rights of the defence and his right to the protection of private property.

(1) OJ 2021 L 77, p. 29.
(2) OJ 2021 L 77, p. 2.

Action brought on 11 May 2021 — Tigercat International v EUIPO — Caterpillar (Tigercat)

(Case T-251/21)

(2021/C 263/37)

Language of the case: English

Parties

Applicant: Tigercat International Inc. (Cambridge, Ontario, Canada) (represented by: S. Weidert, M. Pemsel and H. Bug, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Caterpillar Inc. (Peoria, Illinois, United States)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union word mark Tigercat — Application for registration No 12 124 368

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 25 February 2021 in Case R 16/2020-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO and the other parties to the proceedings before the Second Board of Appeal of EUIPO to pay the costs including the costs in the proceedings before the Board of Appeal.

Plea in law

— Infringement of Article 60(1)(a) in connection with Article 8(1)(b) and Article 85(5) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 11 May 2021 — Hrebenyuk v EUIPO (Shape of a stand-up collar)

(Case T-252/21)

(2021/C 263/38)

Language of the case: German

Parties

Applicant: Anna Hrebenyuk (Griesheim, Germany) (represented by: H.-J. Ruhl, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Registration of a three-dimensional EU trade mark (Shape of a stand-up collar) — Application No 17 975 716

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 25 February 2021 in Case R 1902/2020-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision as well as the first-instance decision of the Office of 3 March 2020;

— order EUIPO to pay the costs.

Plea in law

— Infringement of Article 6 in conjunction with Article 7(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 12 May 2021 — E. Breuninger v Commission

(Case T-260/21)

(2021/C 263/39)

Language of the case: German

Parties

Applicant: E. Breuninger GmbH & Co. (Stuttgart, Germany) (represented by: M. Vetter, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul, pursuant to Article 264(1) TFEU, the defendant's decision of 20 November 2020 (State aid No SA.59289) as amended by the defendant's decision of 12 February 2021 (State aid No SA.61744);

— order the defendant to pay the applicant's costs.

Pleas in law and main arguments

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

1. The German aid scheme 'Bundesregelung Fixkostenhilfe 2020' (Federal Scheme for Fixed Cost Aid 2020), approved by the defendant, is incompatible with the internal market because it distorts competition, without it being exceptionally justified in the present case. The defendant made a manifest error of assessment in determining that an aid scheme requiring a company-wide decrease in turnover of at least 30 % is compatible with the internal market under Article 107 (3)(b) TFEU. According to the applicant, the company-wide approach of the aid scheme excludes companies such as the applicant, with several different business areas affected by the Covid-19 pandemic, whose brick-and-mortar business saw a drop in turnover far exceeding 30 % due to closures, from being eligible to apply for that aid only because another business area does not suffer any turnover losses and, by calculating the arithmetical average of the turnover from different business areas, the 30 % threshold is not reached. Those companies would then — by contrast to companies with only one business area — receive no aid and would have to cross-subsidise the uncovered fixed costs of their closed business area from their other business areas. This leads to a distortion of competition, both in relation to competitors in business areas that were affected by Covid-19 and in relation to those in business areas that were not affected by Covid-19.

2. The defendant infringed the applicant's procedural rights under Article 108(2) TFEU by failing to provide it with an opportunity to raise concerns in respect of the compatibility of the aid scheme with the internal market during the preliminary investigation procedure.

Action brought on 17 May 2021 — Établissement Amra v EUIPO — eXpresio (Shape of a rebound shoe with the word elements 'Aerower Jumper1 M')

(Case T-264/21)

(2021/C 263/40)

Language in which the application was lodged: Spanish

Parties

Applicant: Établissement Amra (Vaduz, Liechtenstein) (represented by: M. Gómez Calvo, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: eXpresio, estudio creativo, SL (La Nucía, Spain)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union three-dimensional mark (Shape of a rebound shoe with the word elements 'Aerower Jumper1 M') — European Union trade mark No 17 417 015

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 15 March 2021 in Case R 1083/2020-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Pleas in law

— Infringement of the principles of equal treatment and sound administration;

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

Action brought on 18 May 2021 — Sunshine Smile v EUIPO (PlusDental+)

(Case T-265/21)

(2021/C 263/41)

Language of the case: German

Parties

Applicant: Sunshine Smile GmbH (Berlin, Germany) (represented by: D. Kirschner, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for EU figurative mark PlusDental+ in blue and red colours –Registration No 18 126 826

Contested decision: Decision of the Second Board of Appeal of EUIPO of 18 March 2021 in Case R 1834/2020-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order the publication of the application for registration of the EU mark No 18 126 826;

— order EUIPO to pay the costs.

Pleas in law

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

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

— Infringement of the right to be heard pursuant to Article 94(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 17 May 2021 — Casanova v EIB

(Case T-266/21)

(2021/C 263/42)

Language of the case: French

Parties

Applicant: Philippe Casanova (Fort-de-France, France) (represented by: L. Levi and A. Blot, lawyers)

Defendant: European Investment Bank

Form of order sought

The applicant claims that the Court should:

— declare the present action admissible and well founded;

consequently,

— annul the decision of 12 June 2020 by which the applicant was informed that his contract had not been confirmed at the end of the probationary period and would therefore end on 30 June 2020;

— where necessary, annul the EIB decision of 8 February 2021 rejecting the request for conciliation and the applicant's request for administrative review submitted on 11 August 2020, thereby confirming the decision of 12 June 2020;

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

— order the defendant to pay all the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Article 24 of the Convention on Staff Representation at the European Investment Bank (EIB) and of the principle of legal certainty.

2. Second plea in law, alleging lack of competence of the author of the act, infringement of the principle of impartiality and infringement of Article 41 of the Charter of Fundamental Rights of the European Union.

3. Third plea in law, alleging manifest errors of assessment committed during the initial probationary period and during the extension of the probationary period.

4. Fourth plea in law, alleging a misuse of powers committed by the EIB.

Action brought on 19 May 2021 — Amort and Others v Commission

(Case T-267/21)

(2021/C 263/43)

Language of the case: German

Parties

Applicant: Heidi Amort (Jenesien, Italy) and 22 other applicants (represented by: R. Holzeisen, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should annul the contested implementing decision as amended and supplemented.

Pleas in law and main arguments

The action against Commission Implementing Decision (C(2021) 1763 final) of 11 March 2021 granting a conditional marketing authorisation under Regulation (EC) No 746/2004 of the European Parliament and of the Council relating to the medicinal product for human use 'COVID-10 Vaccine Janssen — COVID-19 Vaccine (Ad26.COV2-S [recombinant])' is based on the following pleas in law.

1. First plea in law: the contested implementing decision infringes Article 2(1) and (2) of Regulation (EC) No 507/2006. ([1]) It has been scientifically proven that the worldwide panic resulting from the high mortality rate allegedly associated with the SARS-CoV-2 infection is unfounded. In addition, the WHO and the EU should not have duly recognised the emergency situation as a public health threat.

2. Second plea in law: the contested implementing decision infringes Article 4 of Regulation (EC) No 507/2006 on account of:

   — the absence of a positive risk-benefit balance under Article 1(28a) of Directive 2001/83/EC; ([2])

   — the absence of the requirement under Article 4(1)(b) of Regulation (EC) No 507/2006, as it is unlikely that the applicant will be in a position to provide the comprehensive clinical data;

   — the absence of the requirement under Article 4(1)(c) of Regulation (EC) No 507/2006, as there is no medical need that can be met by the authorised medication;

   — the absence of the requirement under Article 4(1)(d) of Regulation (EC) No 507/2006.

3. Third plea in law: infringement of Regulation (EC) No 1394/2007, ([3]) of Directive 2001/83/EC and of Regulation (EC) No 726/2004. ([4])

4. Fourth plea in law: serious infringement of Articles 168 and 169 TFEU and of Articles 3, 35 and 38 of the Charter of Fundamental Rights of the European Union.

([1]) Commission Regulation (EC) No 507/2006 of 29 March 2006 on the conditional marketing authorisation for medicinal products for human use falling within the scope of Regulation (EC) No 726/2004 of the European Parliament and of the Council (OJ 2006 L 92, p. 6).

([2]) Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ 2001 L 311, p. 67)

([3]) Regulation (EC) No 1394/2007 of the European Parliament and of the Council of 13 November 2007 on advanced therapy medicinal products and amending Directive 2001/83/EC and Regulation (EC) No 726/2004 (OJ 2007 L 324, p. 121).

([4]) Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency (OJ 2004 L 136, p. 1).

Action brought on 19 May 2021 — Ortis v Commission

(Case T-271/21)

(2021/C 263/44)

Language of the case: French

Parties

Applicant: Ortis (Bütgenbach, Belgium) (represented by: A. de Brosses, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— rule that Commission Regulation (EU) 2021/468 infringes Article 6 of Regulation (EC) No 178/2002 and Article 8 of Regulation (EC) No 1925/2006; that it is therefore vitiated by errors of law;

— rule that Regulation (EU) 2021/468 is vitiated by misuse of powers;

— rule that Regulation (EU) 2021/468 and its scientific basis, the EFSA opinion of 22 November 2017, are vitiated by manifest errors of assessment;

— rule that Regulation (EU) 2021/468 infringes the principle of legal certainty;

— rule that Regulation (EU) 2021/468 infringes the principle of proportionality;

consequently,

— annul Commission Regulation (EU) 2021/468 of 18 March 2021 amending Annex III to Regulation (EC) No 1925/2006 of the European Parliament and of the Council as regards botanical species containing hydroxyanthracene derivatives;

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

Pleas in law and main arguments

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

1. First plea in law, alleging errors of law. The applicant claims in that regard that the contested regulation infringes Article 8 of Regulation (EC) No 1925/2006, ([1]) which requires an identified risk, by classifying in Part A of Annex III to that regulation the substances and preparations referred to even though there are scientific uncertainties and by classifying in Part C of Annex III products other than substances, and infringes Article 6 of Regulation (EC) No 178/2002, ([2]) on the ground that it is based on an incomplete and non-compliant risk assessment.

2. Second plea in law, alleging misuse of powers, on the ground that a body of precise, plausible and consistent evidence shows that the objective of consumer health protection alleged by the Commission does not reflect the reality. The applicant claims that the contested regulation has in particular the effect of reserving to medicines alone the right to use the preparations and substances containing hydroxyanthracene derivatives ('HADs') inserted into Part A of Annex III to Regulation (EC) No 1925/2006, although that is not the objective pursued.

3. Third plea in law, alleging manifest errors of assessment. According to the applicant, the opinion of the European Food Safety Authority (EFSA) of 22 November 2017, on which the contested regulation is based, is vitiated by several manifest errors of assessment, since the EFSA assessed the genotoxic and carcinogenic risk of HADs without complying either with its own risk evaluation methods or the risk evaluation methods of the OECD and by drawing conclusions that are inconsistent with the conclusions of the European Medicines Agency. The contested regulation is therefore vitiated by manifest errors of assessment, since, first, the Commission inserted substances and preparations into Part A of Annex III to Regulation (EC) No 1925/2006 even though the EFSA opinion of 22 November 2017 highlights scientific uncertainties, secondly, it did not apply the ALARA principle to the risk management measures and, lastly, it did not take into account the development of scientific knowledge that has taken place after the EFSA opinion of 22 November 2017.

4. Fourth plea in law, alleging infringement of the principle of legal certainty, on the ground that the wording of the contested regulation is inconsistent since, first, it refers to the term 'preparations' while that term is not defined in any text, secondly, certain HADs substances appear to be simultaneously prohibited and authorised, but under control, and, lastly, the Standing Committee on Plants, Animals, Food and Feed had to add clarifications to the text.

5. Fifth plea in law, alleging infringement of the principle of proportionality, in so far as the contested regulation classifies substances in Part A of Annex III to Regulation (EC) No 1925/2006 without setting any threshold whatsoever, which results in those substances being prohibited, even though that prohibition is not necessary in order to achieve the sought objective of consumer health protection.

(1) Regulation (EC) No 1925/2006 of the European Parliament and Council of 20 December 2006 concerning the addition of vitamins, minerals and certain other substances to foodstuffs (OJ 2006 L 404, p. 26).

(2) Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ 2002 L 31, p. 1).

Action brought on 19 May 2021 — Synadiet and Others v Commission

(Case T-274/21)

(2021/C 263/45)

Language of the case: French

Parties

Applicants: Syndicat national des compléments alimentaires (Synadiet) (Paris, France) and 21 other applicants (represented by: A. de Brosses, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— rule that Commission Regulation (EU) 2021/468 infringes Article 6 of Regulation (EC) No 178/2002 and Article 8 of Regulation (EC) No 1925/2006; that it is therefore vitiated by errors of law;

— rule that Regulation (EU) 2021/468 is vitiated by misuse of powers;

— rule that Regulation (EU) 2021/468 and its scientific basis, the EFSA opinion of 22 November 2017, are vitiated by manifest errors of assessment;

— rule that Regulation (EU) 2021/468 infringes the principle of legal certainty;

— rule that Regulation (EU) 2021/468 infringes the principle of proportionality;

consequently,

— annul Commission Regulation (EU) 2021/468 of 18 March 2021 amending Annex III to Regulation (EC) No 1925/2006 of the European Parliament and of the Council as regards botanical species containing hydroxyanthracene derivatives;

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

Pleas in law and main arguments

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

1. First plea in law, alleging errors of law. The applicants claim in that regard that the contested regulation infringes Article 8 of Regulation (EC) No 1925/2006, (1) which requires an identified risk, by classifying in Part A of Annex III to that regulation the substances and preparations referred to even though there are scientific uncertainties and by classifying in Part C of Annex III products other than substances, and infringes Article 6 of Regulation (EC) No 178/2002, (2) on the ground that it is based on an incomplete and non-compliant risk assessment.

2. Second plea in law, alleging misuse of powers, on the ground that a body of precise, plausible and consistent evidence shows that the objective of consumer health protection alleged by the Commission does not reflect the reality. The applicants claim that the contested regulation has in particular the effect of reserving to medicines alone the right to use the preparations and substances containing hydroxyanthracene derivatives ('HADs') inserted into Part A of Annex III to Regulation (EC) No 1925/2006, although that is not the objective pursued.

3. Third plea in law, alleging manifest errors of assessment. According to the applicants, the opinion of the European Food Safety Authority (EFSA) of 22 November 2017, on which the contested regulation is based, is vitiated by several manifest errors of assessment, since the EFSA assessed the genotoxic and carcinogenic risk of HADs without complying either with its own risk evaluation methods or the risk evaluation methods of the OECD and by drawing conclusions that are inconsistent with the conclusions of the European Medicines Agency. The contested regulation is therefore vitiated by manifest errors of assessment, since, first, the Commission inserted substances and preparations into Part A of Annex III to Regulation (EC) No 1925/2006 even though the EFSA opinion of 22 November 2017 highlights scientific uncertainties, secondly, it did not apply the ALARA principle to the risk management measures and, lastly, it did not take into account the development of scientific knowledge that has taken place after the EFSA opinion of 22 November 2017.

4. Fourth plea in law, alleging infringement of the principle of legal certainty, on the ground that the wording of the contested regulation is inconsistent since, first, it refers to the term 'preparations' while that term is not defined in any text, secondly, certain HADs substances appear to be simultaneously prohibited and authorised, but under control, and, lastly, the Standing Committee on Plants, Animals, Food and Feed had to add clarifications to the text.

5. Fifth plea in law, alleging infringement of the principle of proportionality, in so far as the contested regulation classifies substances in Part A of Annex III to Regulation (EC) No 1925/2006 without setting any threshold whatsoever, which results in those substances being prohibited, even though that prohibition is not necessary in order to achieve the sought objective of consumer health protection.

([1]) Regulation (EC) No 1925/2006 of the European Parliament and Council of 20 December 2006 concerning the addition of vitamins, minerals and certain other substances to foodstuffs (OJ 2006 L 404, p. 26).

([2]) Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ 2002 L 31, p. 1).

Action brought on 20 May 2021 — Louis Vuitton Malletier v EUIPO — Wisniewski (Representation of a chequerboard pattern)

(Case T-275/21)

(2021/C 263/46)

Language of the case: English

Parties

Applicant: Louis Vuitton Malletier (Paris, France) (represented by: P. Roncaglia, N. Parrotta and P.-Y. Gautier, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Norbert Wisniewski (Warsaw, Poland)

Details of the proceedings before EUIPO

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

Trade mark at issue: International registration designating the European Union in respect of the figurative mark representing a chequerboard pattern — International registration designating the European Union No 986 207

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 25 February 2021 in Case R 1307/2020-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— alter the contested decision, by holding that the applicant has established acquired distinctiveness through use;

— order EUIPO to pay the costs incurred by the applicant during these proceedings;

— order Mr. Norbert Wisniewski to pay the costs incurred by the applicant during these proceedings.

Plea in law

— Infringement of Articles 7(3) and 59(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Order of the General Court of 12 May 2021 — Chrysses Demetriades & Co. and Provident Fund of the Employees of Chrysses Demetriades & Co. v Council and Others

(Case T-198/18) ([1])

(2021/C 263/47)

Language of the case: English

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

([1]) OJ C 182, 28.5.2018.

Order of the General Court of 12 May 2021 — SCF Terminal (Cyprus) and SHB v Council and Others

(Case T-199/18) ([1])

(2021/C 263/48)

Language of the case: English

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

([1]) OJ C 231, 2.7.2018.

Order of the General Court of 21 May 2021 — MP v Commission

(Case T-588/20) ([1])

(2021/C 263/49)

Language of the case: French

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

([1]) OJ C 414, 30.11.2020.

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