Official Journal of the European Union

C 431

English edition

Information and Notices

Volume 64

25 October 2021

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GENERAL COURT

Formation of Chambers and assignment of Judges to Chambers

(2021/C 431/02)

On 11 October 2021, the General Court decided, following the departures from office of Mr Collins, Mr Gratsias, Mr Csehi and Ms Spineanu-Matei, formerly Judges of the General Court, to amend the decision on the formation of the Chambers of 30 September 2019 ([1]), as amended ([2]), and the decision on the assignment of Judges to Chambers of 4 October 2019 ([3]), as amended ([4]), for the period from 11 October 2021 to 31 August 2022 and to assign the Judges to Chambers as follows:

First Chamber (Extended Composition), sitting with five Judges:

Mr Kanninen, President of the Chamber, Mr Jaeger, Ms Półtorak, Ms Porchia and Ms Stancu, Judges.

First Chamber, sitting with three Judges:

Mr Kanninen, President of the Chamber;

Formation A: Mr Jaeger and Ms Półtorak, Judges;

Formation B: Mr Jaeger and Ms Porchia, Judges;

Formation C: Mr Jaeger and Ms Stancu, Judges;

Formation D: Ms Półtorak and Ms Porchia, Judges;

Formation E: Ms Półtorak and Ms Stancu, Judges;

Formation F: Ms Porchia and Ms Stancu, Judges.

Second Chamber (Extended Composition), sitting with five Judges:

Ms Tomljenović, President of the Chamber, Mr Kreuschitz, Mr Schalin, Ms Škvařilová-Pelzl and Mr Nõmm, Judges.

Second Chamber, sitting with three Judges:

Ms Tomljenović, President of the Chamber;

Formation A: Mr Schalin and Ms Škvařilová-Pelzl, Judges;

Formation B: Mr Schalin and Mr Nõmm, Judges;

Formation C: Ms Škvařilová-Pelzl and Mr Nõmm, Judges.

Third Chamber (Extended Composition), sitting with five Judges:

Mr De Baere, President of the Chamber, Mr Kreuschitz, Mr Öberg, Mr Mastroianni and Ms Steinfatt, Judges.

Third Chamber, sitting with three Judges:

Mr De Baere, President of the Chamber;

Formation A: Mr Kreuschitz and Ms Steinfatt, Judges.

([1]) OJ C 372, 2019, p. 3.
([2]) OJ C 68, 2020, p. 2, OJ C 114, 2020, p. 2, OJ C 371, 2020, p. 2, OJ C 110, 2021, p. 2, OJ C 297, 2021, p. 2 , OJ C 368, 2021, p. 2, and OJ C 412, 2021, p. 2.
([3]) OJ C 372, 2019, p. 3.
([4]) OJ C 68, 2020, p. 2, OJ C 114, 2020, p. 2, OJ C 371, 2020, p. 2, OJ C 110, 2021, p. 2, OJ C 297, 2021, p. 2 , OJ C 368, 2021, p. 2, and OJ C 412, 2021, p. 2.

Fourth Chamber (Extended Composition), sitting with five Judges:

Mr Gervasoni, President of the Chamber, Mr Madise, Mr Nihoul, Ms Frendo and Mr Martín y Pérez de Nanclares, Judges.

Fourth Chamber, sitting with three Judges:

Mr Gervasoni, President of the Chamber;

Formation A: Mr Madise and Mr Nihoul, Judges;

Formation B: Mr Madise and Ms Frendo, Judges;

Formation C: Mr Madise and Mr Martín y Pérez de Nanclares, Judges;

Formation D: Mr Nihoul and Ms Frendo, Judges;

Formation E: Mr Nihoul and Mr Martín y Pérez de Nanclares, Judges;

Formation F: Ms Frendo and Mr Martín y Pérez de Nanclares, Judges.

Fifth Chamber (Extended Composition), sitting with five Judges:

Mr Spielmann, President of the Chamber, Mr Frimodt Nielsen, Mr Öberg, Mr Mastroianni and Ms Brkan, Judges.

Fifth Chamber, sitting with three Judges:

Mr Spielmann, President of the Chamber;

Formation A: Mr Öberg and Mr Mastroianni, Judges;

Formation B: Mr Öberg and Ms Brkan, Judges;

Formation C: Mr Mastroianni and Ms Brkan, Judges.

Sixth Chamber (Extended Composition), sitting with five Judges:

Ms Marcoulli, President of the Chamber, Mr Frimodt Nielsen, Mr Schwarcz, Mr Iliopoulos and Mr Norkus, Judges.

Sixth Chamber, sitting with three Judges:

Ms Marcoulli, President of the Chamber;

Formation A: Mr Frimodt Nielsen and Mr Schwarcz, Judges;

Formation B: Mr Frimodt Nielsen and Mr Iliopoulos, Judges;

Formation C: Mr Frimodt Nielsen and Mr Norkus, Judges;

Formation D: Mr Schwarcz and Mr Iliopoulos, Judges;

Formation E: Mr Schwarcz and Mr Norkus, Judges;

Formation F: Mr Iliopoulos and Mr Norkus, Judges.

Seventh Chamber (Extended Composition), sitting with five Judges:

Mr da Silva Passos, President of the Chamber, Mr Valančius, Ms Reine, Mr Truchot and Mr Sampol Pucurull, Judges.

Seventh Chamber, sitting with three Judges:

Mr da Silva Passos, President of the Chamber;

Formation A: Mr Valančius and Ms Reine, Judges;

Formation B: Mr Valančius and Mr Truchot, Judges;

Formation C: Mr Valančius and Mr Sampol Pucurull, Judges;

Formation D: Ms Reine and Mr Truchot, Judges;

Formation E: Ms Reine and Mr Sampol Pucurull, Judges;

Formation F: Mr Truchot and Mr Sampol Pucurull, Judges.

Eighth Chamber (Extended Composition), sitting with five Judges:

Mr Svenningsen, President of the Chamber, Mr Barents, Mr Mac Eochaidh, Ms Pynnä and Mr Laitenberger, Judges.

Eighth Chamber, sitting with three Judges:

Mr Svenningsen, President of the Chamber;

Formation A: Mr Barents and Mr Mac Eochaidh, Judges;

Formation B: Mr Barents and Ms Pynnä, Judges;

Formation C: Mr Barents and Mr Laitenberger, Judges;

Formation D: Mr Mac Eochaidh and Ms Pynnä, Judges;

Formation E: Mr Mac Eochaidh and Mr Laitenberger, Judges;

Formation F: Ms Pynnä and Mr Laitenberger, Judges.

Ninth Chamber (Extended Composition), sitting with five Judges:

Ms Costeira, President of the Chamber, Ms Kancheva, Mr Buttigieg, Ms Perišin and Mr Zilgalvis, Judges.

Ninth Chamber, sitting with three Judges:

Ms Costeira, President of the Chamber;

Formation A: Ms Kancheva and Ms Perišin, Judges;

Formation B: Ms Kancheva and Mr Zilgalvis, Judges;

Formation C: Ms Perišin and Mr Zilgalvis, Judges.

Tenth Chamber (Extended Composition), sitting with five Judges:

Mr Kornezov, President of the Chamber, Mr Buttigieg, Ms Kowalik-Bańczyk, Mr Hesse and Mr Petrlík, Judges.

Tenth Chamber, sitting with three Judges:

Mr Kornezov, President of the Chamber;

Formation A: Mr Buttigieg and Ms Kowalik-Bańczyk, Judges;

Formation B: Mr Buttigieg and Mr Hesse, Judges;

Formation C: Mr Buttigieg and Mr Petrlík, Judges;

Formation D: Ms Kowalik-Bańczyk and Mr Hesse, Judges;

Formation E: Ms Kowalik-Bańczyk and Mr Petrlík, Judges;

Formation F: Mr Hesse and Mr Petrlík, Judges.

The Second Chamber, composed of four Judges, will be extended by the addition of a fifth Judge from the Third Chamber. The Third Chamber, composed of three Judges, will be extended by the addition of a fourth and fifth Judge from the Fifth Chamber. The Fifth Chamber, composed of four Judges, will be extended by the addition of a fifth Judge from the Sixth Chamber. The Ninth Chamber, composed of four Judges, will be extended by the addition of a fifth Judge from the Tenth Chamber.

The fourth and fifth Judges of the Third Chamber (Extended Composition) are the most senior Judges according to the order laid down in Article 8 of the Rules of Procedure, other than the President of the Chamber, from the Chamber having jurisdiction in the same area of specialisation and following numerically from the Third Chamber.

The fifth Judges of the Second, Fifth and Ninth Chambers (Extended Composition) are the most senior Judges according to the order laid down in Article 8 of the Rules of Procedure, other than the President of the Chamber, from the Chambers having jurisdiction in the same area of specialisation and following numerically from the Second, Fifth and Ninth Chambers.

The General Court confirms its decision of 4 October 2019 that the First, Fourth, Seventh and Eighth Chambers shall hear cases brought under Article 270 TFEU and, where appropriate, Article 50a of the Protocol on the Statute of the Court of Justice of the European Union, and that the Second, Third, Fifth, Sixth, Ninth and Tenth Chambers shall hear cases relating to intellectual property rights referred to in Title IV of the Rules of Procedure.

It also confirms that:

— the President and the Vice-President shall not be attached permanently to a Chamber;

— in the course of each judicial year, the Vice-President shall sit in each of the ten Chambers sitting with five Judges, on the basis of one case per Chamber in the following order:

  — the first case referred back, by decision of the General Court, to an extended Chamber sitting with five Judges of the First Chamber, the Second Chamber, the Third Chamber, the Fourth Chamber and the Fifth Chamber;

  — the third case referred back, by decision of the General Court, to an extended Chamber sitting with five Judges of the Sixth Chamber, the Seventh Chamber, the Eighth Chamber, the Ninth Chamber and the Tenth Chamber.

Where the Chamber in which the Vice-President sits is composed of:

— five Judges, the extended Chamber shall be composed of the Vice-President, Judges from the Chamber sitting with three Judges originally seised as well as one of the other Judges of the Chamber in question, determined on the basis of the reverse order to the order laid down in Article 8 of the Rules of Procedure;

— four Judges, the extended Chamber shall be composed of the Vice-President, Judges from the Chamber sitting with three Judges originally seised and the fourth Judge of the Chamber in question;

— three Judges, the extended Chamber shall be composed of the Vice-President, Judges from the Chamber sitting with three Judges originally seised and the fifth most senior Judge according to the order laid down in Article 8 of the Rules of Procedure, other than the President of the Chamber, from the Chamber having jurisdiction in the same area of specialisation and following numerically from the Chamber in question.

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Appeal brought on 7 May 2021 by EM against the judgment of the General Court (First Chamber) delivered on 3 March 2021 in Case T-599/19 EM v Parliament

(Case C-299/21 P)

(2021/C 431/03)

Language of the case: French

Parties

Appellant: EM (represented by: M. Casado García-Hirschfeld, avocate)

Other party to the proceedings: European Parliament

Form of order sought

The appellant submits that the Court of Justice should:

— set aside the judgment of 3 March 2021, *EM* v *Parliament* (T-599/19);

— order the Parliament to pay the entirety of the costs, including those incurred before the General Court.

Grounds of appeal and main arguments

By the first plea in law raised before the General Court, the appellant relied on infringement of Articles 1 and 31 of the Charter of Fundamental Rights as well as Article 12 and Article 12a(3) of the Staff Regulations, breach of the duty to provide assistance, and abuse of power. The General Court ruled on the first plea, divided into three parts, in paragraphs 42 to 131 of the judgment under appeal.

By the second plea in law raised before the General Court, the appellant relied on infringement of the principle of sound administration and of the duty to have regard for the welfare of officials, as well as a manifest error of assessment. The General Court ruled on this plea in paragraphs 142 to 159 of the judgment under appeal.

In support of his appeal, the appellant relies on a single ground of appeal, alleging distortion of the facts, and manifest errors of assessment resulting in a statement of reasons that is insufficient and legally imprecise. The General Court therefore ruled *infra petita*. In the context of the appeal, the appellant contests, in particular, paragraphs 51 to 57, 66 to 69, 100 to 103, 109, 126 to131, 145 to 146, 148 to 149 and 170 to 171 of the judgment under appeal.

Request for a preliminary ruling from the Raad van State (Netherlands) lodged on 31 May 2021 — Staatssecretaris van Justitie en Veiligheid, other parties: S.S., N.Z., S.S.

(Case C-338/21)

(2021/C 431/04)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Applicant: Staatssecretaris van Justitie en Veiligheid

Other parties: S.S., N.Z., S.S.

Question referred

Must Articles 27(3) and 29 of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person [1] be interpreted as not precluding national legislation such as that at issue here, in which a Member State has opted to implement Article 27(3)(c), but has also granted the suspensive effect that can be applied to the implementation of a transfer decision, to a review or appeal against a decision in proceedings concerning an application for a residence permit on the grounds of trafficking in human beings, which, while not being a transfer decision, does nevertheless temporarily prevent the actual transfer?

[1] OJ 2013 L 180, p. 31.

Request for a preliminary ruling from the Bayerisches Oberstes Landesgericht (Germany) lodged on 7 July 2021 — Landkreis A.-F. v J. Sch. Omnibusunternehmen and K. Reisen GmbH

(Case C-416/21)

(2021/C 431/05)

Language of the case: German

Referring court

Bayerisches Oberstes Landesgericht

Parties to the main proceedings

Appellant: Landkreis A.-F.

Respondents: J. Sch. Omnibusunternehmen, K. Reisen GmbH

Intervener: E. GmbH & Co. KG

Questions referred

1. Is Article 57(4)(d) of Directive 2014/24/EU [1] to be interpreted as meaning that the contracting authority must have sufficiently plausible indications to conclude that the economic operator has infringed Article 101 TFEU?

2. Is Article 57(4) of Directive 2014/24/EU to be interpreted as exhaustively regulating the optional grounds for exclusion in the sense that the principle of equal treatment (Article 18(1) of that directive) cannot preclude the award of a contract where tenders are submitted that are neither independent nor autonomous?

3. Is Article 18(1) of Directive 2014/24/EU to be interpreted as precluding the award of a contract to undertakings which constitute an economic unit and have each submitted a tender?

(1) Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ 2014 L 94, p. 65).

Appeal brought on 20 July 2021 by Petrus Kerstens against the order of the General Court (Seventh Chamber) delivered on 17 May 2021 in Case T-672/20 Kerstens v Commission

(Case C-447/21 P)

(2021/C 431/06)

Language of the case: French

Parties

Appellant: Petrus Kerstens (represented by: C. Mourato, avocat)

Other party to the proceedings: European Commission

Form of order sought

The appellant submits that the Court of Justice should:

— set aside the order of the General Court of 17 May 2021, *Kerstens* v *Commission* (T-672/20);

— declare the action at issue admissible;

— find that the case cannot proceed on the merits, and refer the matter back to the General Court so that it may rule on the merits of the dispute;

— reserve the costs.

Grounds of appeal and main arguments

The four grounds of appeal relate to the admissibility of the action brought by the applicant at first instance.

By the first ground of appeal, the appellant submits that by declaring inadmissible the action seeking annulment of the decisions of 20 and 31 January 2020, the General Court infringed the rules on the burden of proof and Article 91(3) of the Staff Regulations, and distorted the facts and evidence.

By the second ground of appeal, the appellant submits that the General Court provided an insufficient statement of reasons for the order under appeal.

By the third ground of appeal, the appellant submits that the General Court gravely infringed the principle of legal certainty in determining the date of notification of the contested act.

By his fourth and final ground of appeal, the appellant submits that the General Court infringed the principle of equal treatment of officials in determining the date of notification of acts addressed to them, to which there a judicial follow-up is necessary.

Request for a preliminary ruling from the Bundesverwaltungsgericht (Austria) lodged on 9 August 2021 — F.F.

(Case C-487/21)

(2021/C 431/07)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: F.F.

Other parties: Österreichische Datenschutzbehörde, CRIF GmbH

Questions referred

1. Is the term 'copy' in Article 15(3) of Regulation (EU) 2016/679 ([1]) ('the GDPR') to be interpreted as meaning a photocopy, a facsimile or an electronic copy of an (electronic) item of data, or does it also cover an '*Abschrift*', a '*double*' ('*duplicata*') or a '*transcript*', in line with the understanding of the term in German, French and English dictionaries?

2. Is the first sentence of Article 15(3) of the GDPR, according to which 'the controller shall provide a copy of the personal data undergoing processing', to be interpreted as affording a general right for a data subject to obtain a copy of — also — entire documents in which the personal data of that data subject are processed, or to receive a copy of a database extract if the personal data are processed in such a database, or does the data subject have a right — only — to an exact reproduction of the personal data about which information is to be provided pursuant to Article 15(1) of the GDPR?

3. In the event that Question 2 is answered to the effect that the data subject has a right only to an exact reproduction of the personal data about which information is to be provided pursuant to Article 15(1) of the GDPR, is the first sentence of Article 15(3) of the GDPR to be interpreted as meaning that, depending on the nature of the data processed (for example in relation to the diagnoses, examination results and assessments mentioned in recital 63 or documents in relation to an examination within the meaning of the judgment of the Court of Justice of 20 December 2017, *Nowak* ([2])) and the transparency requirement in Article 12(1) of the GDPR, it may nevertheless be necessary in individual cases to make text passages or entire documents available to the data subject?

4. Is the term 'information' which, pursuant to the third sentence of Article 15(3) of the GDPR, 'where the data subject makes the request by electronic means, and unless otherwise requested by the data subject, […] shall be provided in a commonly used electronic form', to be interpreted as referring solely to the 'personal data undergoing processing' mentioned in the first sentence of Article 15(3) of the GDPR?

   a. If Question 4 is answered in the negative: Is the term 'information' which, pursuant to the third sentence of Article 15 (3) of the GDPR, 'where the data subject makes the request by electronic means, and unless otherwise requested by the data subject, […] shall be provided in a commonly used electronic form' to be interpreted as also referring to the information pursuant to Article 15(1)(a) to (h) of the GDPR?

   b. If Question 4a also is answered in the negative: Is the term 'information' which, pursuant to the third sentence of Article 15(3) of the GDPR, 'where the data subject makes the request by electronic means, and unless otherwise requested by the data subject, […] shall be provided in a commonly used electronic form' to be interpreted as referring, beyond the 'personal data undergoing processing' and the information pursuant to Article 15(1)(a) to (h) of the GDPR, to associated metadata, for example?

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

([2]) C-434/16, EU:C:2017:994.

Reference for a preliminary ruling from the High Court (Ireland) made on 11 August 2021 — Eircom Limited v Commission for Communications Regulation

(Case C-494/21)

(2021/C 431/08)

Language of the case: English

Referring court

High Court (Ireland)

Parties to the main proceedings

Applicant: Eircom Limited

Defendant: Commission for Communications Regulation

Notice parties: Vodafone Ireland Limited, Three Ireland (Hutchinson) Limited, Three Ireland Services (Hutchinson) Limited

Questions referred

In circumstances where:

1. the telecommunications market has been liberalised and there are multiple telecommunication services providers operating in the market;

2. one service provider (the 'Universal Service Provider' or 'USP') has been selected by the National Regulatory Authority ('NRA') to perform Universal Service Obligations ('USOs');

3. it has been determined by the NRA that there is a positive net cost associated with the performance of the USOs ('USO Net Cost'); and

4. it has been determined by the NRA that the USO Net Cost is material compared to the administrative costs of the establishment of a sharing mechanism in respect of the USO Net Cost amongst participants in the market;

If the NRA is required, pursuant to its obligations under the Universal Services Directive 2002/22 ([1]), to consider whether the USO Net Cost is excessive in view of the ability of the USP to bear it, account being taken of all the USP's characteristics, in particular, the quality of its equipment, its economic and financial situation and its market share (as referred at para. 42 of Base) is it permissible under the Directives for the NRA to conduct that assessment by having regard exclusively to the characteristics/situation of the USP, or is it required to assess the characteristics/situation of the USP relative to its competitors in the relevant market?

([1]) Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (OJ 2002, L 108, p. 51).

Request for a preliminary ruling from the Landgericht Erfurt (Germany) lodged on 18 August 2021 — UM v Daimler AG

(Case C-506/21)

(2021/C 431/09)

Language of the case: German

Referring court

Landgericht Erfurt

Parties to the main proceedings

Applicant: UM

Defendant: Daimler AG

Questions referred

1. Are Articles 18(1), 26(1) and 46 of Directive 2007/46/EC, ([1]) read in conjunction with Articles 4, 5 and 13 of Regulation (EC) No 715/2007, ([2]) also intended to protect the interests of individual purchasers of motor vehicles and their assets? 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?

2. Does EU law, especially the principle of effectiveness EU fundamental rights and principles, and the inherent rights of nature, require that the purchaser of a vehicle have a civil claim for damages against the vehicle manufacturer 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?

3. Does EU law, in particular Article 267 TFEU, read in conjunction with Article 19(1) TEU and Article 47 of the Charter of Fundamental Rights, preclude provisions of German law such as Paragraph 348(3) of the German Code of Civil Procedure and the related case-law, in so far as they impede, delay or frustrate a reference to the Court of Justice of the European Union? Does this also apply to the provisions of German law on bias, such as Paragraph 42 of the German Code of Civil Procedure?

([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).

Appeal brought on 18 August 2021 by Puma SE, Puma United Kingdom Ltd, Puma Nordic AB, Austria Puma Dassler GmbH, Puma Italia Srl, Puma France SAS, Puma Denmark A/S, Puma Iberia, SL, Puma Retail AG against the judgment of the General Court (Third Chamber) delivered on 9 June 2021 in Case T-781/16, Puma and Others v Commission

(Case C-507/21 P)

(2021/C 431/10)

Language of the case: English

Parties

Appellants: Puma SE, Puma United Kingdom Ltd, Puma Nordic AB, Austria Puma Dassler GmbH, Puma Italia Srl, Puma France SAS, Puma Denmark A/S, Puma Iberia, SL, Puma Retail AG (represented by: E. Vermulst, J. Cornelis, advocaten)

Other party to the proceedings: European Commission

Form of order sought

The Appellants claim that the Court should:

— set aside the judgment under the appeal;

— annul Commission Implementing Regulation (EU) 2016/1395 ([1]) of 18 August 2016, Commission Implementing Regulation (EU) 2016/1647 ([2]) of 13 September 2016 and Commission Implementing Regulation (EU) 2016/1731 ([3]) of 28 September 2016; and

— order the European Commission to pay the Appellants' costs of this appeal as well as those of the proceedings before the General Court in Case T-781/16

or alternatively,

— refer the case back to the General Court; and

— reserve the costs of the proceeding before the General Court and on appeal.

Pleas in law and main arguments

In support of the appeal, the Appellants rely on three grounds of appeal.

First, the contested judgment failed to address the essence of the Appellants' first plea, thereby resulting in a breach of the obligation to state reasons.

Second, the contested judgment applied the wrong legal test when addressing the Appellants' claim under part of the third plea that the contested Regulations breached the principle of proportionality.

Third, in the context of part of the Appellants' fourth plea, the contested judgment misinterpreted Commission Implementing Regulation (EU) 2016/223 ([4]) of 17 February 2016 establishing a procedure for assessing certain market economy treatment and individual treatment claims made by exporting producers from China and Vietnam, and implementing the judgment of the Court of Justice in joined cases C-659/13 and C-34/14; and ignored the legal principle that no advantage may be gained from one's own wrong.

([1]) Commission Implementing Regulation (EU) 2016/1395 of 18 August 2016 reimposing a definitive anti-dumping duty and collecting definitely the provisional duty imposed on imports of certain footwear with uppers of leather originating in the People's Republic of China and produced by Buckinghan Shoe Mfg Co. Ltd, Buildyet Shoes Mfg., DongGuan Elegant Top Shoes Co. Ltd, Dongguan Stella Footwear Co. Ltd, Dongguan Taiway Sports Goods Limited, Foshan City Nanhai Qun Rui Footwear Co., Jianle Footwear Industrial, Sihui Kingo Rubber Shoes Factory, Synfort Shoes Co. Ltd, Taicang Kotoni Shoes Co. Ltd, Wei Hao Shoe Co. Ltd, Wei Hua Shoe Co. Ltd, Win Profile Industries Ltd, and implementing the judgment of the Court of Justice in joined cases C-659/13 and C-34/14 (OJ 2016, L 225, p. 52).

([2]) Commission Implementing Regulation (EU) 2016/1647 of 13 September 2016 Re-imposing a definitive anti-dumping duty and collecting definitely the provisional duty imposed on imports of certain footwear with uppers of leather originating in Vietnam and produced by Best Royal Co. Ltd, Lac Cuong Footwear Co., Ltd, Lac Ty Co., Ltd, Saoviet Joint Stock Company (Megastar Joint Stock Company), VMC Royal Co Ltd, Freetrend Industrial Ltd and its related company Freetrend Industrial A (Vietnam) Co, Ltd, Fulgent Sun Footwear Co., Ltd, General Shoes Ltd, Golden Star Co, Ltd, Golden Top Company Co., Ltd, Kingmaker Footwear Co. Ltd, Tripos Enterprise Inc., Vietnam Shoe Majesty Co., Ltd, and implementing the judgment of the Court of Justice in joined cases C-659/13 and C-34/14 (OJ 2016, L 245, p. 16).

([3]) Commission Implementing Regulation (EU) 2016/1731 of 28 September 2016 reimposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain footwear with uppers of leather originating in the People's Republic of China and Vietnam and produced by General Footwear Ltd (China), Diamond Vietnam Co. Ltd and Ty Hung Footgearmex/Footwear Co. Ltd and implementing the judgment of the Court of Justice in Joined Cases C-659/13 and C-34/14 (OJ 2016, L 262, p. 4).

([4]) OJ 2016, L 41, p. 3.

Request for a preliminary ruling from the Fővárosi Törvényszék (Hungary) lodged on 26 August 2021 — M.D. v Országos Idegenrendészeti Főigazgatóság Budapesti és Pest Megyei Regionális Igazgatósága

(Case C-528/21)

(2021/C 431/11)

Language of the case: Hungarian

Referring court

Fővárosi Törvényszék (Budapest High Court, Hungary)

Parties to the main proceedings

Applicant: M.D.

Defendant: Országos Idegenrendészeti Főigazgatóság Budapesti és Pest Megyei Regionális Igazgatósága (Budapest and Pest Regional Directorate of the National Directorate of the Immigration Police, Hungary)

Questions referred

1. Are Articles 5 and 11 of Directive 2008/115/EC ([1]) and Article 20 TFEU, in conjunction with Articles 7, 20, 24 and 47 of the Charter, to be interpreted as precluding a practice of a Member State which extends the application of a legislative amendment to fresh proceedings initiated by virtue of a court order made in previous proceedings, where, as a result of that legislative amendment, a third-country national who is a family member of an EU citizen is made subject to much less favourable procedural rules, such that that person loses the status of a person who may not be returned even on grounds of public policy, public safety or national security, which that person had attained on account of the duration of his residence up to that point; that person's application for a permanent residence card is then refused on the basis of that factual situation and on grounds of national security; and that person has the residence card issued in his favour withdrawn and is subsequently made subject to an entry and residence ban without consideration of his personal and family circumstances in any of the proceedings (particularly, in this context, the fact that the person concerned also has a dependent minor child who is a Hungarian citizen), as a result of which either the family unit is broken up or the EU citizens who are family members of the third-country national, including his minor child, are required to leave the territory of the Member State?

2. Are Articles 5 and 11 of Directive 2008/115 and Article 20 TFEU, in conjunction with Articles 7 and 24 of the Charter, to be interpreted as precluding a practice of a Member State pursuant to which the personal and family circumstances of a third-country national are not examined before the imposition on that third-country national of an entry and residence ban, on the grounds that residence by that person, who is a family member of an EU citizen, presents a real, immediate and serious threat to the country's national security?

In the event of an affirmative answer to questions 1 or 2:

3. Are Article 20 TFEU and Articles 5 and 13 of Directive 2008/115, in conjunction with Articles 20 and 47 of the Charter, and recital 22 of Directive 2008/115, which states that the obligation to take into account the best interests of the child should be a primary consideration, and recital 24 of that directive, which requires that the fundamental rights and principles enshrined in the Charter must be guaranteed, to be interpreted as meaning that, where, in the event that the national court declares, on the basis of a ruling of the Court of Justice of the European Union, that the law of the Member State or the practices of the immigration authorities based on that law are contrary to EU law, that court may, when examining the legal basis of the entry and residence ban, take into account, as an acquired right of the applicant in the present case, the fact that, under the rules of the a szabad mozgás és tartózkodás jogával rendelkező személyek beutazásáról és tartózkodásáról szóló 2007. évi I. törvény (Law I of 2007 on the entry and residence of persons having the right of free movement and residence; 'Law I of 2007'), the applicant had achieved what was necessary for the purposes of application of Article 42 of that Law, namely more than 10 years' legal residence in Hungary, or, when reviewing the grounds for the issue of the entry and residence ban, must that court base the consideration taken of family and personal circumstances directly on Article 5 of Directive 2008/115 in the absence of provisions in that respect in the a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról szóló 2007. évi II. törvény (Law II of 2007 on the entry and residence of third-country nationals; 'Law II of 2007')?

4. Is a practice of a Member State whereby, in proceedings brought by a third-country national who is a family member of an EU citizen, exercising his right of appeal, the immigration authorities do not comply with a final judgment which orders immediate judicial protection against the enforcement of the decision [of those authorities] who claim that they have already entered in the Schengen Information System (SIS II) a description relating to the entry and residence ban, as a consequence of which the third-country national who is a family member of an EU citizen is not entitled to exercise in person the right of appeal or to enter Hungary while the proceedings are in progress before a final judgment has been given in his case, compatible with EU law, in particular with the right to an effective remedy guaranteed in Article 13 of Directive 2008/115 and with the right to a fair trial enshrined in Article 47 of the Charter?

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

Action brought on 27 August 2021 — European Commission v Slovak Republic

(Case C-540/21)

(2021/C 431/12)

Language of the case: Slovak

Parties

Applicant: European Commission (represented by: R. Lindenthal, I. Rubene and A. Tokár, acting as Agents)

Defendants: Slovak Republic

Form of order sought

The applicant claims that the Court should:

— Declare that, by adopting Paragraph 33a of Zákon č. 170/2018 (Law No 170/2018) inserted by Zákon č. 136/2020 (Law No 136/2020) of 20 May 2020, the Slovak Republic has failed to fulfil its obligations under Article 12(2), Article 12(3)(b) and Article 12(4) of Directive (EU) 2015/2302, ([1]) in conjunction with Article 4 thereof; and

— Order the Slovak Republic to pay the costs.

Pleas in law and main arguments

Under Article 12(2) of Directive (EU) 2015/2302, the traveller has the right to terminate the package travel contract before the start of the package without paying any termination fee in the event of unavoidable and extraordinary circumstances occurring at the place of destination or its immediate vicinity and significantly affecting the performance of the package, or which significantly affect the carriage of passengers to the destination. Under Article 12(3)(b) of that directive, the organiser has the same right to terminate the package travel contract where the organiser is prevented from performing the contract because of unavoidable and extraordinary circumstances.

Article 12(4) of Directive (EU) 2015/2302 provides that, in the event of termination of the package travel contract, the organiser is required to provide to the traveller any refunds without undue delay and in any event not later than 14 days after the package travel contract is terminated. Article 4 of that directive also prohibits Member States from adopting provisions which diverge from the provisions of that directive, including more or less stringent provisions which would ensure a different level of traveller protection.

By adopting Law No 136/2020, which supplements Zákon č. 170/2018 Z. z. o zájazdoch, spojených službách cestovného ruchu, niektorých podmienkach podnikania v cestovnom ruchu (Law No 170/2018 on package tours, linked tourism services and some conditions for business in tourism), the Slovak Republic infringed Article 12(2), Article 12(3)(b) and Article 12(4) of the Directive in conjunction with Article 4 thereof.

This is because Paragraph 33a(7) of Law No 170/2018 provides that the travel agency is required to agree with the traveller on the provision of a replacement package tour by 31 August 2021 at the latest. Under Paragraph 33a(9), where the travel agency fails to reach an agreement with the traveller on the provision of a replacement package tour by 31 August 2021, it is deemed to have withdrawn from the package tour contract and is required to refund the traveller all payment which it accepted on the basis of the package tour contract without delay, and by 14 September 2021 at the latest.

(1) Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC (OJ 2015 L 326, p. 1).

Judgment of the Court (Fourth Chamber) of 2 September 2021 — European Commission v Tempus Energy Ltd, Tempus Energy Technology Ltd, United Kingdom of Great Britain and Northern Ireland

(Case C-57/19 P) (1)

(Appeal — State aid — Aid scheme — Article 108(2) and (3) TFEU — Regulation (EC) No 659/1999 — Article 4(3) and (4) — Concept of 'doubts as to the compatibility of a notified measure with the common market' — Decision not to raise objections — Formal investigation procedure not initiated — Guidelines on State aid for environmental protection and energy 2014-2020 — Code of Best Practice for the conduct of State aid control procedures — 'Pre-notification' contacts — Procedural rights of interested parties — Electricity capacity market in the United Kingdom)

(2021/C 431/13)

Language of the case: English

Parties

Appellant: European Commission (represented by: É. Gippini Fournier and P. Němečková, acting as Agents,)

Other parties to the proceedings: Tempus Energy Ltd, Tempus Energy Technology Ltd (represented by: J. Derenne and D. Vallindas, avocats, and by C. Ziegler, Rechtsanwalt), United Kingdom of Great Britain and Northern Ireland (represented by: initially, F. Shibli, S. McCrory and Z. Lavery, and, subsequently, F. Shibli, S. McCrory, acting as Agents, and G. Facenna QC and D. Mackersie, Barrister)

Intervener in support of the appellant: Republic of Poland (represented by: B. Majczyna, acting as Agent)

Operative part of the judgment

The Court:

1. Sets aside the judgment of the General Court of the European Union of 15 November 2018, Tempus Energy and Tempus Energy Technology v Commission (T-793/14, EU:T:2018:790);

2. Dismisses the action in Case T-793/14;

3. Orders Tempus Energy Ltd and Tempus Energy Technology Ltd to bear their own costs and to pay those incurred by the European Commission in the proceedings before the General Court of the European Union and before the Court of Justice;

4. Orders the Republic of Poland and the United Kingdom of Great Britain and Northern Ireland to bear their own costs.

([1]) OJ C 148, 29.4.2019.

Judgment of the Court (Fourth Chamber) of 2 September 2021 (request for a preliminary ruling from the High Court (Ireland) — Ireland) — Irish Ferries Ltd v National Transport Authority

(Case C-570/19) ([1])

(Reference for a preliminary ruling — Maritime transport — Rights of passengers when travelling by sea and inland waterway — Regulation (EU) No 1177/2010 — Articles 18 and 19, Article 20(4), and Articles 24 and 25 — Cancellation of passenger services — Late delivery of a vessel to the carrier — Notice given prior to the originally scheduled date of departure — Consequences — Right to re-routing — Procedures — Payment of the additional costs — Right to compensation — Calculation — Concept of ticket price — National body responsible for the enforcement of Regulation No 1177/2010 — Competence — Concept of a complaint — Assessment of validity — Articles 16, 17, 20 and 47 of the Charter of Fundamental Rights of the European Union — Principles of proportionality, legal certainty and equal treatment)

(2021/C 431/14)

Language of the case: English

Referring court

High Court (Ireland)

Parties to the main proceedings

Applicant: Irish Ferries Ltd

Defendant: National Transport Authority

Operative part of the judgment

1. Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 must be interpreted as meaning that it applies where a carrier cancels a passenger service giving several weeks' notice prior to the originally scheduled departure because the delivery of the vessel required to provide that service was delayed, and could not be replaced;

2. Article 18 of Regulation No 1177/2010 must be interpreted as meaning that, where a passenger service is cancelled and there is no alternative service on the same route, the carrier is required to offer to the passenger, by virtue of the passenger's right to re-routing under comparable conditions and at the earliest opportunity to the final destination provided for in that provision, an alternative service that follows a different itinerary from that of the cancelled service or a maritime service coupled with other modes of transport, such as rail or road transport, and is required to bear any additional costs incurred by the passenger in re-routing to the final destination;

3. Articles 18 and 19 of Regulation No 1177/2010 must be interpreted as meaning that, where a carrier cancels a passenger service giving several weeks' notice before the originally scheduled departure, a passenger has a right to compensation under Article 19 of that regulation where he or she decides, in accordance with Article 18 of that regulation, to be re-routed at the earliest opportunity or to postpone the journey to a later date and that passenger arrives at the originally scheduled final destination with a delay that exceeds the thresholds laid down in Article 19 of that regulation. By contrast, where a passenger decides to be reimbursed for the ticket price, he or she does not have such a right to compensation under that article;

4. Article 19 of Regulation No 1177/2010 must be interpreted as meaning that the concept of 'ticket price', referred to in that article, includes the costs relating to the additional optional services chosen by the passenger, such as the booking of a cabin or a kennel, or access to premium lounges;

5. Article 20(4) of Regulation No 1177/2010 must be interpreted as meaning that the late delivery of a passenger transport vessel which led to the cancellation of all sailings to be operated by that vessel in the context of a new maritime route does not fall within the concept of 'extraordinary circumstances' within the meaning of that provision;

6. Article 24 of Regulation No 1177/2010 must be interpreted as meaning that it does not require a passenger who requests compensation under Article 19 of that regulation to submit his or her request in the form of a complaint to the carrier within two months from the date on which the service was performed or when a service should have been performed;

7. Article 25 of Regulation No 1177/2010 must be interpreted as meaning that the competence of a national body responsible for the enforcement of that regulation designated by a Member State covers not only the passenger service provided from a port situated in the territory of that Member State, but also a passenger service provided from a port situated in the territory of another Member State to a port situated in the territory of the first Member State where the latter service is part of a return journey which has been entirely cancelled;

8. Examination of the tenth question has not revealed any factor capable of affecting the validity of Articles 18 and 19 of Regulation No 1177/2010.

([1]) OJ C 328, 30.9.2019.

Judgment of the Court (Fourth Chamber) of 2 September 2021 (request for a preliminary ruling from the Supreme Court of the United Kingdom — United Kingdom) — The Queen, on the application of: Association of Independent Meat Suppliers, Cleveland Meat Company Ltd v Food Standards Agency

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

(Reference for a preliminary ruling — Protection of health — Regulation (EC) No 854/2004 — Article 5(2) — Regulation (EC) No 882/2004 — Article 54(3) — Hygiene rules applicable to food of animal origin — Post-mortem inspection of the carcass and offal — Official veterinarian — Health marking — Refusal — Meat declared unfit for human consumption — Right of appeal against a decision of the official veterinarian — Effective judicial protection — Article 47 of the Charter of Fundamental Rights of the European Union)

(2021/C 431/15)

Language of the case: English

Referring court

Supreme Court of the United Kingdom

Parties to the main proceedings

Appellants: The Queen, on the application of: Association of Independent Meat Suppliers, Cleveland Meat Company Ltd

Defendant: Food Standards Agency

Operative part of the judgment

1. Regulation (EC) No 854/2004 and of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption, as amended by Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004, and Regulation No 882/2004 must be interpreted as precluding national legislation under which, where an official veterinarian refuses to affix a health mark to a carcass and the owner of that carcass does not concur with that decision, the official veterinarian must bring the matter before a court so that the latter may give a decision on the merits and on the basis of the evidence of experts called by each side whether a carcass fails to comply with food safety requirements, without being able formally to annul decisions of the official veterinarian or order the lifting of the effects of such decisions.

2. Article 54 of Regulation No 882/2004, read in conjunction with recital 43 thereof and in the light of Article 47 of the Charter, must be interpreted as not precluding national legislation according to which the decision made by the official veterinarian, in accordance with Article 5(2) of Regulation No 854/2004, as amended by Regulation No 882/2004, not to affix a health mark to a carcass may be subject to limited judicial review only, in the context of which the court seised may annul that decision on any ground rendering it unlawful, including where that veterinarian has acted for a purpose other than that for which his or her powers have been conferred on him or her, fails to apply the correct legal test or reaches a decision that is irrational or has no sufficient evidential basis.

([1]) OJ C 328, 30.9.2019.

Judgment of the Court (Fourth Chamber) of 2 September 2021 — Ja zum Nürburgring eV v European Commission

(Case C-647/19 P) ([1])

(Appeal — State aid — Aid in favour of the Nürburgring complex (Germany) — Decision declaring the aid in part incompatible with the internal market — Sale of the assets of the beneficiaries of the State aid declared to be incompatible — Open, transparent, non-discriminatory and unconditional tender process — Decision declaring that the reimbursement of the incompatible aid did not concern the new owner of the Nürburgring complex and that the latter did not receive new aid for the acquisition of that complex — Admissibility — Status as an interested party — Person individually concerned — Infringement of the procedural rights of the interested parties — Difficulties requiring the initiation of a formal investigation procedure — Justification — Distortion of the evidence)

(2021/C 431/16)

Language of the case: German

Parties

Appellant: Ja zum Nürburgring eV (represented by: D. Frey and M. Rudolph, Rechtsanwälte)

Other party to the proceedings: European Commission (represented by: L. Flynn, B. Stromsky and T. Maxian Rusche, acting as Agents)

Operative part of the judgment

The Court:

1. Sets aside the judgment of the General Court of the European Union of 19 June 2019, Ja zum Nürburgring v Commission (T-373/15, EU:T:2019:432), in so far as, by that judgment, the General Court of the European Union dismissed the action for annulment of the last indent of Article 1 of Commission Decision (EU) 2016/151 of 1 October 2014 on the State aid SA.31550 (2012/C) (ex 2012/NN) implemented by Germany for Nürburgring;

2. Dismisses the appeal as to the remainder;

3. Annuls the last indent of Article 1 of Commission Decision (EU) 2016/151 of 1 October 2014 on the State aid SA.31550 (2012/C) (ex 2012/NN) implemented by Germany for Nürburgring;

4. Orders Ja zum Nürburgring eV and the European Commission to bear their own costs.

(1) OJ C 372, 4.11.2019.

Judgment of the Court (Fourth Chamber) of 2 September 2021 — NeXovation Inc. v European Commission

(Case C-665/19 P) (1)

(Appeal — State aid — Aid in favour of the Nürburgring complex (Germany) — Decision declaring the aid partly incompatible with the internal market — Sale of the assets of the beneficiaries of the State aid found to be incompatible — Open, transparent, non-discriminatory and unconditional tender process — Decision declaring that the reimbursement of incompatible aid did not concern the new owner of the Nürburgring complex and that the latter did not receive new aid for the acquisition of that complex — Admissibility — Status as an interested party — Person individually concerned — Infringement of the procedural rights of the interested parties — Difficulties requiring the initiation of a formal investigation procedure — Justification)

(2021/C 431/17)

Language of the case: English

Parties

Appellant: NeXovation Inc. (represented: initially by A. von Bergwelt, M. Nordmann and L. Hettstedt, and subsequently by A. von Bergwelt and M. Nordmann, Rechtsanwälte)

Other party to the proceedings: European Commission (represented by: L. Flynn, T. Maxian Rusche and B. Stromsky, acting as Agents)

Operative part of the judgment

The Court:

1. Sets aside the judgment of the General Court of the European Union of 19 June 2019, NeXovation v Commission (T-353/15, EU:T:2019:434), in so far as, by that judgment, the General Court of the European Union dismissed the action for annulment of the last indent of Article 1 of Commission Decision (EU) 2016/151 of 1 October 2014 on State aid SA.31550 (2012/C) (ex 2012/NN) implemented by Germany for Nürburgring;

2. Dismisses the appeal as to the remainder;

3. Annuls the last indent of Article 1 of Commission Decision (EU) 2016/151 of 1 October 2014 on the State aid SA.31550 (2012/C) (ex 2012/NN) implemented by Germany for Nürburgring;

4. Orders NeXovation Inc. and the European Commission to bear their own costs.

(1) OJ C 372, 4.11.2019.

Judgment of the Court (Fourth Chamber) of 2 September 2021 — European Commission v Federal Republic of Germany

(Case C-718/18) [1]

(Failure of a Member State to fulfil obligations — Internal markets for electricity and natural gas — Directive 2009/72/EC — Article 2(21) — Article 19(3), (5) and (8) — Article 37(1)(a) and (6)(a) and (b) — Directive 2009/73/EC — Article 2(20) — Article 19(3), (5) and (8) — Article 41(1)(a) and (6)(a) and (b) — Concept of a 'vertically integrated undertaking' — Effective unbundling of networks from the activities of production and supply of electricity and natural gas — Independent transmission operator — Independence of the staff and the management of the transmission system operator — Transitional periods — Shares held in the capital of the vertically integrated undertaking — National regulatory authorities — Independence — Exclusive powers — Article 45 TFEU — Freedom of movement for workers — Charter of Fundamental Rights of the European Union — Article 15 — Right to engage in work and to pursue an occupation — Article 17 — Right to property — Article 52(1) — Restrictions — Principle of democracy)

(2021/C 431/18)

Language of the case: German

Parties

Applicant: European Commission (represented by: M. Noll-Ehlers and O. Beynet, acting as Agents)

Defendant: Federal Republic of Germany (represented: initially by J. Möller and T. Henze, acting as Agents, and subsequently by J. Möller and S. Eisenberg, acting as Agents)

Intervener in support of the defendant: Kingdom of Sweden (represented: initially by C. Meyer-Seitz, A. Falk, H. Shev, J. Lundberg and H. Eklinder, acting as Agents, and subsequently by C. Meyer-Seitz, H. Shev and H. Eklinder, acting as Agents)

Operative part of the judgment

The Court:

1. Declares that, by failing to transpose correctly:

   — Article 2(21) of Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC, and Article 2(20) of Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC,

   — Article 19(3) and (8) of Directives 2009/72 and 2009/73,

   — Article 19(5) of Directives 2009/72 and 2009/73,

   — Article 37(1)(a) and (6)(a) and (b) of Directive 2009/72 and Article 41(1)(a) and (6)(a) and (b) of Directive 2009/73,

   the Federal Republic of Germany has failed to fulfil its obligations under those directives;

2. Orders the Federal Republic of Germany to pay the costs;

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

[1] OJ C 54, 11.2.2019.

Judgment of the Court (Fifth Chamber) of 2 September 2021 (references for a preliminary ruling from the Consiglio di Stato — Italy) — Sisal SpA (C-721/19), Stanleybet Malta Ltd (C-722/19), Magellan Robotech Ltd (C-722/19) v Agenzia delle Dogane e dei Monopoli, Ministero dell'Economia e delle Finanze

(Joined Cases C-721/19 and C-722/19) ([1])

(Reference for a preliminary ruling — Articles 49 and 56 TFEU — Free movement of services — Restrictions — Directive 2014/23/EU — Concession award procedure — Article 43 — Substantial amendments — Instant lottery games — National legislation providing for the renewal of a concession without a new tendering procedure — Directive 89/665/EEC — Article 1(3) — Legal interest in bringing proceedings)

(2021/C 431/19)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicants: Sisal SpA (C-721/19), Stanleybet Malta Ltd (C-722/19), Magellan Robotech Ltd (C-722/19)

Defendants: Agenzia delle Dogane e dei Monopoli, Ministero dell'Economia e delle Finanze

Intervener: Lotterie Nazionali Srl, Lottomatica Holding Srl, formerly Lottomatica SpA (C-722/19),

Operative part of the judgment

1. EU law, and in particular Article 43(1)(a) of Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts, must be interpreted as not precluding national legislation requiring the renewal of a concession contract without a new award procedure, in circumstances where it has been awarded to a single concessionaire, whereas the applicable national law provided that such a concession was in principle to be awarded to several, at most four, economic operators, where that national legislation constitutes the implementation of a clause contained in the initial concession contract providing for the option of such renewal;

2. EU law, and in particular Article 43(1)(e) of Directive 2014/23, must be interpreted as not precluding national legislation which provides, first, that the renewal of a concession is to be decided two years before its expiry and, second, that an amendment to the arrangements for payment of the financial consideration due from the concessionaire, as they were set out in the initial concession contract, so as to guarantee additional and increased government revenue, where that change is not substantial within the meaning of Article 43(4) of that directive.

3. Article 43(4) of Directive 2014/23 and Article 1(3) of Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts, as amended by Directive 2014/23, must be interpreted as meaning that an economic operator may bring an action against a decision to renew a concession on the ground that the conditions of performance of the initial concession contract have been substantially amended, even though that operator did not participate in the initial award procedure for that concession, provided that, at the time when the renewal of the concession is due to take place, that operator can show an interest in being awarded such a concession.

([1]) OJ C 432, 23.12.2019.

Judgment of the Court (Grand Chamber) of 2 September 2021 (request for a preliminary ruling from the Cour d'appel de Paris — France) — Republic of Moldova v Komstroy LLC, successor in law to the company Energoalians

(Case C-741/19) ([1])

(Reference for a preliminary ruling — Energy Charter Treaty — Article 26 — Inapplicability between Member States — Arbitration Award — Judicial review — Jurisdiction of a court of a Member State — Dispute between a third-State operator and a third State — Jurisdiction of the Court — Article 1(6) of the Energy Charter Treaty — Concept of 'investment')

(2021/C 431/20)

Language of the case: French

Referring court

Cour d'appel de Paris

Parties to the main proceedings

Applicant: Republic of Moldova

Defendant: Komstroy LLC, successor in law to the company Energoalians

Operative part of the judgment

Article 1(6) and Article 26(1) of the Energy Charter Treaty, signed at Lisbon on 17 December 1994, approved on behalf of the European Communities by Council and Commission Decision 98/181/EC, ECSC, Euratom of 23 September 1997, must be interpreted as meaning that the acquisition, by an undertaking of a Contracting Party to that treaty, of a claim arising from a contract for the supply of electricity, which is not connected with an investment, held by an undertaking of a third State against a public undertaking of another Contracting Party to that treaty, does not constitute an 'investment' within the meaning of those provisions.

([1]) OJ C 413, 9.12.2019.

Judgment of the Court (Second Chamber) of 2 September 2021 (request for a preliminary ruling from the Curtea de Apel Braşov — Romania) — Parchetul de pe lângă Tribunalul Braşov v LG, MH

(Case C-790/19) ([1])

(Reference for a preliminary ruling — Prevention of the use of the financial system for the purposes of money laundering and terrorist financing — Directive (EU) 2015/849 — Directive 2005/60/EC — Offence of money laundering — Laundering by the perpetrator of the predicate offence ('self-laundering'))

(2021/C 431/21)

Language of the case: Romanian

Referring court

Curtea de Apel Braşov

Parties to the main proceedings

Applicant: Parchetul de pe lângă Tribunalul Braşov

Defendants: LG, MH

Intervener: Agenția Națională de Administrare Fiscală — Direcția Generală Regională a Finanțelor Publice Brașov

Operative part of the judgment

Article 1(2)(a) of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing must be interpreted as not precluding national legislation which provides that the offence of money laundering, within the meaning of that provision, may be committed by the perpetrator of the criminal activity from which the money concerned was derived.

(1) OJ C 54, 17.2.2020.

Judgment of the Court (Fourth Chamber) of 2 September 2021 (reference for a preliminary ruling from the Verwaltungsgericht Gera — Germany) — Toropet Ltd. v Landkreis Greiz

(Case C-836/19) (1)

(Reference for a preliminary ruling — Public health — Health rules concerning animal by-products not intended for human consumption — Regulation (EC) No 1069/2009 — Article 9(d) and Article 10(a) and (f) — Classification of products — Decomposition, deterioration and presence of foreign bodies in the material — Impact on the initial classification)

(2021/C 431/22)

Language of the case: German

Referring court

Verwaltungsgericht Gera

Parties to the main proceedings

Applicant: Toropet Ltd.

Defendant: Landkreis Greiz

Operative part of the judgment

Article 7(1), Article 9(h) and Article 10(a) and (f) of Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation), read in the light of Article 4(2) of that regulation, must be interpreted as meaning that animal by-products originally classified as Category 3 material, in accordance with Article 10(a) and (f) thereof, which are altered by decomposition or deterioration, or mixed with foreign bodies, such as pieces of plaster or sawdust, so that they are no longer fit for human consumption and/or pose a risk to human or animal health, do not comply with the level of risk associated with that classification and must therefore be reclassified into a lower category.

(1) OJ C 87, 16.3.2020.

Judgment of the Court (Eighth Chamber) of 2 September 2021 (request for a preliminary ruling from the Verwaltungsgericht Köln — Germany) — Vodafone GmbH v Bundesrepublik Deutschland, represented by the Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen

(Case C-854/19) ([1])

(Reference for a preliminary ruling — Electronic communications — Regulation (EU) 2015/2120 — Article 3 — Open internet access — Article 3(1) — End users' rights — Article 3(2) — Prohibition of agreements and commercial practices limiting the exercise of end users' rights — Article 3(3) — Obligation of equal and non-discriminatory treatment of traffic — Possibility of implementing reasonable traffic management measures — Additional 'zero tariff' option — 'Zero tariff' excluded in the case of roaming)

(2021/C 431/23)

Language of the case: German

Referring court

Verwaltungsgericht Köln

Parties to the main proceedings

Applicant: Vodafone GmbH

Defendant: Bundesrepublik Deutschland, represented by the Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen

Operative part of the judgment

Article 3 of Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union must be interpreted as meaning that a limitation on use when roaming, on account of the activation of a 'zero tariff' option, is incompatible with the obligations arising from Article 3(3).

([1]) OJ C 87, 16.3.2020.

Judgment of the Court (Grand Chamber) of 2 September 2021 — European Federation of Public Service Unions (EPSU) v European Commission, Jan Willem Goudriaan

(Case C-928/19 P) ([1])

(Appeal — Law governing the institutions — Social policy — Articles 154 and 155 TFEU — Social dialogue between management and labour at EU level — Informing and consulting civil servants and employees of central government administrations of the Member States — Agreement concluded between the social partners — Joint request of the signatories to that agreement seeking its implementation at EU level — Refusal of the European Commission to submit a proposal for a decision to the Council of the European Union — Standard of judicial review — Obligation to state reasons for the decision refusing to submit the proposal)

(2021/C 431/24)

Language of the case: English

Parties

Appellant: European Federation of Public Service Unions (EPSU) (represented by: R. Arthur, Solicitor, and K. Apps, Barrister)

Other parties to the proceedings: Jan Willem Goudriaan (represented by: R. Arthur, Solicitor, and K. Apps, Barrister), European Commission (represented by: I. Martínez del Peral, M. Kellerbauer and B.R. Killmann, acting as Agents)

Operative part of the judgment

The Court:

1. Dismisses the appeal;

2. Orders the European Federation of Public Service Unions (EPSU) to bear its own costs and to pay those incurred by the European Commission.

(1) OJ C 68, 2.3.2020.

Judgment of the Court (Grand Chamber) of 2 September 2021 (request for a preliminary ruling from the Conseil du contentieux des étrangers — Belgium) — X v Belgian State

(Case C-930/19) (1)

(Reference for a preliminary ruling — Directive 2004/38/EC — Article 13(2) — Right of residence of family members of a Union citizen — Marriage between a Union citizen and a third-country national — Retention, in the event of divorce, of the right of residence by a third-country national who is the victim of acts of domestic violence committed by his or her spouse — Requirement to demonstrate the existence of sufficient resources — No such requirement in Directive 2003/86/EC — Validity — Charter of Fundamental Rights of the European Union — Articles 20 and 21 — Equal treatment — Difference in treatment based on whether the sponsor is a Union citizen or a third-country national — Non-comparability of situations)

(2021/C 431/25)

Language of the case: French

Referring court

Conseil du contentieux des étrangers

Parties to the main proceedings

Applicant: X

Defendant: Belgian State

Operative part of the judgment

The consideration of the question referred by the national court has disclosed no factor of a kind such as to affect the validity of Article 13(2) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, in the light of Article 20 of the Charter of Fundamental Rights of the European Union.

(1) OJ C 77, 9.3.2020.

Judgment of the Court (Sixth Chamber) of 2 September 2021 (request for a preliminary ruling from the Győri Ítélőtábla — Hungary) — JZ v OTP Jelzálogbank Zrt., OTP Bank Nyrt., OTP Faktoring Követeléskezelő Zrt.

(Case C-932/19) ([1])

(Reference for a preliminary ruling — Consumer protection — Unfair terms — Directive 93/13/EEC — Article 1(2) — Article 6(1) — Loan denominated in foreign currency — Difference between the exchange rate applicable when the loaned funds are released and when they are repaid — Member State legislation providing for the replacement of an unfair term by a provision of national law — Possibility for the national court to invalidate the entire agreement containing the unfair term — Possible consideration of the protection offered by that legislation and of the consumer's wishes regarding its application)

(2021/C 431/26)

Language of the case: Hungarian

Referring court

Győri Ítélőtábla

Parties to the main proceedings

Applicant: JZ

Defendants: OTP Jelzálogbank Zrt., OTP Bank Nyrt., OTP Faktoring Követeléskezelő Zrt.

Operative part of the judgment

Article 6(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts must be interpreted as not precluding national legislation which, in relation to loan agreements concluded with a consumer, renders void a term relating to the exchange difference that is regarded as unfair and requires the national court with jurisdiction to replace that term with a provision of national law imposing the use of an official exchange rate, without providing for the possibility, for that court, to grant the application of the consumer concerned for the annulment of the loan agreement in its entirety, even if that court considers that the continuation of that agreement would be contrary to the interests of the consumer, in particular with regard to the exchange risk which the latter would continue to bear by virtue of another term in that agreement, in so far as the court is, however, in a position to make a finding — in the exercise of its sovereign discretion, over which the consumer's expressed wishes cannot prevail — that the implementation of the measures thus provided for by that national legislation makes it possible to re-establish the legal and factual situation which would have existed for the consumer in the absence of that unfair term.

([1]) OJ C 161, 11.5.2020.

Appeal brought on 3 September 2021 by Fondazione Cassa di Risparmio di Pesaro and Others against the judgment of the General Court (Third Chamber) delivered on 30 June 2021 in Case T-635/19 Fondazione Cassa di Risparmio di Pesaro and Others v Commission

(Case C-549/21 P)

(2021/C 431/27)

Language of the case: Italian

Parties

Appellants: Fondazione Cassa di Risparmio di Pesaro, Montani Antaldi Srl, Fondazione Cassa di Risparmio di Fano, Fondazione Cassa di Risparmio di Jesi, and Fondazione Cassa di Risparmio della Provincia di Macerata (represented by: A. Sandulli, S. Battini and B. Cimino, avvocati)

Other party to the proceedings: European Commission

Form of order sought

The appellants claim that the Court should:

— set aside the judgment of 30 June 2021 delivered by the Third Chamber of the General Court of the European Union in *Fondazione Cassa di Risparmio di Pesaro and Others* v *Commission* (T-635/19);

— consequently, as claimed at first instance, find and declare that the European Commission is non-contractually liable for having prevented the recapitalisation of the Banca delle Marche by the Fondo Interbancario italiano per Tutela dei Depositi (Italian Interbank Deposit Protection Fund) ('the F.I.T.D.') by giving unlawful instructions to the Italian national authorities;

— accordingly, order the European Commission to pay compensation for the damage caused to the appellants, estimated according to the criteria indicated in the appeal or in such other manner as the Court may deem appropriate;

— in any event, refer the case back to the General Court for reconsideration of the remaining pleas in law at first instance;

— order the European Commission to pay the costs of the proceedings at first instance and on appeal.

Grounds of appeal and main arguments

1. **First ground of appeal: manifest distortion of, and failure to have regard to, the facts and the clear sense of the evidence adduced at first instance, failure to examine a crucial fact, and illogical and incorrect reasoning.**

   According to the General Court, the documentary evidence is not sufficient to establish that the decision of the Italian authorities was decisively influenced by the Commission or, conversely, to show that those authorities did not take an autonomous decision, on the basis of their own assessments regarding timings, methods and requirements, to resolve the Banca delle Marche. In essence, in the General Court's view, the resolution of the Banca delle Marche by the Italian authorities was determined essentially by its failure. On that ground, as it merely hindered/prevented the adoption of a rescue measure by the F.I.T.D., the Commission cannot be considered responsible in respect of the decision to resolve the Banca delle Marche. Such an interpretation is a manifest distortion of the clear sense of the evidence. All the facts, the evidence put forward, the indicia that came to light and the confidential documents obtained during the course of the proceedings appear unambiguous: the Italian authorities stressed, at every stage, the real and incontrovertible influence of the specific instructions received from the European Commission. It is clear from the documents submitted at first instance that: (i) the Italian authorities attempted to pursue every possible option other than resolving the Banca delle Marche, but the European Commission's opposition made it impossible to pursue each of those options; and (ii) those options would have significantly limited the detrimental effects on shareholders and bondholders.

2. **Second ground of appeal: infringement and/or incorrect application of the second paragraph of Article 340 TFEU and, more specifically, of the requirements, set by EU law, for establishing whether there is a causal link; infringement of the principle of effectiveness and proximity of evidence.**

   In establishing whether there was a causal link, the General Court manifestly confused the concepts of 'determining' and 'exclusive' causes of the damage. It is possible that the Commission's conduct was not the 'exclusive' cause of the resolution of the Banca delle Marche. However, as documented and shown extensively by the appellants in the proceedings at first instance, the Commission's conduct was — certainly — a 'determining' cause of that resolution. Accordingly, in ruling out the existence of a causal link only because the challenged conduct of that European institution was not the 'exclusive' cause of the damage complained of by the appellants as applicants at first instance, the General Court manifestly erred in law in its interpretation of the concept of a 'sufficiently direct causal link'. As a result, the appellants claim that the General Court infringed and/or incorrectly applied the second paragraph of Article 340 TFEU, as well as the principle of effectiveness and proximity of evidence.

GENERAL COURT

Judgment of the General Court of 8 September 2021 — Spain v Commission

(Case T-355/18) ([1])

(Rules on languages — Notices of open competition for the recruitment of administrators in the field of public health and food safety — Restriction of the choice of language 2 to four languages — Regulation No 1 — Article 1d(1), Article 27 and Article 28(f) of the Staff Regulations — Discrimination based on language — Interests of the service — Proportionality)

(2021/C 431/28)

Language of the case: Spanish

Parties

Applicant: Kingdom of Spain (represented by: S. Centeno Huerta and L. Aguilera Ruiz, acting as Agents)

Defendant: European Commission (represented by: N. Ruiz García, L. Vernier, D. Milanowska, I. Galindo Martín and T. Lilamand, acting as Agents)

Re:

Application under Article 263 TFEU for annulment of notices of open competition EPSO/AD/340/18 to draw up a reserve list in the field of health and food safety (audit, inspection and evaluation) and EPSO/AD/341/18 to draw up a reserve list in the field of food safety (policy and legislation) (OJ 2018 C 97 A, p. 1).

Operative part of the judgment

The Court:

1. Annuls notices of open competition EPSO/AD/340/18 to draw up a reserve list in the field of health and food safety (audit, inspection and evaluation) and EPSO/AD/341/18 to draw up a reserve list in the field of food safety (policy and legislation);

2. Orders the European Commission to bear its own costs and to pay those incurred by the Kingdom of Spain.

([1]) OJ C 285, 13.8.2018.

Judgment of the General Court of 8 September 2021 — AH v Eurofound

(Case T-52/19) ([1])

(Civil service — Members of the contract staff — Disclosure of personal data — Request for assistance — Rejection of the request — Lack of competence of the author of an act adversely affecting a member of staff — Document prepared and signed by an external law firm — Liability — Non-material damage)

(2021/C 431/29)

Language of the case: French

Parties

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

Defendant: European Foundation for the Improvement of Living and Working Conditions (represented by: F. van Boven and M. Jepsen, acting as Agents, and by C. Callanan, Solicitor)

Re:

Application under Article 270 TFEU seeking, first, annulment of the decision of 22 March 2018, prepared and signed by an external law firm, concerning a request for assistance made by the applicant as regards the disclosure of his personal data and a claim for damages, and second, compensation for the non-material damage allegedly suffered by the applicant as a result of that decision and that disclosure.

Operative part of the judgment

The Court:

1. Annuls the decision of 22 March 2018, prepared and signed by an external law firm, concerning a request for assistance made by AH as regards the disclosure of his personal data;

2. Dismisses the action as to the remainder;

3. Orders the European Foundation for the Improvement of Living and Working Conditions (Eurofound) to pay, in addition to its own costs, those incurred by AH.

(1) OJ C 112, 25.3.2019.

Judgment of the General Court of 8 September 2021 — Spain v Commission

(Case T-554/19) (1)

(Rules on languages — Notice of open competition for the recruitment of administrators in the fields of competition law, financial law, economic and monetary union law, financial rules applicable to the EU budget, and protection of euro coins against counterfeiting — Restriction of the choice of language 2 of the competition to four languages — Regulation No 1 — Article 1d(1), Article 27 and Article 28(f) of the Staff Regulations — Discrimination based on language — Interests of the service — Proportionality)

(2021/C 431/30)

Language of the case: Spanish

Parties

Applicant: Kingdom of Spain (represented by: L. Aguilera Ruiz, acting as Agent)

Defendant: European Commission (represented by: I. Galindo Martín, T. Lilamand and D. Milanowska, acting as Agents)

Re:

Application under Article 263 TFEU for annulment of notice of open competition EPSO/AD/374/19 for the establishment of a reserve list in the fields of competition law, financial law, economic and monetary union law, financial rules applicable to the EU budget, and protection of euro coins against counterfeiting (OJ 2019 C 191 A, p. 1).

Operative part of the judgment

The Court:

1. Annuls notice of open competition EPSO/AD/374/19 for the establishment of a reserve list in the fields of competition law, financial law, economic and monetary union law, financial rules applicable to the EU budget, and protection of euro coins against counterfeiting;

2. Orders the European Commission to bear its own costs and to pay those incurred by the Kingdom of Spain.

(1) OJ C 319, 23.9.2019.

Judgment of the General Court of 8 September 2021 — AH v Eurofound

(Case T-630/19) ([1])

(Civil service — Members of the contract staff — Psychological harassment — Request for assistance — Action for annulment — Lis pendens — Interest in bringing proceedings — Admissibility — Rule of correspondence between the application and the complaint — Obligation to state reasons — Lack of competence of the author of an act — Error of assessment — Liability — Non-material damage)

(2021/C 431/31)

Language of the case: French

Parties

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

Defendant: European Foundation for the Improvement of Living and Working Conditions (represented by: F. van Boven and M. Jepsen, acting as Agents, and by C. Callanan, Solicitor)

Re:

Application under Article 270 TFEU seeking, first, annulment of the decision of Eurofound of 9 November 2018 closing the administrative investigation AI-2018/01 opened following the applicant's request for assistance in respect of alleged psychological harassment on the part of his superiors, and second, compensation for the non-material damage allegedly suffered by the applicant as a result of that decision.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders AH to pay, in addition to his own costs, those incurred by the European Foundation for the Improvement of Living and Working Conditions (Eurofound).

([1]) OJ C 383, 11.11.2019.

Judgment of the General Court of 8 September 2021 — Qx World v EUIPO — Mandelay (EDUCTOR)

(Case T-84/20) ([1])

(EU trade mark — Invalidity proceedings — EU word mark EDUCTOR — Earlier non-registered mark EDUCTOR — Article 53(1)(b) of Regulation (EC) No 207/2009 (now Article 60(1)(b) of Regulation (EU) 2017/1001) — Article 8(3) of Regulation No 207/2009 (now Article 8(3) of Regulation 2017/1001) — Article 71(1) of Regulation 2017/1001 — Article 72(1) of Regulation 2017/1001 — Article 95(1) of Regulation 2017/1001 — Article 16(1) of Delegated Regulation (EU) 2018/625 — Article 6bis of the Paris Convention)

(2021/C 431/32)

Language of the case: English

Parties

Applicant: Qx World Kft. (Budapest, Hungary) (represented by: Á. László and A. Cserny, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Mandelay Magyarország Kereskedelmi Kft. (Mandelay Kft.) (Szigetszentmiklós, Hungary) (represented by: V. Luszcz, C. Sár and É. Ulviczki, lawyers)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 25 November 2019 (Case R 1310/2019-5), relating to invalidity proceedings between Qx World and Mandelay.

Operative part of the judgment

The Court:

1. Annuls the decision of the Fifth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 25 November 2019;

2. Orders Qx World Kft., EUIPO and Mandelay Magyarország Kereskedelmi Kft. (Mandelay Kft.) each to bear their own costs.

(1) OJ C 114, 6.4.2020.

Judgment of the General Court of 8 September 2021 — IY v Parliament

(Case T-154/20) (1)

(Civil service — Members of the temporary staff — Political group — Dismissal — Manifest error of assessment — Misuse of powers — Right to be heard — Equal treatment — Duty to have regard for the welfare of officials — Principle of sound administration — Liability)

(2021/C 431/33)

Language of the case: French

Parties

Applicant: IY (represented by: T. Bontinck and A. Guillerme, lawyers)

Defendant: European Parliament (represented by: N. Scafarto and I. Lázaro Betancor, acting as Agents)

Re:

Application under Article 270 TFEU for, first, annulment of the Parliament's decision of 4 July 2019 to terminate the applicant's contract as a member of the temporary staff and, second, compensation for the non-material harm which the applicant allegedly suffered as a result of that decision.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders IY to pay the costs.

(1) OJ C 201, 15.6.2020.

Judgment of the General Court of 8 September 2021 — IZ v Parliament

(Case T-155/20) (1)

(Civil service — Members of the temporary staff — Political group — Dismissal — Manifest error of assessment — Misuse of powers — Right to be heard — Equal treatment — Duty to have regard for the welfare of officials — Principle of sound administration — Liability)

(2021/C 431/34)

Language of the case: French

Parties

Applicant: IZ (represented by: T. Bontinck and A. Guillerme, lawyers)

Defendant: European Parliament (represented by: C. González Argüelles and I. Lázaro Betancor, acting as Agents)

Re:

Application under Article 270 TFEU for, first, annulment of the Parliament's decision of 4 July 2019 to terminate the applicant's contract as a member of the temporary staff and, second, compensation for the non-material harm which the applicant allegedly suffered as a result of that decision.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders IZ to pay the costs.

(1) OJ C 201, 15.6.2020.

Judgment of the General Court of 8 September 2021 — JA v Parliament

(Case T-156/20) (1)

(Civil service — Members of the temporary staff — Political group — Dismissal — Manifest error of assessment — Misuse of powers — Right to be heard — Equal treatment — Duty to have regard for the welfare of officials — Principle of sound administration — Liability)

(2021/C 431/35)

Language of the case: French

Parties

Applicant: JA (represented by: T. Bontinck and A. Guillerme, lawyers)

Defendant: European Parliament (represented by: I. Lázaro Betancor and N. Scafarto, acting as Agents)

Re:

Application under Article 270 TFEU for, first, annulment of the Parliament's decision of 4 July 2019 to terminate the applicant's contract as a member of the temporary staff and, second, compensation for the non-material harm which the applicant allegedly suffered as a result of that decision.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders JA to pay the costs.

(1) OJ C 201, 15.6.2020.

Judgment of the General Court of 8 September 2021 — SBG v EUIPO — VF International (GEØGRAPHICAL NØRWAY)

(Case T-458/20) ([1])

(EU trade mark — Invalidity proceedings — International registration designating the European Union — Word mark GEØGRAPHICAL NØRWAY — Absolute ground for refusal — Absolute ground for invalidity — Article 51(1)(b) of Regulation (EC) No 40/94 (now Article 59(1)(b) of Regulation (EU) 2017/1001) — Bad faith — Obligation to state reasons)

(2021/C 431/36)

Language of the case: French

Parties

Applicant: Super Brand Licencing (SBG) (Villeurbanne, France) (represented by: T. de Haan and A. Sion, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: VF International Sagl (Stabio, Switzerland) (represented by: T. van Innis and A. Van der Planken, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 6 April 2020 (Case R 1178/2019-1), relating to invalidity proceedings between VF International and SBG.

Operative part of the judgment

The Court:

1. Annuls the decision of the First Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 6 April 2020 (Case R 1178/2019-1);

2. Orders EUIPO and VF International Sagl to pay the costs.

([1]) OJ C 287, 31.8.2020.

Judgment of the General Court of 8 September 2021 — SBG v EUIPO — VF International (GEOGRAPHICAL NORWAY EXPEDITION)

(Case T-459/20) ([1])

(EU trade mark — Invalidity proceedings — EU figurative mark GEOGRAPHICAL NORWAY EXPEDITION — Absolute ground for refusal — Absolute ground for invalidity — Article 52(1)(b) of Regulation (EC) No 207/2009 (now Article 59(1)(b) of Regulation (EU) 2017/1001) — Bad faith — Obligation to state reasons)

(2021/C 431/37)

Language of the case: French

Parties

Applicant: Super Brand Licencing (SBG) (Villeurbanne, France) (represented by: T. de Haan and A. Sion, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: VF International Sagl (Stabio, Switzerland) (represented by: T. van Innis and A. Van der Planken, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 6 April 2020 (Case R 664/2019-1), relating to invalidity proceedings between VF International and SBG.

Operative part of the judgment

The Court:

1. Annuls the decision of the First Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 6 April 2020 (Case R 664/2019-1);

2. Orders EUIPO and VF International Sagl to pay the costs.

(1) OJ C 287, 31.8.2020.

Judgment of the General Court of 8 September 2021 — SBG v EUIPO — VF International (Geographical Norway)

(Case T-460/20) (1)

(EU trade mark — Invalidity proceedings — EU figurative mark Geographical Norway — Absolute ground for refusal — Absolute ground for invalidity — Article 52(1)(b) of Regulation (EC) No 207/2009 (now Article 59(1)(b) of Regulation (EU) 2017/1001) — Bad faith — Obligation to state reasons)

(2021/C 431/38)

Language of the case: French

Parties

Applicant: Super Brand Licencing (SBG) (Villeurbanne, France) (represented by: T. de Haan and A. Sion, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: VF International Sagl (Stabio, Switzerland) (represented by: T. van Innis and A. Van der Planken, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 6 April 2020 (Case R 662/2019-1), relating to invalidity proceedings between VF International and SBG.

Operative part of the judgment

The Court:

1. Annuls the decision of the First Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 6 April 2020 (Case R 662/2019-1);

2. Orders EUIPO and VF International Sagl to pay the costs.

(1) OJ C 287, 31.8.2020.

Judgment of the General Court of 8 September 2021 — SBG v EUIPO — VF International (GEOGRAPHICAL NORWAY)

(Case T-461/20) ([1])

(EU trade mark — Invalidity proceedings — EU word mark GEOGRAPHICAL NORWAY — Absolute ground for refusal — Absolute ground for invalidity — Article 52(1)(b) of Regulation (EC) No 207/2009 (now Article 59(1)(b) of Regulation (EU) 2017/1001) — Bad faith — Obligation to state reasons)

(2021/C 431/39)

Language of the case: French

Parties

Applicant: Super Brand Licencing (SBG) (Villeurbanne, France) (represented by: T. de Haan and A. Sion, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: VF International Sagl (Stabio, Switzerland) (represented by: T. van Innis and A. Van der Planken, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 6 April 2020 (Case R 661/2019-1), relating to invalidity proceedings between VF International and SBG.

Operative part of the judgment

The Court:

1. Annuls the decision of the First Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 6 April 2020 (Case R 661/2019-1);

2. Orders EUIPO and VF International Sagl to pay the costs.

([1]) OJ C 287, 31.8.2020.

Judgment of the General Court of 8 September 2021 — Eos Products v EUIPO (Shape of a spherical container)

(Case T-489/20) ([1])

(EU trade mark — Application for a three-dimensional EU trade mark — Shape of a spherical container — Absolute ground for refusal — Lack of distinctiveness — Article 7(1)(b) of Regulation (EC) No 207/2009 (now Article 7(1)(b) of Regulation (EU) 2007/1001))

(2021/C 431/40)

Language of the case: German

Parties

Applicant: Eos Products Sàrl (Luxembourg, Luxembourg) (represented by: S. Stolzenburg-Wiemer, lawyer)

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

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 8 June 2020 (Case R 2017/2019-4), relating to an application for registration of a three-dimensional sign constituted by the shape of a spherical container as an EU trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Eos Products Sàrl to pay the costs.

(1) OJ C 313, 21.9.2020.

Judgment of the General Court of 8 September 2021 — Sfera Joven v EUIPO — Koc (SFORA WEAR)

(Case T-493/20) (1)

(EU trade mark — Opposition proceedings — Application for EU word mark SFORA WEAR — Earlier EU figurative marks Sfera KIDS and Sfera — Relative ground for refusal — No likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b of Regulation (EU) 2017/1001) — Proof of genuine use of the earlier mark — Article 42(2) and (3) of Regulation No 207/2009 (now Article 47(2) and (3) of Regulation 2017/1001))

(2021/C 431/41)

Language of the case: English

Parties

Applicant: Sfera Joven, SA (Madrid, Spain) (represented by: J. Rivas Zurdo, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Andrzej Koc (Kobyłka, Poland) (represented by: J. Aftyka, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 15 May 2020 (Case R 2030/2019-1) relating to opposition proceedings between Sfera Joven and Andrzej Koc.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Sfera Joven, SA, to pay the costs.

(1) OJ C 320, 28.9.2020.

Judgment of the General Court of 8 September 2021 — QB v ECB

(Case T-555/20) (1)

(Civil service — ECB staff — Appraisal report — 2015 appraisal exercise — Compliance with a judgment of the General Court — Article 266 TFEU — Duty of impartiality — ECB staff appraisal guide — Manifest errors of assessment — Liability)

(2021/C 431/42)

Language of the case: French

Parties

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

Defendant: European Central Bank (represented by: B. Ehlers and F. Malfrère, acting as Agents, and B. Wägenbaur, lawyer)

Re:

Application under Article 270 TFEU and Article 50a of the Statute of the Court of Justice of the European Union seeking, first, annulment of the applicant's appraisal report for the 2015 appraisal period and, second, compensation for the non-material damage which the applicant claims to have sustained as a result of that document.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders QB to bear her own costs and to pay those incurred by the European Central Bank (ECB).

(1) OJ C 359, 26.10.2020.

Judgment of the General Court of 8 September 2021 — Cara Therapeutics v EUIPO — Gebro Holding (KORSUVA)

(Case T-584/20) (1)

(EU trade mark — Opposition proceedings — Application for the EU word mark KORSUVA — Earlier national word mark AROSUVA — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2021/C 431/43)

Language of the case: English

Parties

Applicant: Cara Therapeutics, Inc. (Wilmington, Delaware, United States) (represented by: J. Day, Solicitor, and by T. de Haan, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Gebro Holding GmbH (Fieberbrunn, Austria) (represented by: M. Konzett, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 3 July 2020 (Case R 2450/2019-4), relating to opposition proceedings between Gebro Holding and Cara Therapeutics.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Cara Therapeutic, Inc. to pay the costs.

(1) OJ C 390, 16.11.2020.

Judgment of the General Court of 8 September 2021 — Griesbeck v Parliament

(Case T-10/21) [1]

(Law governing the institutions — Rules governing the payment of expenses and allowances to Members of the Parliament — Parliamentary assistance allowance — Recovery of sums unduly paid — Burden of proof — Rights of the defence — Error of assessment — Proportionality)

(2021/C 431/44)

Language of the case: French

Parties

Applicant: Nathalie Griesbeck (Ancy-sur-Moselle, France) (represented by: J.-L. Teheux, J.-M. Rikkers and G. Selnet, lawyers)

Defendant: European Parliament (represented by: N. Görlitz, T. Lazian and M. Ecker, acting as Agents)

Re:

Application under Article 263 TFEU seeking annulment of (i) the decision of the Bureau of the Parliament of 5 October 2020 which confirmed the decision of the Quaestors of 21 April 2020 rejecting the complaint directed against the decision of the Secretary-General of the Parliament of 18 October 2019 concerning the recovery from the applicant of a sum of EUR 111 872,18 unduly paid as parliamentary assistance, (ii) that decision of the Secretary-General of the Parliament, and (iii) the corresponding debit note of 24 October 2019.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Ms Nathalie Griesbeck to pay, in addition to her costs, those incurred by the European Parliament.

[1] OJ C 72, 1.3.2021.

Order of the General Court of 1 September 2021 — Be Smart v Commission

(Case T-18/21) [1]

(State aid — Complaint — Action for failure to act — Commission's adoption of a position after the action was brought and which put an end to the failure to act — No need to adjudicate)

(2021/C 431/45)

Language of the case: Italian

Parties

Applicant: Be Smart Srl (Rome, Italy) (represented by: F. Satta, G. Roberti, A. Romano and I. Perego, lawyers)

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

Re:

Application under Article 265 TFEU seeking a declaration that the Commission acted unlawfully by failing to define its position on the complaint made by the applicant on 15 October 2014 concerning alleged State aid measures granted by the Italian Republic to the interuniversity consortium Cineca.

Operative part of the order

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

2. The European Commission shall bear its own costs and pay those incurred by Be Smart Srl.

(1) OJ C 79, 8.3.2021.

Action brought on 24 August 2021 — PV v Commission

(Case T-78/21)

(2021/C 431/46)

Language of the case: French

Parties

Applicant: PV (represented by: D. Birkenmaier, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— declare the present application admissible and well founded;

and, consequently,

— annul the following decisions: refusal of initial request D/191/20 of 20 July 2020, rejection of complaint R/458/20 of 29 January 2021, rejection of complaint R/137/21 of 1 July 2021 and rejection of complaint R/512/20 of 26 February 2021 in all respects on the basis of the general principle of law 'fraus omnia corrompit', serious fraudulent misrepresentation and loss of social rights as prohibited by Article 34 of the Charter of Fundamental Rights of the European Union ('the Charter');

— annul the rejection of complaint R/512/20 of 26 February 2021 as a consequence of infringement of Article 41(2)(a) of the Charter;

— grant the following damages on the basis of Articles 268 and 340 TFEU:

  — an order that compensation be paid for non-material damage in the amount of EUR 100 000 and for material damage in the amount of EUR 47 221,02 as a result of the rejections in those contested decisions, that compensation being estimated to total EUR 147 221,02 subject to reassessment plus compensatory default interest until the date of settlement in full;

  and, in any event,

— order the defendant to pay all of the costs, including the costs incurred in proceedings for legal aid.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Articles 1, 3, 4 and 31(1) of the Charter and of Articles 1e(2) and 12a of the Staff Regulations of Officials of the European Union ('the Staff Regulations').

2. Second plea in law, alleging infringement of the general principle of law 'fraus omnia corrompit' and of Article 41(1) of the Charter due to the use of a false signature in the decision withdrawing all of the applicant's pension rights.

3. Third plea in law, alleging wilful misconduct and misuse of funds which led to another infringement of the principle 'fraus omnia corrompit'.

4. Fourth plea in law, alleging infringement of Articles 59 and 60 of the Staff Regulations and infringement of the principle of legality and of public policy by the Commission's Office for the Administration and Payment of Individual Entitlements (PMO) which did not have the power to withdraw pension rights through an arbitrary penalty imposed on an individual.

5. Fifth plea in law, alleging serious infringement of Article 34 of the Charter through the loss of social rights and infringement of Article 77 of the Staff Regulations leading to the withdrawal of pension rights.

6. Sixth plea in law, alleging infringement of the 'ne bis in idem' rule of law and of Article 50 of the Charter and of Article 9(3) of Annex IX to the Staff Regulations.

7. Seventh plea in law, alleging serious infringement of Article 41(2)(a) of the Charter and of the right to be heard.

8. Eighth plea in law, alleging infringement of the principle of proportionality, in that the penalty of removal from post is the heaviest penalty provided for in the Staff Regulations, to which the Commission also added withdrawal for life of all pension rights.

9. Ninth plea in law, alleging misuse of power by the PMO on the grounds that the decision to reduce the pensions rights 'pro tempore' can be taken only by the tripartite appointing authority in the context of disciplinary proceedings for removal from post in accordance with Article 9(1)(h) of Annex IX to the Staff Regulations.

10. Tenth plea in law, alleging infringement of the principle of equal treatment and of Article 20 of the Charter. The applicant claims that an official removed from post on grounds that are infinitely more serious than those on the basis of which the applicant was removed from post would have had a lesser penalty imposed on him or her than deductions from his or her pension under the Staff Regulations.

Action brought on 8 July 2021 — Ferriera Valsabbia and Valsabbia Investimenti v Commission

(Case T-410/21)

(2021/C 431/47)

Language of the case: Italian

Parties

Applicants: Ferriera Valsabbia SpA (Odolo, Italy) and Valsabbia Investimenti SpA (Odolo) (represented by: D. Fosselard, D. Slater and G. Carnazza, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— (i) order the European Union, represented by the Commission, to pay default interest on the amount of EUR 10 250 000 at the rate set by the European Central Bank (ECB) for its principal refinancing operations in force on the first calendar day of the month in which the deadline falls, increased by three and a half percentage points, in respect of the period between 9 March 2010 and 14 November 2017, less interest in the amount of EUR 372 812,31, which has already been received by the applicants, which amounts to a total of EUR 3 174 389,74 or, in the alternative, to pay default interest calculated at the interest rate that the Court considers appropriate;

— (ii) order the European Union, represented by the Commission, to pay default interest on the amount requested in point (i) above in respect of the period between 14 November 2017 and the date on which that amount is actually paid, at the rate set by the ECB for its principal refinancing operations in force on the first calendar day of the month in which the deadline falls, increased by three and a half percentage points, or, in the alternative, at the interest rate that the Court considers appropriate;

— (iii) as an alternative to point (ii) above, order the European Union, represented by the Commission, to pay default interest on the amount requested in point (i) in respect of the period between 2 March 2021 and the date on which that amount is actually paid, at the rate set by the ECB for its principal refinancing operations in force on the first calendar day of the month in which the deadline falls, increased by three and a half percentage points, or, in the alternative, at the interest rate that the Court considers appropriate;

— (iv) in addition or in the alternative, annul Commission communication Ref. Ares(2021) 2904093 of 30 April 2021;

— (v) order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, concerning the application for compensation, alleging incorrect execution by the Commission of the judgment of 21 September 2017, *Ferriera Valsabbia and Others* v *Commission* (C-86/15 P and C-87/15 P, EU:C:2017:717) contrary to the first paragraph of Article 266 TFEU and Article 41(3) of the Charter of Fundamental Rights of the European Union.

   In this regard, the applicant claims that the Commission has not paid the entire amount of default interest on the penalty repaid following the judgment.

2. Second plea in law, concerning the application for annulment, alleging infringement and incorrect assessment of Articles 266 and 296 TFEU, infringement and incorrect assessment of Article 46 of the Statute of the Court of Justice of the European Union, a failure to state reasons in the Commission's letter of 30 April 2021, and an error in law and manifest error of assessment.

   In this regard, the applicant claims that the letter, in which the Commission refused to pay default interest to the applicants, does not contain a sufficient statement of reasons and infringes the principles of limitation.

3. Third plea in law, concerning the application for annulment, alleging infringement and incorrect assessment of Article 266 TFEU and of Delegated Regulation (EU) No 1268/2012. ([1])

   In this regard, the applicant claims that Article 85a(2) of Delegated Regulation (EC, Euratom) No 2342/2002, ([2]) relied on by the Commission in its letter of 30 April 2021, was no longer in force when the penalty was repaid, and therefore was no longer applicable.

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

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

Action brought on 10 July 2021 — Feralpi v Commission

(Case T-413/21)

(2021/C 431/48)

Language of the case: Italian

Parties

Applicant: Feralpi Holding SpA (Brescia, Italy) (represented by: G. Roberti and I. Perego, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— (i) in accordance with and for the purposes of the second paragraph of Article 266 TFEU, Article 268 TFEU and the second paragraph of Article 340 TFEU, order the European Union, represented by the Commission, to pay compensation for the damage suffered by the applicant as a result of the Commission's failure to pay the default interest on the amount of the fine, which it was required to do in order to comply, in accordance with Article 266 TFEU, with the judgment of the Court of Justice of 21 September 2017 annulling a measure, *Feralpi* v *Commission* (C-85/15 P, EU:C:2017:709), to be calculated as follows:

   (a) an amount constituting the default interest payable on the amount of the fine paid provisionally by the applicant in respect of the period between 4 March 2010 and 26 October 2017, which is EUR 10 250 000,00, calculated using the rate set by the European Central Bank (ECB) for its principal refinancing operations which was in force on 1 March 2010 (namely one per cent), increased by three and a half percentage points, less the bank interest already paid, amounting to EUR 3 204 301,82, or, in the alternative, calculated using the interest rate that the General Court considers appropriate;

(b) an amount constituting the default interest on the sum referred to in point (a) above in respect of the period between 26 October 2017 and the date on which that sum is actually paid or, in the alternative, between 16 March 2021 and the date on which that sum is actually paid, calculated using the interest rate referred to in point (a) above or, in the alternative, using another interest rate that the General Court considers appropriate;

— (ii) in accordance with the fourth paragraph of Article 263 TFEU, annul the decision set out in the letter from the Commission's Directorate-General for Budget of 30 April 2021 (Ref. Ares(2021)2904279) rejecting the request for payment of that default interest submitted by Feralpi Holding SpA on 16 March 2021;

— (iii) order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action for compensation, the applicant relies on a single plea in law, in which it claims that the Commission is obliged, on the basis of its non-contractual liability under the second paragraph of Article 266 TFEU, Article 268 TFEU and the second paragraph of Article 340 TFEU, to pay the applicant compensation equal to the amount of default interest payable on the fine, the amount of the fine itself having been repaid to the applicant by that institution in order to comply, in accordance with Article 266 TFEU, with the judgment of the Court of Justice of 21 September 2017 annulling a measure, *Feralpi* v *Commission* (C-85/15 P, EU:C:2017:709), plus the default interest payable on that sum.

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

1. First plea in law, alleging a failure to state reasons.

   — In this regard, the applicant claims that the statement of reasons in the communication from the Commission's Directorate-General for Budget does not make clear the reasons which led it to find that the applicant's action was time-barred.

2. Second plea in law, alleging infringement of Article 266 TFEU and of Article 46 of the Statute of the Court of Justice.

   — In this regard, the applicant claims that the Directorate-General for Budget's identification of the date from which the limitation period starts to run is based on a misinterpretation of Article 266 TFEU and of Article 46 of the Statute of the Court of Justice.

3. Third plea in law, alleging infringement and misapplication of Article 266 TFEU, Regulation No 966/2012 ([1]) and [Delegated] Regulation No 1268/2012. ([2])

   — In this regard, the applicant claims that the Directorate-General for Budget referred to a provision which is no longer in force and that the relevant provisions of Regulation No 966/2012 and [Delegated] Regulation No 1268/2012 must, in any case, be applied in a manner consistent with Article 266 TFEU and do not relieve the Commission of the obligation resulting from that provision.

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

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

Action brought on 10 July 2021 — eSlovensko Bratislava v Commission

(Case T-425/21)

(2021/C 431/49)

Language of the case: English

Parties

Applicant: eSlovensko Bratislava (Bratislava-Staré Mesto, Slovakia) (represented by: B. Fridrich, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Implementing Decision C(2020)7415 final of 21 October 2020 amending Implementing Decision C(2018)6712 on the selection and award of grants under the Connecting Europe Facility in the sector of Telecommunication (annex No. 1), delivered to eSlovensko Bratislava on 10 May 2021 by email;

— order the Commission to reimburse the costs and expenses of the proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of an essential procedural requirement, exceeding of power, infringement of the Treaties or of any rule of law relating to their application, or misuse of powers, particularly improper legal evaluation of facts and findings (breach of right to good administration, exceeding of power, breach of principle of proportionality, principle of legal certainty, rule of law, principle of legal expectations and improper legal evaluation of facts and findings in the process of the selection and award of grants under Connecting Europe Facility 2018-1 CEF Telecom call for proposals CEF-TC- 2018-1, particularly Action No. 2018-SK-IA-0019 Slovak Safer Internet Centre V submitted by eSlovensko Bratislava).

2. Second plea in law, alleging that the Commission should be ordered to reimburse costs and expenses of the proceedings, in accordance with the above-mentioned arguments and the alleged arbitrary character of the contested Commission decision.

Action brought on 16 July 2021 — Veen v Europol

(Case T-436/21)

(2021/C 431/50)

Language of the case: Slovak

Parties

Applicant: Leon Leonard Johan Veen (Oss, the Netherlands) (represented by: T. Lysina, lawyer)

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

Form of order sought

The applicant claims that the General Court should:

— order the European Union, represented by the European Union Agency for Law Enforcement Cooperation (Europol) to pay the applicant the sum of EUR 50 000;

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

Pleas in law and main arguments

In support of his action for the award of damages based on non-contractual liability, brought pursuant to Articles 268 and 340 of the Treaty on the Functioning of the European Union and Article 50(1) of Regulation (EU) 2016/794, ([1]) the applicant relies on a single plea in law, based on the unlawful processing of his personal data by the defendant.

The applicant submits, in his plea in law, that the defendant included in the investigation file as evidence in criminal proceedings brought against the applicant in the Slovak Republic, a report by the defendant containing negative and false information about the applicant, unsubstantiated by evidence, resulting in the harmful event. He argues that through that conduct he sustained a slur on his good name and reputation and it entailed an infringement of his right to family life. The applicant has thus incurred non-material damage causally linked to that harmful event, which he assesses at EUR 50 000.

([1]) Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ 2016 L 135, p. 53).

Action brought on 18 August 2021 — IMG v Commission

(Case T-509/21)

(2021/C 431/51)

Language of the case: French

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— declare the present action admissible and well founded;

and, consequently,

— annul the Commission decision of 8 June 2021 implementing the judgment of the Court of Justice of 31 January 2019 (Cases C-183/17 P and C-184/17 P), according to which the applicant is not eligible to implement Union funds under indirect management as an international organisation pursuant to the applicable financial rules;

— order the defendant to pay compensation in respect of material and non-material damage;

— order the defendant 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 infringement of Article 266 TFEU. In that regard, the applicant relies on an infringement of the force of *res judicata* of the judgment of the Court of Justice of 31 January 2019.

2. Second plea in law, alleging infringement of the principle of good administration and of the duty of diligence on the grounds of infringement of Article 41 of the Charter of Fundamental Rights of the European Union.

3. Third plea in law, alleging infringement of the principle of legal certainty.

4. Fourth plea in law, in which the applicant alleges that the decision is vitiated by errors in law and manifest errors of assessment.

5. Fifth plea in law, alleging infringement of the right to have its affairs handled within a reasonable time.

Action brought on 21 August 2021 — Associazione 'Terra Mia Amici No Tap' v EIB

(Case T-514/21)

(2021/C 431/52)

Language of the case: Italian

Parties

Applicant: Associazione 'Terra Mia Amici No Tap' (Melendugno, Italy) (represented by: A. Calò, lawyer)

Defendant: European Investment Bank

Form of order sought

The applicant claims that the Court should:

— find and declare that the European Investment Bank (EIB) wrongfully failed to reply to the request for review submitted by the applicant association;

— order the European Investment Bank to issue a decision withdrawing the financing granted to TAP AG;

— order the European Investment Bank to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the Aarhus Convention ([1]) and of Regulation (EC) No 1367/2006 of 6 September 2006 ([2]) ('the Aarhus Regulation').

   — The applicant claims in that regard that, under Article 10(1) of the Aarhus Regulation, 'any non-governmental organisation which meets the criteria set out in Article 11 is entitled to make a request for internal review to the Community institution or body that has adopted an administrative act under environmental law or, in case of an alleged administrative omission, should have adopted such an act.' In the present case, the EIB should have replied within the time limits provided for in Article 10 of that regulation, which it did not intend to do.

2. Second plea in law, alleging infringement of point 36 of the EIB Statement of Environmental and Social Principles and Standards of 2009.

   — The applicant claims in that regard that, in the present case, point 36 states that the EIB requires that all projects that it finances comply at least with:

     — Applicable national environmental law;

     — Applicable EU environmental law, notably the EU Environmental Impact Assessment (EIA) Directive and the nature conservation directives, as well as sector-specific directives and 'cross-cutting' directives;

   — The principles and standards of relevant international environmental conventions incorporated into EU law.

   In the present case, none of those subpoints was complied with.

   The applicant claims that the following infringements are clear:

   a. EU environmental legislation, more specifically:

      a.I recital 36 of Regulation (EU) No 347/2013, ([3]) read in conjunction with Articles 4 and 14 thereof (failure to carry out a cost-benefit analysis);

      a.II recital 31 of Regulation No 347/2013, read in conjunction with Article 5(1) of Directive 2011/92/EU ([4]) and Note 1 of Annex IV to that directive (external cumulative effect);

      a.III recital 31 of Regulation No 347/2013, read in conjunction with Article 5(1) of Directive 2011/92/EU and Note 1 of Annex IV to that directive (internal cumulative effect) — prohibition of 'salami slicing';

      a.IV Article 2(1) of Directive 2011/92/EU, Article 6(3) and (4) of the Habitats Directive;

      a.V Article 4(4) of Directive 2009/147/EC, ([5]) the Birds Directive;

      a.VI recital 30 of Regulation No 1367/2006, read in conjunction with Article 9 thereof and Article 6 of the EIA Directive (transparency and participation);

a.VII recital 28 of Regulation No 347/2013, read in conjunction with Article 7 thereof (Habitat rules);

a.VIII Infringement of Article 191(1) TFEU together with the infringement of the Statement of Environmental and Social Principles and Standards of the European Investment Bank, approved by the Board of Directors on 3 February 2009.

b. Italian legislation, more specifically:

b.I Legislative Decree 42/2004 transposing Article 26 of the Landscape Convention;

b.II Legislative Decree 42/2004 transposing Article 146 of the Landscape Convention;

b.III Article 14b of the Law of 7 August 1990 No 241, Interdepartmental conference;

b.IV Rule A57 of Ministerial Decree relating to environmental compatibility 223/14;

b.V Legislative Decree 152/06, failure to impose sanctions;

b.VI Article 452c of the Criminal Code (environmental disaster).

3. Third plea in law, alleging infringement of Regulation No 347/2013 of the Parliament and of the Council of 17 April 2013.

— The applicant claims in that regard that an appropriate cost-benefit analysis was never carried out.

(1) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (OJ 2005 L 124, p. 4).
(2) Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ 2006 L 264, p. 13).
(3) Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009 (OJ 2013 L 115, p. 39).
(4) Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ 2012 L 26, p. 1).
(5) Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ 2010 L 20, p. 7).

Action brought on 24 August 2021 — European Paper Packaging Alliance v Commission

(Case T-518/21)

(2021/C 431/53)

Language of the case: English

Parties

Applicant: European Paper Packaging Alliance (The Hague, Netherlands) (represented by: F. Di Gianni, A. Scalini and F. Pili, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Sections 2.1.2 and 2.2.1 as well as Tables 4-2 and 4-8 of the defendant's guidelines on single-use plastic products in accordance with Directive (EU) 2019/904 (1) of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment (2) insofar as they concern paper-based products with polymeric coating;

— declare, in the alternative, that Article 3(2) of Directive (EU) 2019/904 is illegal, insofar as it includes the paper-based products with polymeric coating in the definition of 'single-use plastic products'; and

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the defendant's guidelines violate the text of the Directive (EU) 2019/904, insofar as they include the paper-based products with polymeric coating within the scope of the Directive (EU) 2019/904, by means of a wrong interpretation of the term 'main structural component' provided for by Article 3(1) of the Directive (EU) 2019/904.

2. Second plea in law, alleging that the inclusion of the paper-based products with polymeric coating in the scope of Directive (EU) 2019/904 runs against the objectives of the Directive and infringes the principle of proportionality.

3. Third plea in law, alleging that the defendant overstepped the boundaries of its competences by adopting the contested guidelines and encroached upon the prerogatives of the EU legislator.

4. First plea of illegality, alleging that Article 3(2) of Directive (EU) 2019/904 is unlawful, insofar as it results in the application of this Directive to the paper-based products with polymeric coating. It is also alleged that this provision is illegal insofar as it does not provide a threshold to determine whether a product is partly made from plastic. Moreover, it is argued that this provision violates the principle of equality and non-discrimination.

5. Second plea of illegality, alleging that the application of Directive (EU) 2019/904, and in particular of the restrictive measures provided for in that Directive to the paper-based products with polymeric coating, constitutes an unjustified limitation to the freedom to conduct business and the right to property, enshrined, respectively, in Articles 16 and 17 of the Charter of Fundamental Rights of the European Union.

([1]) Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (Text with EEA relevance) (OJ 2019 L 155, p. 1).

([2]) OJ 2021 C 216, p. 1-46.

Action brought on 27 August 2021 — E. Breuninger v Commission

(Case T-525/21)

(2021/C 431/54)

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 28 May 2021 (State aid No SA.62784);

— 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. First plea in law, alleging manifest error of assessment

The defendant made a manifest error of assessment in determining, by the contested decision, that the German State aid 'Allgemeine Bundesregelung Schadensausgleich, COVID-19' (General Federal Scheme for Compensation, Covid-19) is compatible with the internal market under Article 107(2)(b) TFEU. The applicant claims that restricting the eligibility of undertakings with several business activities to those which achieve at least 80 % of their turnover from activities directly affected by the lockdown is arbitrary and that the approval of the aid scheme is disproportionate. According to the applicant, the 80 % threshold removes, without any objective reason, the causal link between the closure orders and the damage resulting therefrom to the detriment of undertakings with several business areas, since such undertakings might remain entirely without compensation despite being directly and significantly affected by the State measures and the considerable losses associated therewith. 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. Second plea in law, alleging infringement of procedural rights under Article 108(2) TFEU

The applicant claims that the defendant's decision is vitiated by a failure to conduct a proper examination and a failure to state reasons. The defendant failed to provide the applicant with an opportunity to raise concerns in respect of the compatibility of the aid scheme with the internal market during the preliminary investigation procedure. Furthermore, the defendant failed to provide adequate reasons for the decision to approve the aid scheme.

Action brought on 1 September 2021 — VP v Cedefop

(Case T-534/21)

(2021/C 431/55)

Language of the case: English

Parties

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

Defendant: European Centre for the Development of Vocational Training

Form of order sought

The applicant claims that the Court should:

— annul the defendant's decision not to implement sections (1) and (2) of the operational part of the judgment of the GCEU, of 16 December 2020, in case T-187/18, *VP* v *Cedefop*;

— annul the connected decision not to renew the applicant's employment contract for an indefinite period with retroactive effect;

— order the compensation of the moral prejudice suffered by the applicant evaluated *ex aequo et bono* to fifty thousand Euros;

— order the compensation of the material damage incurred by the applicant equal to the cost of the necessary pre-litigation procedure from the date of the judgment in Case T-187/18, *VP* v *Cedefop*; and

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the defendant's decision not to implement the core sections (1) and (2) of the judgment of 16 December 2020 in case T-187/20, *VP* v *Cedefop* and, consequently, not to renew the employment contract of the applicant is vitiated by a violation of the obligation to state reasons;

2. Second plea in law, alleging that the defendant failed its obligation to duty of care.

3. Third plea in law, alleging that the defendant infringed the principles of equal treatment and protection of legitimate expectations.

4. Forth plea in law, alleging that the defendant misused its powers.

Action brought on 31 August 2021 — Tinnus Enterprises v EUIPO — Mystic Products (Fluid distribution equipment)

(Case T-535/21)

(2021/C 431/56)

Language of the case: English

Parties

Applicant: Tinnus Enterprises LLC (Plano, Texas, United States) (represented by: T. Wuttke, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

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

Details of the proceedings before EUIPO

Proprietor of the design at issue: Applicant before the General Court

Design at issue: Community design No 1 431 829-0009

Contested decision: Decision of the Third Board of Appeal of EUIPO of 16 June 2021 in Case R 1004/2018-3

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— alter the contested decision to:

  — allow the applicant's appeal,

  — dismiss in its entirety the invalidity applicant's application ICD 10 297 to declare the contested design invalid,

  — order the invalidity applicant to pay the applicant's costs in front of the Board of Appeal and the Invalidity Division;

— order the invalidity applicant to pay the applicant's fees and costs.

Pleas in law

— Infringement of the principles set forth in the judgment of 24 March 2021, *Lego v EUIPO — Delta Sport Handelskontor (Building block from a toy building set)* (T-515/19, not published, EU:T:2021:155);

— Infringement of the principles set forth in the judgment of 8 March 2018, *DOCERAM* (C-395/16, EU:C:2018:172);

— Infringement of Article 8(1) of Council Regulation (EC) No 6/2002;

— Misinterpretation of patent application EP 3 005 948 A2 and the applicant's multiple design application No. 1 431 829-0001-0010.

Action brought on 2 September 2021 — PBL and WA v Commission

(Case T-538/21)

(2021/C 431/57)

Language of the case: French

Parties

Applicants: Penya Barça Lyon: Plus que des supporters (PBL) and WA (represented by: J. Branco, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul the decision of the European Commission's Directorate-General for Competition of 1 September 2021 — COMP.C.4/AH/mdr 2021(092342);

— order the European Commission to:

  — make use of its powers under Article 116(1) TFEU by ordering the French Football Federation to immediately stop any normative distortion of competition and to comply with the UEFA Club Licensing and Financial Fair Play Regulations;

  — initiate infringement proceedings under Articles 107 and 108 TFEU and Article 12 of Council Regulation 2015/1589 of 13 July 2015 laying down procedural rules against France for unlawful State aid as regards Paris Saint-Germain and to refer the matter to the Court of Justice of the European Union accordingly;

— and order the Commission, pursuant to Article 13 of Council Regulation 2015/1589 of 13 July 2015 laying down procedural rules, to take interim measures against France with a view to putting an end to the damage allegedly suffered by the applicants by ordering it to suspend the following normative decisions, which create an unfair distortion of competition by means of State aid, which creates a selective advantage affecting competition and intra-EU trade within the EU single market:

  — the deliberations of 12 and 14 December 2019 of the General and Federal Assemblies of the Professional Football League and the deliberation of 10 December 2020 of the General Assembly of the Professional Football League taken on behalf of the French Football Federation in the exercise of its public authority;

  — the decision of 25 June 2021 by which the Professional Clubs Control Commission of the National Management Control Directorate of the Professional Football League did not take any administrative measures against PSG;

  — the decision of the Professional Football League — not published — by which it approved the contract signed between Mr. Lionel Messi and Paris Saint-Germain.

Pleas in law and main arguments

In support of the action against the European Commission's Decision COMP.C.4/AH/mdr 2021(092342) of 1 September 2021 refusing the applicants the status of interested parties within the meaning of Article 24(2) of Regulation 2015/1589, ([1]) the applicants rely on five pleas in law.

1. First plea in law, based on the applicants' interest in bringing proceedings in this case. The applicants allege that the Commission failed to take account of the fact that the first applicant is a member ('socio') of Futbol Club Barcelona ('FC Barcelona') and that, as such, it is entitled to lodge a complaint about alleged unlawful aid.

2. Second plea in law, based on the consultation procedure provided for in Article 116 TFEU. The applicants claim, in particular that there is, in this case, a discrepancy between the provisions of the Member States which distorts the conditions of competition in the internal market. According to the applicants, the circumstance that the Spanish professional football league requires, unlike the French professional football league, compliance with a ratio between salaries and eligible revenue of 70 % constitutes such a distortion, which, in practice, penalises FC Barcelona.

3. Third plea in law, based on Article 13 of Regulation 2015/1589. By that plea, the applicants allege that France should be ordered to suspend the aid and measures capable of constituting unlawful and non-notified State aid to professional football clubs based in the country.

4. Fourth plea in law, based on the criteria adopted by the European Commission and the Court of Justice of the European Union in order to define State aid and the applicability of Article 108 TFEU in this case.

5. Fifth plea in law, alleging that the urgency of the situation justifies the filing by the applicants of an application for an accelerated procedure and an application for interim measures.

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

Action brought on 2 September 2021 — Vivostore v EUIPO — Linda (VIVO LIFE)

(Case T-540/21)

(2021/C 431/58)

Language in which the application was lodged: German

Parties

Applicant: Vivostore Ltd (Winscombe, United Kingdom) (represented by: T. Urek, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Linda AG (Cologne, Germany)

Details of the proceedings before EUIPO

Applicant for the trade mark at issue: Applicant in the proceedings before the Board of Appeal

Trade mark at issue: Application for European Union figurative mark VIVO LIFE — Application for registration No 18 049 468

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 6 July 2021 in Case R 1587/2020-2

Form of order sought

The applicant claims that the Court should:

— annul or vary the contested decision and uphold the decision of the Opposition Division of EUIPO in Case B 3 090 390 of 16 July 2020;

— order EUIPO to pay the costs.

Plea in law

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

Action brought on 2 September 2021 — Tinnus Enterprises v EUIPO — Mystic Products (Fluid distribution equipment)

(Case T-545/21)

(2021/C 431/59)

Language of the case: English

Parties

Applicant: Tinnus Enterprises LLC (Plano, Texas, United States) (represented by: T. Wuttke, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

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

Details of the proceedings before EUIPO

Proprietor of the design at issue: Applicant before the General Court

Design at issue: Community design No 1 431 829-0004

Contested decision: Decision of the Third Board of Appeal of EUIPO of 16 June 2021 in Case R 1011/2018-3

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— alter the contested decision to:

  — allow the applicant's appeal,

  — dismiss in its entirety the invalidity applicant's application ICD 10 306 to declare the contested design invalid,

  — order the invalidity applicant to pay the applicant's costs in front of the Board of Appeal and the Invalidity Division;

— order the invalidity applicant to pay the applicant's fees and costs.

Pleas in law

— Infringement of the principles set forth in the judgment of 24 March 2021, *Lego v EUIPO — Delta Sport Handelskontor (Building block from a toy building set)* (T-515/19, not published, EU:T:2021:155);

— Infringement of the principles set forth in the judgment of 8 March 2018, *DOCERAM* (C-395/16, EU:C:2018:172);

— Infringement of Article 8(1) of Council Regulation (EC) No 6/2002;

— Misinterpretation of patent application EP 3 005 948 A2 and the applicant's multiple design application No. 1 431 829-0001-0010.

Action brought on 6 September 2021 — Kalypso Media Group v EUIPO (COMMANDOS)

(Case T-550/21)

(2021/C 431/60)

Language of the case: German

Parties

Applicant: Kalypso Media Group GmbH (Worms, Germany) (represented by: T. Boddien, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for European Union word mark COMMANDOS — Application for registration No 18 062 634

Contested decision: Decision of the Second Board of Appeal of EUIPO of 6 July 2021 in Case R 1864/2020-2

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

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

Action brought on 6 September 2021 — Worldwide Brands v EUIPO — Guangyu Wan (CAMEL)

(Case T-552/21)

(2021/C 431/61)

Language of the case: English

Parties

Applicant: Worldwide Brands, Inc. Zweigniederlassung Deutschland (Cologne, Germany) (represented by: R. Ahijón Lana and J. Gracia Albero, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Eric Guangyu Wan (Vancouver, British Columbia, Canada)

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 word mark CAMEL — European Union trade mark No 1 015 593

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 5 July 2021 in Case R 1548/2020-1

Form of order sought

The applicant claims that the Court should:

— partially annul the contested decision to the extent that it upheld the appeal filed by the intervener and rejected the application for a declaration for revocation in relation to 'shirts';

— order EUIPO to bear the costs of the present proceedings, including the costs deriving from the proceedings before the Cancellation Division and the First Board of Appeal.

Pleas in law

— Infringement of Article 95(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council in conjunction with Article 27(4) of Commission Delegated Regulation (EU) 2018/625;

— Infringement of Article 58(1)(a) in conjunction with Article 18(1)(a) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 6 September 2021 — Tinnus Enterprises v EUIPO — Mystic Products (Fluid distribution equipment)

(Case T-555/21)

(2021/C 431/62)

Language of the case: English

Parties

Applicant: Tinnus Enterprises LLC (Plano, Texas, United States) (represented by: T. Wuttke, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

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

Details of the proceedings before EUIPO

Proprietor of the design at issue: Applicant before the General Court

Design at issue: Community design No 1 431 829-0003

Contested decision: Decision of the Third Board of Appeal of EUIPO of 16 June 2021 in Case R 1007/2018-3

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— alter the contested decision to:

  — allow the applicant's appeal,

  — dismiss in its entirety the invalidity applicant's application ICD 10 300 to declare the contested design invalid,

  — order the invalidity applicant to pay the applicant's costs in front of the Board of Appeal and the Invalidity Division;

— order the invalidity applicant to pay the applicant's fees and costs.

Pleas in law

— Infringement of the principles set forth in the judgment of 24 March 2021, Lego v EUIPO — Delta Sport Handelskontor (Building block from a toy building set) (T-515/19, not published, EU:T:2021:155);

— Infringement of the principles set forth in the judgment of 8 March 2018, DOCERAM (C-395/16, EU:C:2018:172);

— Infringement of Article 8(1) of Council Regulation (EC) No 6/2002;

— Misinterpretation of patent application EP 3 005 948 A2 and the applicant's multiple design application No. 1 431 829-0001-0010.

Action brought on 8 September 2021 — HSBC Holdings and Others v Commission

(Case T-561/21)

(2021/C 431/63)

Language of the case: English

Parties

Applicants: HSBC Holdings plc (London, United Kingdom), HSBC Bank plc (London), HSBC Continental Europe (Paris, France) (represented by: M. Demetriou and D. Bailey, Barristers, M. Simpson, Solicitor, C. Angeli, M. Giner Asins and C. Chevreste, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Article 1 of the Commission decision C(2021) 4600 final of 28 June 2021, notified on 29 June 2021 ('the Contested Decision') amending Commission decision C(2016) 8530 final of 7. December 2016 (the '2016 Decision') (AT.39914 — Euro Interest Rate Derivatives ('EIRDs')) and Article 2(b) of the 2016 Decision;

— in the alternative, substantially reduce the fine imposed on the applicants to such amount as the Court may deem appropriate; and

— order the Commission to pay the applicants' costs or, in the alternative, an appropriate proportion of the applicants' 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 that the Contested Decision was adopted outside the limitation period of 10 years that ran from the end of the infringement on 27 March 2007. The defendant's power to re-impose a fine on the applicants was accordingly time-barred.

2. Second plea in law, alleging that the defendant erred in law and/or its assessment when it calculated the applicants' value of sales on the basis of discounted cash receipts. The applicants allege that discounted cash receipts are an arbitrary and inappropriate measure of the value of sales in the Euro Interest Rate Derivatives sector. In particular, discounted cash receipts do not reflect either the economic significance of the infringement or the size of HSBC's contribution to it.

3. Third plea in law, alleging that the defendant erred in its assessment and/or gave inadequate reasons for the rate of the reduction factor that it used to calculate the applicants' discounted cash receipts.

4. Forth plea in law, alleging that the defendant erred in its assessment of the gravity of the applicants' infringement and the imposition and size of the additional amount.

5. Fifth plea in law, alleging that the fine imposed on the applicants is disproportionately high. In particular, the applicants claim that the defendant erred in its assessment of the mitigating circumstances that relate to the applicants' infringement. The applicants further allege that the defendant gave insufficient weight to the fact that the applicants' participation in the single continuous infringement was both less extensive and less serious than found by the 2016 Decision as held by the General Court in Case T-105/17 HSBC v Commission. ([1]) Accordingly, the applicants request the Court to set a much lower fine that fairly reflects what the applicants did.

([1]) Judgment of 24 September 2019, *HSBC Holdings and Others v Commission*, T-105/17, EU:T:2019:675.

Action brought on 10 September 2021 — Harbaoui v EUIPO — Google (GC GOOGLE CAR)

(Case T-568/21)

(2021/C 431/64)

Language of the case: English

Parties

Applicant: Zoubier Harbaoui (Paris, France) (represented by: R. Ciullo, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Google LLC (Mountain View, California, 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 figurative mark GC GOOGLE CAR — Application for registration No 18 007 095

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 18 June 2021 in Case R 902/2020-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO and Google LLC to pay the costs.

Plea in law

— Infringement of Article 8(5) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 10 September 2021 — Harbaoui v EUIPO — Google (GOOGLE CAR)

(Case T-569/21)

(2021/C 431/65)

Language of the case: English

Parties

Applicant: Zoubier Harbaoui (Paris, France) (represented by: R. Ciullo, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Google LLC (Mountain View, California, 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 GOOGLE CAR — Application for registration No 17 978 453

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 29 June 2021 in Case R 904/2020-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO and Google LLC to pay the costs.

Plea in law

— Infringement of Article 8(5) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 14 September 2021 — Brand Energy Holdings v EUIPO (RAPIDGUARD)

(Case T-573/21)

(2021/C 431/66)

Language of the case: German

Parties

Applicant: Brand Energy Holdings BV (Vlaardingen, Netherlands) (represented by: A. Hönninger and F. Dechent, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for European Union word mark RAPIDGUARD — Application for registration No 18 156 550

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 30 June 2021 in Case R 294/2021-5

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 Article 42(1) in conjunction with Article 7(1)(b), Article 7(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 42(1) in conjunction with Article 7(1)(c), Article 7(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Order of the General Court of 3 September 2021 — SMCK Hair Care Products v EUIPO — Carolina Herrera (COOL GIRL)

(Case T-670/20) [1]

(2021/C 431/67)

Language of the case: English

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

[1] OJ C 19, 18.1.2021.

Order of the General Court of 27 August 2021 — PJ v EIT

(Case T-12/21) ([1])

(2021/C 431/68)

Language of the case: French

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

([1]) OJ C 79, 8.3.2021.

Order of the General Court of 27 August 2021 — PJ v EIT

(Case T-335/21) ([1])

(2021/C 431/69)

Language of the case: French

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

([1]) OJ C 310, 2.8.2021.

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

Publications Office
of the European Union
L-2985 Luxembourg
LUXEMBOURG

EN