Official Journal of the European Union

C 73

English edition

Information and Notices

Volume 65

14 February 2022

Contents

IV *Notices*

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

Court of Justice of the European Union

2022/C 73/01 Last publications of the Court of Justice of the European Union in the *Official Journal of the European Union* 1

V *Announcements*

COURT PROCEEDINGS

Court of Justice

2022/C 73/02 Case C-154/20: Judgment of the Court (Tenth Chamber) of 9 December 2021 (request for a preliminary ruling from the Nejvyšší správní soud — Czech Republic) — Kemwater ProChemie s. r. o. v Odvolací finanční ředitelství (Reference for a preliminary ruling — Taxation — Value added tax (VAT) — Directive 2006/112/EC — Article 168 — Right to deduct input tax — Material conditions governing the right of deduction — Supplier's status as taxable person — Burden of proof — Refusal of the right of deduction where the true supplier has not been identified — Conditions) 2

2022/C 73/03 Case C-217/20: Judgment of the Court (Second Chamber) of 9 December 2021 (request for a preliminary ruling from the Rechtbank Overijssel — Netherlands) — XXXX v Staatssecretaris van Financiën (Reference for a preliminary ruling — Directive 2003/88/EC — Organisation of working time — Protection of the health and safety of workers — Article 7(1) — Right to paid annual leave — Level of remuneration — Reduced remuneration due to incapacity for work) 3

EN

2022/C 73/04 Case C-242/20: Judgment of the Court (Fourth Chamber) of 9 December 2021 (request for a preliminary ruling from the Visoki trgovački sud Republike Hrvatske — Croatia) — HRVATSKE ŠUME d.o.o., Zagreb, successor in title to HRVATSKE ŠUME javno poduzeće za gospodarenje šumama i šumskim zemljištima u Republici Hrvatskoj p.o., Zagreb v BP Europa SE, successor in title to Deutsche BP AG, in turn successor in title to The Burmah Oil (Deutschland) GmbH (Reference for a preliminary ruling — Judicial cooperation in civil matters — Regulation (EC) No 44/2001 — Article 5(3) — Concept of 'matters relating to tort, delict or quasi-delict' — Judicial enforcement proceedings — Action for recovery of sums unduly paid based on unjust enrichment — Article 22(5) — Enforcement of judgments — Exclusive jurisdiction) 3

2022/C 73/05 Case C-370/20: Judgment of the Court (Fourth Chamber) of 9 December 2021 (request for a preliminary ruling from the Bundesgerichtshof — Germany) — Pro Rauchfrei eV v JS e.K. (Reference for a preliminary ruling — Manufacture, presentation and sale of tobacco products — Directive 2014/40/EU — Labelling and packaging — Article 8(8) — Health warnings which must appear on each unit packet of a tobacco product and any outside packaging — Automatic vending machine for cigarette packets — Health warnings not visible from the outside — Representation of unit packets — Concept of 'images' of unit packets and any outside packaging targeting consumers in the European Union) 4

2022/C 73/06 Case C-374/20 P: Judgment of the Court (Tenth Chamber) of 9 December 2021 — Agrochem-Maks d. o.o. v European Commission, Kingdom of Sweden (Appeal — Plant protection products — Active substance — Regulation (EC) No 1107/2009 — Article 6(f) — Annex II, point 2.2 — Definition of 'further confirmatory information' — Implementing Regulation (EU) No 844/2012 — Article 13(3) — Non-renewal of approval of the active substance 'oxasulfuron' for its placing on the market — Scope of the rapporteur Member State's decision to declare the application for renewal to be admissible — Right of that Member State and of the European Food Safety Authority (EFSA) to require the applicant to provide further information — Right of the rapporteur Member State to amend its draft renewal assessment report — Precautionary principle) 5

2022/C 73/07 Case C-708/20: Judgment of the Court (Eighth Chamber) of 9 December 2021 (request for a preliminary ruling from the County Court at Birkenhead — United Kingdom) — BT v Seguros Catalana Occidente, EB (Reference for a preliminary ruling — Cooperation in civil and commercial matters — Regulation (EU) No 1215/2012 — Jurisdiction, recognition and enforcement in civil and commercial matters — Jurisdiction in insurance matters — Claim for compensation for damage suffered by an individual domiciled in a Member State following an accident in rented accommodation in another Member State — Action brought by the injured person against, first, the insurer and, secondly, against the insured owner of that accommodation — Applicability of Article 13(3) of that regulation) 5

2022/C 73/08 Case C-630/21: Request for a preliminary ruling from the Oberlandesgericht Stuttgart (Germany) lodged on 13 October 2021 — O.K. v Mercedes-Benz Bank AG 6

2022/C 73/09 Case C-647/21: Request for a preliminary ruling from the Sąd Okręgowy w Słupsku (Poland) lodged on 25 October 2021 — Criminal proceedings against D.K. 6

2022/C 73/10 Case C-648/21: Request for a preliminary ruling from the Sąd Okręgowy w Słupsku (Poland) lodged on 25 October 2021 — Criminal proceedings against M.C., M.F. 7

2022/C 73/11 Case C-650/21: Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 27 October 2021 — FW, CE 8

2022/C 73/12 Case C-658/21: Request for a preliminary ruling from the Raad van State (Belgium) lodged on 29 October 2021 — VZW Belgische Vereniging van de Industrie van Plantenbeschermingsmiddelen (PHYTOFAR) v Vlaams Gewest 9

2022/C 73/13 Case C-663/21: Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 5 November 2021 — Bundesamt für Fremdenwesen und Asyl 10

2022/C 73/14 Case C-680/21: Request for a preliminary ruling from the Tribunal de première instance francophone de Bruxelles (Belgium) lodged on 11 November 2021 — UL, SA Royal Antwerp Football Club v Union royale belge des sociétés de football association ASBL 10

2022/C 73/15 Case C-693/21 P: Appeal brought on 18 November 2021 by EDP España, S.A. against the judgment of the General Court (Seventh Chamber) delivered on 8 September 2021 in Case T-328/18, Naturgy Energy Group v Commission 11

2022/C 73/16 Case C-696/21 P: Appeal brought on 18 November 2021 by GABO:mi Gesellschaft für Ablauforganisation:milliarium mbH & Co. KG against the order of the General Court (Fifth Chamber) delivered on 9 September 2021 in Case T-881/19, GABO:mi v Commission 12

2022/C 73/17 Case C-698/21 P: Appeal brought on 19 November 2021 by Naturgy Energy Group, S.A, formerly Gas Natural SDG, S.A. against the judgment of the General Court (Seventh Chamber) delivered on 8 September 2021 in Case T- 328/18, Naturgy Energy Group v Commission 13

2022/C 73/18 Case C-699/21: Request for a preliminary ruling from the Corte costituzionale (Italy) lodged on 22 November 2021 — E.D.L. 14

2022/C 73/19 Case C-700/21: Request for a preliminary ruling from the Corte costituzionale (Italy) lodged on 22 November 2021 — O.G. 14

2022/C 73/20 Case C-731/21: Request for a preliminary ruling from the Cour de cassation du Grand-Duché de Luxembourg (Luxembourg) lodged on 1 December 2021 — GV v Caisse nationale d'assurance pension 15

2022/C 73/21 Case C-747/21 P: Appeal brought on 3 December 2021 by PAO Severstal against the judgment of the General Court (Tenth Chamber) delivered on 22 September 2021 in Case T-753/16, Severstal v Commission 16

2022/C 73/22 Case C-748/21 P: Appeal brought on 3 December 2021 by Novolipetsk Steel PAO against the judgment of the General Court (Tenth Chamber) delivered on 22 September 2021 in Case T-752/16, NLMK v Commission 17

2022/C 73/23 Case C-755/21 P: Appeal brought on 8 December 2021: Marián Kočner against the judgment of the General Court (Eighth Chamber) delivered on 29 September 2021 in Case T-528/20 Kočner v Europol 18

2022/C 73/24 Case C-763/21 P: Appeal brought on 10 December 2021 by TUIfly GmbH against the judgment of the General Court (Fifth Chamber) delivered on 29 September 2021 in Case T-447/18, TUIfly GmbH v European Commission 18

2022/C 73/25 Case C-780/21 P: Appeal brought on 15 December 2021 by Oriol Junqueras i Vies against the order of the General Court (Sixth Chamber) delivered on 5 October 2021 in Case T-613/20, Junqueras i Vies v Parliament 20

2022/C 73/26 Case C-790/21 P: Appeal brought on 16 December 2021 by Covestro Deutschland AG against the judgment of the General Court (Third Chamber) delivered on 6 October 2021 in Case T-745/18, Covestro Deutschland AG v European Commission 21

2022/C 73/27 Case C-791/21 P: Appeal brought on 16 December 2021 by the Federal Republic of Germany against the judgment of the General Court (Third Chamber) delivered on 6 October 2021 in Case T-745/18, Covestro Deutschland AG v European Commission 22

2022/C 73/28 Case C-792/21 P: Appeal brought on 16 December 2021 by AZ against the judgment of the General Court (Third Chamber) delivered on 6 October 2021 in Case T-196/19, AZ v Commission 23

2022/C 73/29 Case C-793/21 P: Appeal brought on 16 December 2021 by the Federal Republic of Germany against the judgment of the General Court (Third Chamber) delivered on 6 October 2021 in Case T-196/19, AZ v Commission 26

2022/C 73/30 Case C-794/21 P: Appeal brought on 16 December 2021 by the Federal Republic of Germany against the judgment of the General Court (Third Chamber) delivered on 6 October 2021 in Joined Cases T-233/19 and T-234/19, Infineon Technologies Dresden GmbH & Co. KG and Infineon Technologies AG v European Commission 26

2022/C 73/31 Case C-795/21 P: Appeal brought on 16 December 2021 by WEPA Hygieneprodukte GmbH and WEPA Deutschland GmbH & Co. KG, the latter formerly Wepa Leuna GmbH and Wepa Papierfabrik Sachsen GmbH, against the judgment of the General Court (Third Chamber) delivered on 6 October 2021 in Case T-238/19, Wepa Hygieneprodukte GmbH and Others v European Commission 27

2022/C 73/32 Case C-796/21 P: Appeal brought on 16 December 2021 by the Federal Republic of Germany against the judgment of the General Court (Third Chamber) delivered on 6 October 2021 in Case T-238/19, Wepa Hygieneprodukte GmbH and Others v Federal Republic of Germany 28

2022/C 73/33 Case C-800/21 P: Appeal brought on 17 December 2021 by Infineon Technologies AG and Infineon Technologies Dresden GmbH & Co. KG against the judgment of the General Court (Third Chamber) delivered on 6 October 2021 in Joined Cases T-233/19 and T-234/19, Infineon Technologies Dresden GmbH & Co. KG and Infineon Technologies AG v European Commission 29

2022/C 73/34 Case C-803/21 P: Appeal brought on 17 December 2021 by Versobank AS against the judgment of the General Court (Ninth Chamber, Extended Composition) delivered on 6 October 2021 in Joined Cases T-351/18 and T-584/18, Ukrselhosprom PCF and Versobank v ECB 30

2022/C 73/35 Case C-828/21 P: Appeal brought on 22 December 2021 by European Union Copper Task Force against the judgment of the General Court (First Chamber) delivered on 13 October 2021 in Case T-153/19, European Union Copper Task Force v Commission 31

General Court

2022/C 73/36 Case T-627/16 RENV: Judgment of the General Court of 15 December 2021 — Czech Republic v Commission (EAGF and EAFRD — Expenditure excluded from financing — Expenditure incurred by the Czech Republic — Decoupled direct aid — Traditional on-the-spot checks and on-the-spot checks by remote sensing — Discrepancies between the results of the checks — Wine sector — On-the-spot checks of the investments by means of sampling) 32

2022/C 73/37 Case T-693/16 P RENV-RX: Judgment of the General Court of 15 December 2021 — HG v Commission (Appeal — Civil service — Officials — Posting to a third country — Family lodging provided by the administration — Non-compliance with the obligation to reside there with the family — Disciplinary procedure — Disciplinary penalty of deferment of advancement to a higher step — Making good of any damage suffered by the European Union — Article 22 of the Staff Regulations — Dismissal of the action on the merits — Setting aside on appeal — Judgment on appeal re-examined by the Court of Justice and set aside — Referral back to the General Court) 33

2022/C 73/38 Case T-127/19: Judgment of the General Court of 8 December 2021 — Dyson and Others v Commission (Non-contractual liability — Energy — Directive 2010/30/EU — Indication by labelling and standard product information of the consumption of energy — Delegated Regulation (EU) No 665/2013 — Energy labelling of vacuum cleaners — Energy efficiency — Measurement method — Annulment by the General Court — Sufficiently serious breach of a rule of law intended to confer rights on individuals) 33

2022/C 73/39 Case T-556/19: Judgment of the General Court of 8 December 2021 — Cyprus v EUIPO — Fontana Food (GRILLOUMI) (EU trade mark — Opposition proceedings — Application for the EU word mark GRILLOUMI — Earlier national certification word marks ΧΑΛΛΟΥΜΙ HALLOUMI — Relative ground for refusal — No likelihood of confusion — Similarity between services and goods — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001)) 34

2022/C 73/40 Case T-593/19: Judgment of the General Court of 8 December 2021 — Cyprus v EUIPO — Fontana Food (GRILLOUMI BURGER) (EU trade mark — Opposition proceedings — Application for the EU word mark GRILLOUMI BURGER — Earlier national certification word marks ΧΑΛΛΟΥΜΙ HALLOUMI — Relative grounds for refusal — No likelihood of confusion — No detriment to repute — Article 8(1)(b) and Article 8(5) of Regulation (EC) No 207/2009 (now Article 8(1)(b) and Article 8(5) of Regulation (EU) 2017/1001)) 35

2022/C 73/41 Case T-595/19: Judgment of the General Court of 8 December 2021 — Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi v EUIPO — Fontana Food (GRILLOUMI BURGER) (EU trade mark — Opposition proceedings — Application for the EU word mark GRILLOUMI BURGER — Earlier EU collective word mark HALLOUMI — Relative grounds for refusal — No likelihood of confusion — No detriment to repute — Article 8(1)(b) and Article 8(5) of Regulation (EC) No 207/2009 (now Article 8(1)(b) and Article 8(5) of Regulation (EU) 2017/1001)) 35

2022/C 73/42 Case T-247/20: Judgment of the General Court of 8 December 2021 — JP v Commission (Access to documents — Regulation (EC) No 1049/2001 — Documents relating to Open Competition EPSO/AD/363/18 for the recruitment of administrators at grade AD 7 in the field of taxation — Restriction of the scope of the application for access — Refusal to grant access — Article 4(3) of Regulation No 1049/2001 — Exception relating to the protection of the decision-making process — Article 6 of Annex III to the Staff Regulations — Secrecy of the selection board's proceedings — Partial access — Non-contractual liability) 36

2022/C 73/43 Case T-294/20: Judgment of the General Court of 8 December 2021 — Talleres de Escoriaza v EUIPO — Salto Systems (KAAS KEYS AS A SERVICE) (EU trade mark — Invalidity proceedings — EU word mark KAAS KEYS AS A SERVICE — Absolute grounds for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 207/2009 (now Article 7(1)(c) of Regulation (EU) 2017/1001) — No distinctive character — Article 7(1)(b) of Regulation No 207/2009 (now Article 7(1)(b) of Regulation 2017/1001) — Signs or indications which have become customary — Article 7(1)(d) of Regulation No 207/2009 (now Article 7(1)(d) of Regulation 2017/1001) — Obligation to state reasons — Right to be heard — Article 94(1) of Regulation 2017/1001) 37

2022/C 73/44 Case T-569/20: Judgment of the General Court of 15 December 2021 — Stichting Comité N 65 Ondergronds Helvoirt v Commission (Environment — Regulation (EC) No 1367/2006 — Obligation of Member States to protect and improve ambient air quality — Request for an internal review — Refusal of the request as inadmissible) 37

2022/C 73/45 Case T-623/20: Judgment of the General Court of 8 December 2021 — Sun West and Others v Commission (State aid — Production of electricity by photovoltaic installations — Obligation to purchase the electricity at a higher price than the market price — Rejection of a complaint — Second subparagraph of Article 12(1) and Article 24(2) of Regulation (EU) 2015/1589) 38

2022/C 73/46 Case T-689/20: Judgment of the General Court of 15 December 2021 — HB v EIB (Civil service — EIB staff — Dismissal — Manifest error of assessment — Principle of sound administration — Lack of competence of the author of the act) 39

2022/C 73/47 Case T-705/20: Judgment of the General Court of 15 December 2021 — OI v Commission (Civil service — Officials — Recruitment — Internal competition COM/03/AD/18 (AD 6) — Decision not to include the applicant's name on the reserve list for the competition — Obligation to state reasons — Secrecy of the selection board's proceedings — No communication of the intermediate marks or the weighting of the elements of a test specified in the competition notice) 39

2022/C 73/48 Case T-69/21: Judgment of the General Court of 15 December 2021 — Rotondaro v EUIPO — Pollini (COLLINI) (EU trade mark — Opposition proceedings — Application for the EU figurative mark COLLINI — Earlier EU and national word marks POLLINI and STUDIO POLLINI — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001)) 40

2022/C 73/49 Case T-85/21: Judgment of the General Court of 15 December 2021 — QF v Commission (Civil service — Officials — Recruitment — Internal competition COM/03/AD/18 (AD 6) — Decision not to include the applicant's name on the reserve list for the competition — Obligation to state reasons — Secrecy of the selection board's proceedings — No communication of the intermediate marks or the weighting of the elements of a test specified in the competition notice) 40

2022/C 73/50 Case T-515/16: Order of the General Court of 29 November 2021 — Kanellou v Council (Civil service — Officials — 2014 Reform of the Staff Regulations — Reimbursement of annual travel expenses and grant of travelling time — Action manifestly lacking any foundation in law) 41

2022/C 73/51 Case T-521/16: Order of the General Court of 29 November 2021 — Bergallou v Council (Civil service — Contract staff — 2014 Reform of the Staff Regulations — Reimbursement of annual travel expenses and grant of travelling time — Action manifestly lacking any foundation in law) 42

2022/C 73/52 Case T-522/16: Order of the General Court of 29 November 2021 — Nguyen v Council (Civil service — Contract staff — 2014 Reform of the Staff Regulations — Reimbursement of annual travel expenses and grant of travelling time — Action manifestly lacking any foundation in law) 42

2022/C 73/53 Case T-524/16: Order of the General Court of 29 November 2021 — Aresu v Commission (Civil service — Officials — 2014 Reform of the Staff Regulations — Travelling time — Home leave — Action manifestly lacking any foundation in law) 43

2022/C 73/54 Case T-709/20 R: Order of the President of the General Court of 1 December 2021 — OJ v Commission (Application for interim measures — Civil service — Recruitment — Open competition — EPSO decision to refuse the extension of the dates of the multiple choice computer-based tests — Application for interim measures — No urgency) 44

2022/C 73/55 Case T-726/20: Order of the General Court of 29 November 2021 — Grupa Azoty and Others v Commission (Action for annulment — State aid — Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021 — Eligible sectors — Exclusion of the fertiliser manufacturing sector — Lack of direct concern — Inadmissibility) 44

2022/C 73/56 Case T-741/20: Order of the General Court of 29 November 2021 — Advansa Manufacturing and Others v Commission (Action for annulment — State aid — Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021 — Eligible sectors — Exclusion of the man-made fibres manufacturing sector — Lack of direct concern — Inadmissibility) 45

2022/C 73/57 Case T-744/20: Order of the General Court of 30 November 2021 — Airoldi Metalli v Commission (Dumping — Imports of aluminium extrusions originating in China — Act imposing a provisional anti-dumping duty — Act not open to challenge — Preparatory act — Inadmissibility — Definitive anti-dumping duty — No longer any legal interest in bringing proceedings — No need to adjudicate) 45

2022/C 73/58 Case T-710/21 R: Order of the President of the General Court of 30 November 2021 — Roos and Others v Parliament (Interim relief — Members of the European Parliament — Conditions of access to the European Parliament buildings at its three places of work related to the health crisis — Application for suspension of operation of a measure — Lack of any urgency) 46

2022/C 73/59 Case T-711/21 R: Order of the President of the General Court of 30 November 2021 — ID and Others v Parliament (Application for interim measures — Civil service — Conditions of access to the European Parliament buildings at its three places of work related to the health crisis — Application for suspension of operation of a measure — No urgency) 47

2022/C 73/60 Case T-713/21: Action brought on 5 November 2021 — Agentur für Globale Gesundheitsverantwortung v EMA 47

2022/C 73/61 Case T-733/21: Action brought on 16 November 2021 — Greenspider v EISMEA 48

2022/C 73/62 Case T-739/21: Action brought on 19 November 2021 — Eurecna v Commission 49

2022/C 73/63 Case T-763/21: Action brought on 7 December 2021 — SE v Commission 50

2022/C 73/64 Case T-765/21: Action brought on 7 December 2021 — Imdea Materiales v Commission 50

2022/C 73/65 Case T-771/21: Action brought on 11 December 2021 — Bategu Gummitechnologie v Commission 51

2022/C 73/66 Case T-772/21: Action brought on 13 December 2021 — Brobet v EUIPO — Efbet Partners (efbet) 52

2022/C 73/67 Case T-779/21: Action brought on 15 December 2021 — Financiere Batteur v EUIPO — Leno Beauty (by L.e.n.o beauty) . . . 53

2022/C 73/68 Case T-781/21: Action brought on 18 December 2021 — EAA v Commission . . . 54

2022/C 73/69 Case T-782/21: Action brought on 18 December 2021 — EAA v Commission . . . 54

2022/C 73/70 Case T-784/21: Action brought on 20 December 2021 — NP v Commission . . . 55

2022/C 73/71 Case T-786/21: Action brought on 20 December 2021 — Team Beverage v EUIPO (TEAM BUSINESS IT DATEN — PROZESSE — SYSTEME) . . . 56

2022/C 73/72 Case T-787/21: Action brought on 21 December 2021 — UniSkin v EUIPO — Unicskin (UNISKIN by Dr. Søren Frankild) . . . 57

2022/C 73/73 Case T-790/21: Action brought on 22 December 2021 — PL v Commission . . . 58

2022/C 73/74 Case T-793/21: Action brought on 21 December 2021 — Front Polisario v Council . . . 59

2022/C 73/75 Case T-794/21: Action brought on 22 December 2021 — Wenz Kunststoff v EUIPO — Mouldpro (MOULDPRO) . . . 61

2022/C 73/76 Case T-795/21: Action brought on 22 December 2021 — Protectoplus v EUIPO (Li-SAFE) . . . 61

2022/C 73/77 Case T-797/21: Action brought on 23 December 2021 — Gustopharma Consumer Health v EUIPO — Helixor Heilmittel (HELIXORIGINAL) . . . 62

2022/C 73/78 Case T-798/21: Action brought on 23 December 2021 — Gustopharma Consumer Health v EUIPO — Helixor Heilmittel (HELIXFORTE) . . . 63

2022/C 73/79 Case T-800/21: Action brought on 28 December 2021 — Fieldpoint (Cyprus) v EUIPO (HYPERLIGHTOPTICS) . . . 63

2022/C 73/80 Case T-801/21: Action brought on 28 December 2021 — Fieldpoint (Cyprus) v EUIPO (HYPERLIGHTEYEWEAR) . . . 64

2022/C 73/81 Case T-802/21: Action brought on 23 December 2021 — just-organic.com v EUIPO (JUST ORGANIC) . . . 65

2022/C 73/82 Case T-805/21: Action brought on 23 December 2021 — NS v Parliament . . . 65

2022/C 73/83 Case T-806/21: Action brought on 27 December 2021 — NT v EMA . . . 66

2022/C 73/84 Case T-807/21: Action brought on 29 December 2021 — QI v Commission . . . 67

2022/C 73/85 Case T-47/21: Order of the General Court of 26 November 2021 — Cepewa v EUIPO — Out of the blue (LIEBLINGSMENSCH) . . . 68

2022/C 73/86 Case T-48/21: Order of the General Court of 26 November 2021 — Cepewa v EUIPO — Out of the blue (Lieblingsmensch) . . . 68

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COURT OF JUSTICE OF THE EUROPEAN UNION

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

(2022/C 73/01)

Last publication

OJ C 64, 7.2.2022

Past publications

OJ C 51, 31.1.2022

OJ C 37, 24.1.2022

OJ C 24, 17.1.2022

OJ C 11, 10.1.2022

OJ C 2, 3.1.2022

OJ C 513, 20.12.2021

These texts are available on:

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

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Tenth Chamber) of 9 December 2021 (request for a preliminary ruling from the Nejvyšší správní soud — Czech Republic) — Kemwater ProChemie s. r. o. v Odvolací finanční ředitelství

(Case C-154/20) [1]

(Reference for a preliminary ruling — Taxation — Value added tax (VAT) — Directive 2006/112/EC — Article 168 — Right to deduct input tax — Material conditions governing the right of deduction — Supplier's status as taxable person — Burden of proof — Refusal of the right of deduction where the true supplier has not been identified — Conditions)

(2022/C 73/02)

Language of the case: Czech

Referring court

Nejvyšší správní soud

Parties to the main proceedings

Applicant: Kemwater ProChemie s. r. o.

Defendant: Odvolací finanční ředitelství

Operative part of the judgment

Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that the right to deduct input value added tax (VAT) must be refused, without the tax authorities having to prove that the taxable person committed VAT fraud or that he or she knew, or ought to have known, that the transaction relied on to establish the right of deduction was connected with such fraud, where, the true supplier of the goods or services concerned not having been identified, that taxable person fails to adduce proof that that supplier had the status of taxable person, provided that, taking into account the factual circumstances and the evidence produced by that taxable person, the information needed to verify that the true supplier had that status is lacking.

[1] OJ C 209, 22.6.2020.

Judgment of the Court (Second Chamber) of 9 December 2021 (request for a preliminary ruling from the Rechtbank Overijssel — Netherlands) — XXXX v Staatssecretaris van Financiën

(Case C-217/20) ([1])

(Reference for a preliminary ruling — Directive 2003/88/EC — Organisation of working time — Protection of the health and safety of workers — Article 7(1) — Right to paid annual leave — Level of remuneration — Reduced remuneration due to incapacity for work)

(2022/C 73/03)

Language of the case: Dutch

Referring court

Rechtbank Overijssel

Parties to the main proceedings

Applicant: XXXX

Defendant: Staatssecretaris van Financiën

Operative part of the judgment

Article 7(1) of Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time must be interpreted as precluding national provisions and practices under which, where a worker who is incapacitated for work due to illness exercises his or her right to paid annual leave, the reduction, following the incapacity for work, of the amount of remuneration that he or she received during the period of work preceding that during which annual leave is requested, is taken into account to determine the amount of remuneration that will be paid to him or her in respect of his or her paid annual leave.

([1]) OJ C 297, 7.9.2020.

Judgment of the Court (Fourth Chamber) of 9 December 2021 (request for a preliminary ruling from the Visoki trgovački sud Republike Hrvatske — Croatia) — HRVATSKE ŠUME d.o.o., Zagreb, successor in title to HRVATSKE ŠUME javno poduzeće za gospodarenje šumama i šumskim zemljištima u Republici Hrvatskoj p.o., Zagreb v BP Europa SE, successor in title to Deutsche BP AG, in turn successor in title to The Burmah Oil (Deutschland) GmbH

(Case C-242/20) ([1])

(Reference for a preliminary ruling — Judicial cooperation in civil matters — Regulation (EC) No 44/2001 — Article 5(3) — Concept of 'matters relating to tort, delict or quasi-delict' — Judicial enforcement proceedings — Action for recovery of sums unduly paid based on unjust enrichment — Article 22(5) — Enforcement of judgments — Exclusive jurisdiction)

(2022/C 73/04)

Language of the case: Croatian

Referring court

Visoki trgovački sud Republike Hrvatske

Parties to the main proceedings

Applicant and appellant: HRVATSKE ŠUME d.o.o., Zagreb, successor in title to HRVATSKE ŠUME javno poduzeće za gospodarenje šumama i šumskim zemljištima u Republici Hrvatskoj p.o., Zagreb

Defendant and respondent: BP Europa SE, successor in title to Deutsche BP AG, in turn successor in title to The Burmah Oil (Deutschland) GmbH

Operative part of the judgment

1. Article 22(5) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that an action for restitution based on unjust enrichment does not come within the exclusive jurisdiction provided for by that provision, even though it was brought on account of the expiry of the time limit within which restitution of sums unduly paid in enforcement proceedings may be claimed in the context of the same enforcement proceedings.

2. Article 5(3) of Regulation No 44/2001 must be interpreted as meaning that an action for restitution based on unjust enrichment does not fall within the scope of the ground of jurisdiction laid down in that provision.

(1) OJ C 262, 10.8.2020.

Judgment of the Court (Fourth Chamber) of 9 December 2021 (request for a preliminary ruling from the Bundesgerichtshof — Germany) — Pro Rauchfrei eV v JS e.K.

(Case C-370/20) (1)

(Reference for a preliminary ruling — Manufacture, presentation and sale of tobacco products — Directive 2014/40/EU — Labelling and packaging — Article 8(8) — Health warnings which must appear on each unit packet of a tobacco product and any outside packaging — Automatic vending machine for cigarette packets — Health warnings not visible from the outside — Representation of unit packets — Concept of 'images' of unit packets and any outside packaging targeting consumers in the European Union)

(2022/C 73/05)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant and appellant on a point of law: Pro Rauchfrei eV

Defendant and respondent in the appeal on a point of law: JS e.K.

Operative part of the judgment

1. Article 8(8) of Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC must be interpreted as meaning that images which are not faithful depictions of unit packets of cigarettes but which consumers associate with such unit packets on account of their design in terms of outline, proportions, colour and brand logo constitute 'images of unit packets' within the meaning of that provision.

2. Article 8(8) of Directive 2014/40 must be interpreted as meaning that an image of a packet of cigarettes which is covered by that provision but which does not carry the health warnings provided for in Chapter II of Title II of that directive is not compliant with that provision, even if the consumer has the opportunity to see those warnings on the packet of cigarettes corresponding to such an image before purchasing it.

(1) OJ C 390, 16.11.2020.

Judgment of the Court (Tenth Chamber) of 9 December 2021 — Agrochem-Maks d.o.o. v European Commission, Kingdom of Sweden

(Case C-374/20 P) ([1])

(Appeal — Plant protection products — Active substance — Regulation (EC) No 1107/2009 — Article 6 (f) — Annex II, point 2.2 — Definition of 'further confirmatory information' — Implementing Regulation (EU) No 844/2012 — Article 13(3) — Non-renewal of approval of the active substance 'oxasulfuron' for its placing on the market — Scope of the rapporteur Member State's decision to declare the application for renewal to be admissible — Right of that Member State and of the European Food Safety Authority (EFSA) to require the applicant to provide further information — Right of the rapporteur Member State to amend its draft renewal assessment report — Precautionary principle)

(2022/C 73/06)

Language of the case: English

Parties

Appellant: Agrochem-Maks d.o.o. (Zagreb, Croatia) (represented by: S. Pappas and A. Pappas, avocats)

Other parties to the proceedings: European Commission (represented by: X. Lewis, I. Naglis and G. Koleva, and subsequently by G. Koleva, acting as Agents), Kingdom of Sweden (represented by: J. Lundberg, O. Simonsson, C. Meyer-Seitz, A. M. Runeskjöld, H. Shev, H. Eklinder, R. Shahsavan Eriksson and M. Salborn Hodgson, acting as Agents)

Operative part of the judgment

The Court:

1. Dismisses the appeal;

2. Orders Agrochems-Maks d.o.o. to bear its own costs and pay those incurred by the European Commission;

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

([1]) OJ C 329, 5.10.2020.

Judgment of the Court (Eighth Chamber) of 9 December 2021 (request for a preliminary ruling from the County Court at Birkenhead — United Kingdom) — BT v Seguros Catalana Occidente, EB

(Case C-708/20) ([1])

(Reference for a preliminary ruling — Cooperation in civil and commercial matters — Regulation (EU) No 1215/2012 — Jurisdiction, recognition and enforcement in civil and commercial matters — Jurisdiction in insurance matters — Claim for compensation for damage suffered by an individual domiciled in a Member State following an accident in rented accommodation in another Member State — Action brought by the injured person against, first, the insurer and, secondly, against the insured owner of that accommodation — Applicability of Article 13(3) of that regulation)

(2022/C 73/07)

Language of the case: English

Referring court

County Court at Birkenhead

Parties to the main proceedings

Applicant: BT

Defendants: Seguros Catalana Occidente, EB

Operative part of the judgment

Article 13(3) of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that, in the event of a direct action brought by the injured person against an insurer in accordance with Article 13 (2) thereof, the court of the Member State in which that person is domiciled cannot also assume jurisdiction, on the basis of Article 13(3) thereof, to rule on a claim for compensation brought at the same time by that person against the policyholder or the insured who is domiciled in another Member State and who has not been challenged by the insurer.

(1) OJ C 110, 29.3.2021.

Request for a preliminary ruling from the Oberlandesgericht Stuttgart (Germany) lodged on 13 October 2021 — O.K. v Mercedes-Benz Bank AG

(Case C-630/21)

(2022/C 73/08)

Language of the case: German

Referring court

Oberlandesgericht Stuttgart

Parties to the main proceedings

Applicant and appellant: O.K.

Defendant and respondent: Mercedes-Benz Bank AG

Questions referred

1. Is Article 14 of Directive 2008/48 (1) to be interpreted as meaning that the consumer's right of withdrawal no longer exists if the credit agreement has been fully performed by both parties?

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

   Does Article 14 of Directive 2008/48 preclude a rule in the national law of a Member State which has the effect that the consumer's right of withdrawal can no longer be exercised if the credit agreement has been fully performed by both parties?

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

   Does Article 14(3) of Directive 2008/48 preclude a rule in the national law of a Member State under which a consumer who has effectively exercised his or her right of withdrawal based on Article 14(1) of Directive 2008/48 has a right to have the creditor surrender the benefits that it has derived from the payments that the consumer has made to it up to the time of withdrawal?

(1) Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ 2008 L 133, p. 66).

Request for a preliminary ruling from the Sąd Okręgowy w Słupsku (Poland) lodged on 25 October 2021 — Criminal proceedings against D.K.

(Case C-647/21)

(2022/C 73/09)

Language of the case: Polish

Referring court

Sąd Okręgowy w Słupsku

Party to the main proceedings

D.K.

Questions referred

1. Must the second subparagraph of Article 19(1) TEU, in conjunction with Article 47 of the Charter of Fundamental Rights, be interpreted as precluding national legislation such as Article 47b(5) and (6) of the Ustawa z dnia 27 lipca 2001 r. — Prawo o ustroju sądów powszechnych (Law of 27 July 2001 on the system of ordinary courts), in conjunction with Articles 30(1) and 24(1) thereof, under which a body of a national court, such as the college of a court, has the power to release a judge of that court from the obligation to hear some or all of the cases assigned to him or her, in the case where:

   (a) the composition of the college includes, by law, the presidents of courts appointed to those posts by an executive body, such as the Minister for Justice, who is also the Public Prosecutor General;

   (b) the judge is released, without his or her consent, from the obligation to hear the cases assigned to him or her;

   (c) national law does not lay down any criteria to guide the college of a court when releasing a judge from the obligation to hear the cases assigned to him or her, nor does it lay down any obligation to state reasons and to conduct a judicial review of that release;

   (d) some of the members of the college of the court were appointed to the post of judge in circumstances similar to those referred to in the judgment of the Court of Justice of 15 July 2021 in *Commission* v *Poland* (disciplinary regime applicable to judges) (C-791/19, EU:C:2021:596)?

2. Must the provisions referred to in Question 1, and also the principle of primacy, be interpreted as empowering (or obliging) a national court hearing a case in criminal proceedings coming within the scope of Directive 2016/343, ([1]) the judge dealing with which has been released from the obligation to hear cases in the manner described in Question 1, and all public bodies, to disregard an act of the college of a court and other acts issued subsequently, such as an order reassigning cases, including the case in the main proceedings, without the consent of the judge who has been released, so that he or she can continue to sit on the panel hearing that case?

3. Must the provisions referred to in Question 1, and also the principle of primacy, be interpreted as requiring the existence in the national legal order, in criminal proceedings coming within the scope of Directive 2016/343, of remedies of the kind which ensure that the parties to the proceedings, such as the defendant in the main proceedings, can secure a review of, and appeal against, decisions such as those referred to in [Question 1], which are intended to bring about a change in the composition of the panel hearing the case and consequently to release the judge hitherto assigned to hear the case from the obligation to do so, in the manner described in Question 1?

([1]) Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ 2016 L 65, p. 1).

Request for a preliminary ruling from the Sąd Okręgowy w Słupsku (Poland) lodged on 25 October 2021 — Criminal proceedings against M.C., M.F.

(Case C-648/21)

(2022/C 73/10)

Language of the case: Polish

Referring court

Sąd Okręgowy w Słupsku

Parties to the main proceedings

M.C., M.F.

Questions referred

1. Must the second subparagraph of Article 19(1) TEU, in conjunction with Article 47 of the Charter of Fundamental Rights, be interpreted as precluding national legislation such as Article 47b(5) and (6) of the Ustawa z dnia 27 lipca 2001 r. — Prawo o ustroju sądów powszechnych (Law of 27 July 2001 on the system of ordinary courts), in conjunction with Articles 30(1) and 24(1) thereof, under which a body of a national court, such as the college of a court, has the power to release a judge of that court from the obligation to hear some or all of the cases assigned to him or her, in the case where:

   (a) the composition of the college includes, by law, the presidents of courts appointed to those posts by an executive body, such as the Minister for Justice, who is also the Public Prosecutor General;

   (b) the judge is released, without his or her consent, from the obligation to hear the cases assigned to him or her;

   (c) national law does not lay down any criteria to guide the college of a court when releasing a judge from the obligation to hear the cases assigned to him or her, nor does it lay down any obligation to state reasons and to conduct a judicial review of that release;

   (d) some of the members of the college of the court were appointed to the post of judge in circumstances similar to those referred to in the judgment of the Court of Justice of 15 July 2021 in *Commission* v *Poland* (disciplinary regime applicable to judges) (C-791/19, EU:C:2021:596)?

2. Must the provisions referred to in Question 1, and also the principle of primacy, be interpreted as empowering (or obliging) a national court hearing a case in criminal proceedings coming within the scope of Directive 2016/343, ([1]) the judge dealing with which has been released from the obligation to hear cases in the manner described in Question 1, and all public bodies, to disregard an act of the college of a court and other acts issued subsequently, such as an order reassigning cases, including the case in the main proceedings, without the consent of the judge who has been released, so that he or she can continue to sit on the panel hearing that case?

3. Must the provisions referred to in Question 1, and also the principle of primacy, be interpreted as requiring the existence in the national legal order, in criminal proceedings coming within the scope of Directive 2016/343, of remedies of the kind which ensure that the parties to the proceedings, such as the defendant in the main proceedings, can secure a review of, and appeal against, decisions such as those referred to in [Question 1], which are intended to bring about a change in the composition of the panel hearing the case and consequently to release the judge hitherto assigned to hear the case from the obligation to do so, in the manner described in Question 1?

([1]) Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ 2016 L 65, p. 1).

Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 27 October 2021 — FW, CE

(Case C-650/21)

(2022/C 73/11)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Appellants on a point of law: FW, CE

Respondent authorities: Landespolizeidirektion Niederösterreich, Finanzamt Österreich

Questions referred

1. Is EU law, in particular Articles 1, 2 and 6 of Directive 2000/78/EC, ([1]) in conjunction with Article 21 of the Charter of Fundamental Rights, to be interpreted as precluding national legislation under which a remuneration system which discriminates on grounds of age is replaced by a remuneration system, under which the classification of a civil servant continues to be determined on the basis of the remuneration seniority determined with effect from a particular transition month (February 2015) in a discriminatory manner under the old remuneration system and, in that context, is subject to a correction in respect of the initially determined previous periods of service through the determination of a comparison reference date, but under which, with regard to the periods completed after the civil servant's 18th birthday, only the other periods, of which half must be taken into account, are subject to review, and under which the four-year extension of the period in which previous periods of service must be taken into account is juxtaposed with the fact that the other periods, of which half must be taken into account, must be accredited as periods preceding the date of appointment in the determination of the comparison reference date only in so far as they exceed the total amount of four years, of which half must be taken into account (flat-rate deduction of four years, of which half must be taken into account)?

2. Is Question 1 to be answered differently in respect of proceedings in which, although a new advancement reference date was already definitively determined before the entry into force of the 2. Dienstrechts-Novelle 2019 (2nd Law amending the rules relating to public servants 2019), that date still had no effect on the civil servant's remuneration status because the authority had not yet taken a decision in direct application of EU law, and in which the comparison reference date must now once again be redetermined by reference to the advancement reference date determined in an age-discriminatory manner without taking into account the advancement reference date determined in the meantime, and the other periods, of which half must be taken into account, are subject to the flat-rate deduction?

3. Is EU law, in particular Articles 1, 2 and 6 of Directive 2000/78/EC, in conjunction with Article 21 of the Charter of Fundamental Rights, to be interpreted as precluding national legislation under which, despite the redetermination of remuneration seniority and remuneration status, periods in a training relationship with a domestic local or regional authority must be accredited as periods preceding the date of appointment in the determination of the comparison reference date only if the civil servant entered the employment relationship after 31 March 2000 and, otherwise, those periods are accredited only as other periods, of which half must be taken into account, and are thus subject to the flat-rate deduction, with the result that that legislation tends to disadvantage longer-serving civil servants?

([1]) Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ 2000 L 303, p. 16).

Request for a preliminary ruling from the Raad van State (Belgium) lodged on 29 October 2021 — VZW Belgische Vereniging van de Industrie van Plantenbeschermingsmiddelen (PHYTOFAR) v Vlaams Gewest

(Case C-658/21)

(2022/C 73/12)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Applicant: VZW Belgische Vereniging van de Industrie van Plantenbeschermingsmiddelen (PHYTOFAR)

Defendant: Vlaams Gewest

Question referred

Must Article 5(1) of Directive 2015/1535/EU [1] of the European Parliament and of the Council of 9 September 2015 'laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services' be interpreted as meaning that a prohibition on the use of pesticides containing glyphosate on land in private use by users who do not have a phytosanitary licence is deemed to concern a technical regulation which must be communicated to the European Commission in accordance with the provisions of that article?

[1] OJ 2015 L 241, p. 1.

Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 5 November 2021 — Bundesamt für Fremdenwesen und Asyl

(Case C-663/21)

(2022/C 73/13)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Appellant: Bundesamt für Fremdenwesen und Asyl

Interested party: AA

Questions referred

1. In the assessment as to whether the asylum status previously granted to a refugee by the competent authority can be revoked on the ground set out in Article 14(4)(b) of Directive 2011/95/EU, [1] must the competent authority carry out a weighing up of interests in such a way that revocation requires that the public interests in forced return must outweigh the refugee's interests in the continuation of the protection afforded by the State of refuge, whereby the reprehensibility of a crime and the potential danger to society must be weighed against the foreign national's interests in protection — including with regard to the extent and nature of the measures with which he or she is threatened?

2. Do the provisions of Directive 2008/115/EC, [2] in particular Articles 5, 6, 8 and 9 thereof, preclude a situation under national law in which a return decision is to be adopted in respect of a third-country national whose previous right of residence as a refugee is withdrawn due to the revocation of asylum status, even if it is already declared at the time of adoption of the return decision that his or her removal is not permissible for an indefinite period of time on account of the principle of non-refoulement, and this is also declared capable of having legal force?

[1] Directive of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ 2011 L 337, p. 9).

[2] Directive 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).

Request for a preliminary ruling from the Tribunal de première instance francophone de Bruxelles (Belgium) lodged on 11 November 2021 — UL, SA Royal Antwerp Football Club v Union royale belge des sociétés de football association ASBL

(Case C-680/21)

(2022/C 73/14)

Language of the case: French

Referring court

Tribunal de première instance francophone de Bruxelles

Parties to the main proceedings

Applicants: UL, SA Royal Antwerp Football Club

Defendant: Union royale belge des sociétés de football association ASBL

Questions referred

1. Is Article 101 TFEU to be interpreted as precluding the plan relating to 'HGPs' adopted on 2 February 2005 by UEFA's Executive Committee, approved by UEFA's 52 member associations at the Tallinn Congress on 21 April 2005 and implemented by means of regulations adopted both by UEFA and by its member federations?

2. Are Articles 45 and 101 TFEU to be interpreted as precluding the application of the rules on the inclusion on the match sheet and the fielding of locally trained players, as formalised by Articles P335.11 and P.1422 of the URBSFA's federal regulation and reproduced in Articles B4.1[12] of Title 4 and B6.109 of Title 6 of the new URBSFA regulation?

Appeal brought on 18 November 2021 by EDP España, S.A. against the judgment of the General Court (Seventh Chamber) delivered on 8 September 2021 in Case T-328/18, Naturgy Energy Group v Commission

(Case C-693/21 P)

(2022/C 73/15)

Language of the case: Spanish

Parties

Appellant: EDP España, S.A. (represented by: J.L. Buendía Sierra, A. Lamadrid de Pablo, V. Romero Algarra, lawyers)

Other parties to the proceedings: Naturgy Energy Group, S.A., formerly Gas Natural SDG, S.A., European Commission, Viesgo Producción, S.L., sucessor in title to Viesgo Generación, S.L.

Form of order sought

The appellant claims that the Court should:

— declare admissible and well-founded the grounds of appeal set out in the present appeal,

— set aside the judgment of the General Court of 8 September 2021 in Case T-328/18, *Naturgy Energy Group, S.A.* v *Commission,*

— annul Commission Decision of 27 November 2017 concerning State Aid SA.47912 (2017/NN) ([1]) — Environmental incentive adopted by Spain in favour of coal-fired power plants, initiating the formal investigation procedure laid down by Article 108(2) of the Treaty on the Functioning of the European Union.

— Order the European Commission to pay the costs.

Pleas in law and main arguments

The appellant respectfully requests that the judgment under appeal should be set aside on the following grounds:

First ground of appeal: the Court misinterpreted and misapplied the obligation to state reasons with respect to the concept of selectivity.

The appellant submits that the Court should avoid drawing the legal inference which arises from the case-law of the Courts of the European Union, the application of which it disputes in the present case, that is to say that as a consequence of the failure to state reasons in relation to the concept of selectivity, the decision to initiate must be annulled. Moreover, the Court seeks to remedy that failure to state reasons by reconstructing it, contrary to the case-law, in an attempt to state reasons on the basis of various paragraphs of the decision.

Second ground of appeal: in the event that the Court of Justice does not uphold the first ground of appeal, the General Court incorrectly interpreted and applied Article 107(1) TFEU, in relation to the concept of selectivity.

In particular, the appellant submits that the Court erred in considering that its review should be limited to the issue of whether the Commission committed a manifest error of assessment. The General Court erred in that it focused its analysis on whether the parties had 'manifestly' succeeded in proving that the Commission erred in its analysis and not on the relevant issue, that is to say whether or not the Commission erred in analysing the selectivity. In any event, even if that were the applicable test, the General Court should have concluded that the Commission committed a manifest error of assessment in examining the requirement of selectivity.

(1) OJ 2018 C 80, p. 20.

Appeal brought on 18 November 2021 by GABO:mi Gesellschaft für Ablauforganisation:milliarium mbH & Co. KG against the order of the General Court (Fifth Chamber) delivered on 9 September 2021 in Case T-881/19, GABO:mi v Commission

(Case C-696/21 P)

(2022/C 73/16)

Language of the case: English

Parties

Appellant: GABO:mi Gesellschaft für Ablauforganisation:milliarium mbH & Co. KG (represented by: Ch. Mayer, Rechtsanwalt)

Other party to the proceedings: European Commission

Form of order sought

The applicant claims that the Court should:

— set aside the order under appeal insofar as it does not relate to the grant agreements that were signed by REA or IMI-JU (CANCER-ID, DIACAT, EU-AIMS, EUC²LID, EUROFORGEN, ONCOTRACK, RADAR-CNS), and order the defendant to pay EUR 1 304 465,36 plus interests of EUR 74 024,01 to Mr. Ivo-Meinert Willrodt as insolvency administrator for GABO:mi Gesellschaft für Ablauforganisation:milliarium mbhH & Co. KG;

— in the alternative, set aside the order under appeal insofar as it does not relate to the grant agreements that were signed by REA or IMI-JU (CANCER-ID, DIACAT, EU-AIMS, EUC²LID, EUROFORGEN, ONCOTRACK, RADAR-CNS), and declare the action brought by the Appellant before the General Court of the European Union admissible, and refer the case back to the General Court of the European Union for a judgment on the merits;

— in the alternative, set aside the order under appeal insofar as it does not relate to the grant agreements that were signed by REA or IMI-JU, and refer the case back to the General Court of the European Union and

— order the defendant to bear all costs of the proceedings.

Pleas in law and main arguments

1. **First ground of appeal: Breach of the right to a fair trial by a breach of duty to inform**

With the finding of the inadmissibility of the action without having informed the applicant of its supposed lack of precision of the subject matter beforehand, the General Court has breached the right to a fair trial.

The right enshrined in Article 47 of the Charter has to entail a duty of care for the parties to the proceedings that is concretised here as a duty to explicitly inform the parties of the court's legal opinion before a decision is made and to invite them to comment or, if necessary, to provide further clarification. This must apply especially in a case such as the present one, in which there are apparently also misunderstandings about the extent of the documents available to the appellant (then applicant), and where — according to the opinion of the General Court — the claim was simply not sufficiently substantiated.

2. **Second ground of appeal: incorrect application of Article 76 (d) of the Rules of Procedure of the General Court**

The General Court's finding that the application did not fulfil the requirements of Article 76 (d) of the Rules of Procedure of the General Court is erroneous in law. The General Court overstretches the requirements for the substantiation of an action pursuant to that article.

In particular, contrary to the General Court's assumption, an adequate defence for the Commission was possible, and it was also possible for the General Court to rule on the action. This is especially so, because the Commission had already accepted the claims made by the applicant.

Furthermore, the application was not vague and unspecific as regards the amounts claimed by the applicant.

In addition, contrary to the General Court's finding, the action did not lack clarity in its entirety; there especially was no 'inconsistency' between the legal basis relied on and the arguments put forward.

Appeal brought on 19 November 2021 by Naturgy Energy Group, S.A, formerly Gas Natural SDG, S. A. against the judgment of the General Court (Seventh Chamber) delivered on 8 September 2021 in Case T- 328/18, Naturgy Energy Group v Commission

(Case C-698/21 P)

(2022/C 73/17)

Language of the case: Spanish

Parties

Appellant: Naturgy Energy Group, S.A., formerly Gas Natural SDG, S.A. (represented by: F. González Díaz and J. Blanco Carol, lawyers)

Other parties to the proceedings: European Commission, EDP España, S.A., Viesgo Producción, S.L., sucessor in title to Viesgo Generación, S.L.

Form of order sought

The appellant claims that the Court of Justice should:

— set aside the judgment of the General Court of 8 September 2021 in Case T-328/18, *Naturgy Energy Group* v *Commission*;

— give final judgment in the matter, without referring the case back to the General Court as permitted by Article 61 of the Statute of the Court of Justice, by annulling Decision C(2017) 7733 final of 27 November 2017 concerning State Aid SA.47912 (2017/NN) ([1]) — Spain; Environmental incentive in favour of coal-fired power plants;

— order the Commission to pay the costs in both the present proceedings and in the proceedings before the General Court.

Pleas in law and main arguments

In support of its appeal, the appellant relies on the following two grounds of appeal:

1. **First ground of appeal, alleging an error of law in the review of the statement of reasons of the decision at issue with respect to the selective nature of the measure at issue.**

Naturgy submits that the General Court's examination of the reasoning for the decision at issue with respect to the selectivity of the measure at issue is vitiated by an error of law.

In summary, Naturgy submits that it is impossible to conclude that the statement of reasons for the initiation decision is lawful when it neither refers to the comparability analysis required by the case-law to justify the selective nature of aid, nor includes, even summarily, a statement, albeit preliminary, of the reasons why, by virtue of that comparability analysis, the measure at issue is selective. The General Court cannot lawfully rely on the provisional nature of the initiation decision in order to apply an incorrect standard of reasoning. In particular, in view of the fact that the initiation decision concerns a measure which is in the process of being implemented and which therefore has significant legal effects in relation to its beneficiaries, the General Court should have required the Commission to state reasons in accordance with the standards laid down by the case-law on selectivity, even if those reasons were brief and provisional.

2. **Second ground of appeal alleging an error in law in the review of the application of Article 107(1) TFEU in relation to the selective nature of the measure at issue.**

Naturgy submits that the conclusion of the General Court's examination of the characterisation of the measure at issue as selective carried out by the Commission is vitiated by errors of law. Naturgy submits that the General Court not only erred in law by considering that the legal criteria for reviewing the selective nature of a measure would be different depending on whether the measure at issue was analysed before or after the initiation of the formal investigation procedure, but also erred in law by reversing the burden of proof and failing to find that the Commission erred by concluding, on the basis of the reasoning of the initiation decision, that the measure at issue is selective and/or by failing to establish the selective nature of the measure in accordance with the law.

([1]) OJ 2018 C 80, p. 20.

Request for a preliminary ruling from the Corte costituzionale (Italy) lodged on 22 November 2021 — E.D.L.

(Case C-699/21)

(2022/C 73/18)

Language of the case: Italian

Referring court

Corte costituzionale

Party to the main proceedings

E.D.L.

Question referred

Must Article 1(3) of Council Framework Decision 2002/584/JHA on the European arrest warrant, ([1]) examined in the light of Articles 3, 4 and 35 of the Charter of Fundamental Rights of the European Union, be interpreted as meaning that, where it considers that the surrender of a person suffering from a serious chronic and potentially irreversible disease may expose that person to the risk of suffering serious harm to his or her health, the executing judicial authority must request that the issuing judicial authority provide information enabling the existence of such a risk to be ruled out, and must refuse to surrender the person in question if it does not obtain assurances to that effect within a reasonable period of time?

([1]) Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ 2002 L 190, p. 1).

Request for a preliminary ruling from the Corte costituzionale (Italy) lodged on 22 November 2021 — O.G.

(Case C-700/21)

(2022/C 73/19)

Language of the case: Italian

Referring court

Corte costituzionale

Party to the main proceedings

O.G.

Questions referred

(a) Does Article 4(6) of Council [Framework Decision] 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, [1] interpreted in the light of Article 1(3) of that decision and Article 7 of the Charter of Fundamental Rights of the European Union, preclude legislation, such as the Italian legislation, that — in the context of a European arrest warrant procedure for the purpose of executing a custodial sentence or detention order — absolutely and automatically precludes the executing judicial authorities from refusing to surrender third-country nationals staying or residing in Italian territory, irrespective of the links those individuals have with that territory?

(b) If the answer to the first question is in the affirmative, what criteria and assumptions are used to establish that such links are to be regarded as so significant as to require the executing judicial authority to refuse surrender?

[1] OJ 2002 L 190, p. 1.

Request for a preliminary ruling from the Cour de cassation du Grand-Duché de Luxembourg (Luxembourg) lodged on 1 December 2021 — GV v Caisse nationale d'assurance pension

(Case C-731/21)

(2022/C 73/20)

Language of the case: French

Referring court

Cour de cassation du Grand-Duché de Luxembourg

Parties to the main proceedings

Appellant in cassation: GV

Respondent in cassation: Caisse nationale d'assurance pension

Question referred

Does European Union law, in particular Articles 18, 45 and 48 of the Treaty on the Functioning of the European Union and Article 7(2) of Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union, [1] preclude provisions of the law of a Member State, such as Article 195 of the Luxembourg Social Security Code and Articles 3, 4 and 4-1 of the amended Law of 9 July 2004 on the legal effects of certain partnerships, which make the grant, to the surviving partner of a partnership properly entered into and registered in the Member State of origin, of a survivor's pension, due as a result of the exercise by the deceased partner of a professional activity in the host Member State, subject to the condition that the partnership was recorded in a register kept by that State for the purposes of verifying compliance with the substantive conditions required by the law of that Member State in order to recognise a partnership and ensure its effectiveness vis-à-vis third parties, whereas the grant of a survivor's pension to the surviving partner of a partnership entered into in the host Member State is subject to the sole condition that the partnership has been properly entered into and registered there?

[1] OJ 2011 L 141, p. 1.

Appeal brought on 3 December 2021 by PAO Severstal against the judgment of the General Court (Tenth Chamber) delivered on 22 September 2021 in Case T-753/16, Severstal v Commission

(Case C-747/21 P)

(2022/C 73/21)

Language of the case: English

Parties

Appellant: PAO Severstal (represented by: M. Krestiyanova and N. Tuominen, lawyers)

Other parties to the proceedings: European Commission and Eurofer, European Steel Association, ASBL

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal;

— give final judgment in the matter, where the state of the proceedings so permits,

— in the alternative, refer the case for reconsideration to the General Court;

— order the Commission to pay the costs of the proceedings before the Court of Justice as well as the costs of the proceedings before the General Court.

Pleas in law and main arguments

The appeal is based on the following grounds:

— First, the General Court committed an error in law by misinterpreting Article 18(1) of the basic regulation ([1]) and made substantially incorrect findings of facts. The General Court started from the premise that the product concerned was semi-finished, without any explanation. However, that was/is the first contentious point between the parties. Stopping short of considering this contentious point, let alone appreciating its significance for the application of Article 18(1), the General Court fails to fathom that, without settling this first disagreement between the parties, it is impossible to reach any conclusion as to whether the Commission applied Article 18(1) correctly or not in the current proceedings.

— Second, the General Court committed a manifest error of assessment when interpreting Article 9(4) of the basic regulation and by failing to address essential arguments, or to provide reasons. Under the General Court's protection, the Commission exceeded by far the limits of the investigation period, by choosing 2008 as 'the most recent representative year' unaffected by the financial crisis. Relatedly, the Appellant argues that the Contested Judgment's finding of injury is vitiated in that it is not the result of a balancing of both positive and negative relevant factors. In that context, the Appellant argued that a reduction of the Union industry's costs of production should, among other factors, be also associated with the situation of the Union industry following the global financial crisis of 2012. However, the General Court refused to even consider whether the financial crisis would have also affected the injury chain.

— Third, the General Court committed an error in law by misinterpreting Article 2(9) of the basic regulation and by failing to address all arguments, some raised by the General Court itself. The General Court defied its own case law to unlawfully find that Article 2(9) adjustments could also be used by analogy for the injury margin calculation. The adjustment for SG&A and profit to the CIF export price of the Appellant for injury margin purposes is inadequate, unreasonable and constitutes a manifest error of assessment, since the only relevant export price is the actual open market (CIF) Union border price entering the Union market and the competing open market price of the Union industry. The Applicant's view finds support in the judgment of the General Court, T-383/17, Hansol Paper v Commission ([2]) (paragraphs 196 to 204).

([1]) Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ 2009 L 343, p. 51, corrigendum OJ 2010 L 7, p. 22).

([2]) Judgment of the General Court of 2 April 2020 (Case T-383/17, Hansol Paper v Commission, EU:T:2020:139).

Appeal brought on 3 December 2021 by Novolipetsk Steel PAO against the judgment of the General Court (Tenth Chamber) delivered on 22 September 2021 in Case T-752/16, NLMK v Commission

(Case C-748/21 P)

(2022/C 73/22)

Language of the case: English

Parties

Appellant: Novolipetsk Steel PAO (represented by: M. Krestiyanova and N. Tuominen, lawyers)

Other parties to the proceedings: European Commission and Eurofer, European Steel Association, ASBL

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal;

— give final judgment in the matter, where the state of the proceedings so permits,

— in the alternative, refer the case for reconsideration to the General Court;

— order the Commission to pay the costs of the proceedings before the Court of Justice as well as the costs of the proceedings before the General Court.

Pleas in law and main arguments

The appeal is based on the following grounds:

— First, the General Court committed an error in law by misinterpreting Article 18(1) of the basic regulation ([1]), made substantially incorrect findings of facts and distorted the clear sense of the evidence. The General Court started from the premise that the product concerned was semi-finished and failed to provide any reasoning as to why it simply assimilated the Commission's view on this. However, this is the first contentious point between the parties, and it significantly affects the way Article 18(1) of the basic regulation must be applied. Stopping short of considering this contentious point, let alone appreciating its significance for the application of Article 18(1), the General Court fails to fathom that, without settling this first disagreement between the parties, it is impossible to reach any conclusion as to whether the Commission applied Article 18(1) correctly or not in the current proceedings.

— Second, the General Court committed a manifest error of assessment when interpreting Article 9(4) of the basic regulation and by failing to address essential arguments, or to provide reasons. Under the General Court's protection, the Commission exceeded by far the limits of the investigation period or of the period considered, by choosing 2008 as 'the most recent representative year' following the financial crisis. Relatedly, the Appellant argues that the Contested Judgment's finding of injury is vitiated in that it is not the result of a balancing of both positive and negative relevant factors. In that context, the Appellant argued that a reduction of the Union industry's costs of production should, among other factors, be also associated with the situation of the Union industry following the global financial crisis of 2012. However, the General Court refused to even consider whether the financial crisis would have also affected the injury chain.

— Third, the General Court committed an error in law by misinterpreting Article 2(9) of the basic regulation and by failing to address all arguments, some raised by the General Court itself. The General Court defied its own case law to find in contradiction with the law that Article 2(9) adjustments could also be used by analogy for the injury margin calculation. The adjustment for SG&A and profit to the CIF export price of the Appellant for injury margin purposes is inadequate, unreasonable and constitutes a manifest error of assessment, since the only relevant export price is the actual open

market (CIF) Union border price entering the Union market and the competing open market price of the Union industry. The Applicant's view finds support in the judgment of the General Court, Hansol Paper v Commission, T-383/17 ([2]) (paragraphs 196 to 204).

([1]) Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ 2009 L 343, p. 51, corrigendum OJ 2010 L 7, p. 22).

([2]) Judgment of the General Court of 2 April 2020 (Case T-383/17, Hansol Paper v Commission, EU:T:2020:139).

Appeal brought on 8 December 2021: Marián Kočner against the judgment of the General Court (Eighth Chamber) delivered on 29 September 2021 in Case T-528/20 Kočner v Europol

(Case C-755/21 P)

(2022/C 73/23)

Language of the case: Slovak

Parties

Appellant: Marián Kočner (represented by: M. Mandzák, M. Para, advokáti)

Other parties to the proceedings: European Union Agency for Law Enforcement Cooperation, Kingdom of Spain

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal in full;

— refer the case back to the General Court;

— declare that the General Court is to decide on the costs of the proceedings.

Pleas in law and main arguments

The appellant relies on two harmful events. The appeal is in total made up of six grounds. The General Court is alleged to have erred in the legal assessment of the case and to have incorrectly applied the substantive law, especially as regards the joint and several liability for damage of the defendant and the Member State, to have incorrectly interpreted the national law, to have incorrectly established that there was a lack of a causal link between the defendant's conduct and the harmful event, to have stated insufficient reasons for the judgment under appeal and to have distorted the evidence.

Appeal brought on 10 December 2021 by TUIfly GmbH against the judgment of the General Court (Fifth Chamber) delivered on 29 September 2021 in Case T-447/18, TUIfly GmbH v European Commission

(Case C-763/21 P)

(2022/C 73/24)

Language of the case: German

Parties

Appellant: TUIfly GmbH (represented by: L. Giesberts and D.J. Westarp, Rechtsanwälte)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court of the European Union of 29 September 2021 in Case T-447/18 in its entirety and annul Articles 7 and 8 of Commission Decision (EU) 2018/628 of 11 November 2016 on State aid SA.24221(2011/C) (ex 2011/NN) implemented by Austria for the Klagenfurt airport, Ryanair and other airlines using the airport (OJ 2018 L 107, p. 1.), and Articles 9, 10 and 11 thereof, in so far as they refer to Articles 7 and 8;

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

Grounds of appeal and main arguments

In support of its appeal, the appellant relies on two grounds of appeal.

First, in the judgment under appeal, the General Court misinterpreted Article 107(1) TFEU and thus infringed EU law. In the context of Article 107(1) TFEU, the General Court exceeded, in its application of the market economy investor principle, the limits of what is permissible in the interpretation of EU law.

On the one hand, the General Court, like the Commission, incorrectly considered that an advantage had been granted to the appellant. In that regard, in its application of the market economy investor principle, the General Court erred in law by setting out a series of impermissible considerations. First of all, it interpreted Article 107(1) TFEU not strictly objectively but subjectively. In doing so, the General Court (like the Commission) focused on the fact that the Member State had not prepared business plans before the conclusion of the agreements. However, that did not comply with the case-law and administrative practice at the time, with the result that the General Court infringed the requirement of protection of legitimate expectations and the principle of non-retroactivity.

Furthermore, the General Court based its profitability analysis only on short-term considerations of profitability, even though that is substantively incorrect pursuant to the case-law of the Courts of the European Union and did not comply with the administrative practice at the relevant time. In so doing, the General Court erred by retroactively applying to the marketing agreements the Commission's Aviation Guidelines, issued only after the conclusion of those agreements. In addition, the application itself was incorrect. The General Court also provided as reasons for its findings alleged particularities of the low-cost carrier sector that did not exist at the relevant time.

The appellant submits that had due regard been had to long-term profitability considerations and had the abovementioned infringements not occurred, the existence of aid under Article 107(1) TFEU would have had to be rejected.

Second, the appellant complains that the General Court, as regards the potential justification of the aid, applied Article 107 (3)(c) TFEU incorrectly and evidently contradicted itself.

First of all, the assessment criterion chosen by the General Court (solely focusing on the profitability of individual flight connections operated by the appellant) was substantively incorrect, as it failed to take account of the requisite differentiation, pursuant to the legal classification, between facts and justification. Moreover, the criterion (in particular concerning the 2003 marketing agreement) in no way complied with the administrative practice or case-law relevant at the time. In addition, unlike in the case of the aid granted to the airport, the General Court erred in law by failing to take any account, as regards the appellant, of the transport needs of the Carinthia region. That resulted in an irreconcilable contradiction in the assessment on account of the proximity and the identical nature of the interests as regards the aid granted to the airport and to the appellant. The General Court disregarded fundamental assessments of Article 107(3) TFEU and thereby infringed that provision.

The appellant submits that, had Article 107(3) TFEU been legitimately applied, justification of the aid would have had to be accepted.

Appeal brought on 15 December 2021 by Oriol Junqueras i Vies against the order of the General Court (Sixth Chamber) delivered on 5 October 2021 in Case T-613/20, Junqueras i Vies v Parliament

(Case C-780/21 P)

(2022/C 73/25)

Language of the case: Spanish

Parties

Appellant: Oriol Junqueras i Vies (represented by: M. Marsal i Ferret, abogado)

Other party to the proceedings: European Parliament

Form of order sought

The appellant submits that the Court of Justice should:

First. – Set aside the order of the Sixth Chamber of the General Court of the European Union of 5 October 2021 in Case T-613/20;

Second. – Declare the present appeal fully admissible;

Third. — Reinstate the proceedings so that, once the appeal is declared admissible, the Sixth Chamber of the General Court of the European Union may continue its assessment thereof;

Fourth. — Order the European Parliament to pay the costs of the proceedings relating to the objection of inadmissibility and the present appeal proceedings.

Grounds of appeal and main arguments

In support of his appeal, the appellant relies on five grounds of appeal:

First: The order under appeal breaches the requirements of the right to effective judicial protection (Article 47 of the Charter of Fundamental Rights of the European Union ('the Charter'), Articles 6 and 13 of the European Convention on Human Rights and Fundamental Freedoms) in that, by declaring the action inadmissible (together with the decisions not to join cases and not to suspend the procedure), it deprives the judgment of the Court of Justice in Case C-115/21 [P] — and that which the General Court itself may give in Case T-24/20 ([1]) if it takes the same approach — of all effectiveness. This is because the General Court also erred in its interpretation of the legal effects of the judicial decisions that may be given in Cases T-24/20 and C 115/21 [P]. The General Court considers that a fresh decision on the part of the national authorities of the Kingdom of Spain would be necessary in order to reinstate Mr Junqueras in his parliamentary seat, whereas the effect of judicial decisions upholding his claims would be to maintain Mr Junqueras in that seat.

Second: The order under appeal incorrectly interprets the conditions laid down in case-law for it to be found that there is direct concern as regards the contested act, on which grounds it incorrectly concludes that the appellant does not have the standing required under the fourth paragraph of Article 263 TFEU. The order deprives the judicial decisions that may be delivered in Cases C-115/21 [P] and T-24/20 of any effectiveness, and fails to find that, had that act not been adopted, Mr Junqueras' parliamentary seat would remain vacant and there would be no impediment to his reinstatement and the restoration of his rights.

Third: The order infringes the right to equal treatment (Article 20 of the Charter) and the right to effective judicial protection (Article 47 of the Charter). It incorrectly rules that the question of the infringement of those rights arises solely in the exchange of arguments concerning the merits of the case, whereas, had Mr Junqueras received the same treatment as an MEP [Member of the European Parliament] to whom the contested act is addressed (direct application of the effects of the judgment of the Court of Justice of 19 December 2019 in Case C-502/19 ([2]) and decision of the E[uropean] P [arliament] contrary to that communicated by the Kingdom of Spain), the contested act would not have been produced as Mr Junqueras would continue to occupy his parliamentary seat. The infringement of the rights to equal treatment and to effective judicial protection indicate that Mr Junqueras is directly concerned, which gives him standing to institute proceedings under the fourth paragraph of Article 263 TFEU.

Fourth: The order misinterprets the effects of the Charter. The order fails to find that the fact that rights under the Charter are directly affected by the contested act gives rise to standing to institute legal proceedings in accordance with the fourth paragraph of Article 263 TFEU, and fails to recognise that, in the present case, the powers of judicial review of EU law are not altered since Mr Junqueras cannot be required to appeal at national level against an act declaring vacant the parliamentary seat to which he wishes to be reinstated; on which grounds that reasoning is incorrect in law.

Fifth: The order misapplies the principles of effectiveness and of the primacy of EU law. The order errs in law by failing to establish that the contested act is a decision rooted in the desire not to give any meaningful effect to the judgment of the Court of Justice of 19 December 2019 in Case C-502/19, thus infringing the right to effective judicial protection under Article 47 of the Charter in the context of the right to proper enforcement of judgments; consequently, Mr Junqueras has standing to institute proceedings in accordance with the fourth paragraph of Article 263 TFEU.

([1]) Order of 15 December 2020, *Junqueras i Vies* v *Parliament* (T-24/20, EU:T:2020:601).
([2]) Judgment of 19 December 2019, *Junqueras Vies* (C-502/19, EU:C:2019:1115).

Appeal brought on 16 December 2021 by Covestro Deutschland AG against the judgment of the General Court (Third Chamber) delivered on 6 October 2021 in Case T-745/18, Covestro Deutschland AG v European Commission

(Case C-790/21 P)

(2022/C 73/26)

Language of the case: German

Parties

Appellant: Covestro Deutschland AG (represented by: T. Hartmann, M. Kachel, D. Fouquet, Rechtsanwälte)

Other parties to the proceedings: European Commission, Federal Republic of Germany

Form of order sought

The appellant claims that the Court should:

1. set aside the judgment of the General Court of the European Union of 6 October 2021 in Case T-745/18 and annul European Commission Decision SA.34045 (2013/C) (ex 2012/NN) of 28 May 2018, C(2018) 3166, in respect of the years 2012 and 2013;

2. in the alternative, set aside the judgment under appeal and annul the contested decision as against the appellant;

3. in the alternative to the claim under 1., set aside the judgment under appeal and refer the case back to the General Court for a new ruling on the annulment of the contested decision sought;

4. in the alternative to the claim under 2., set aside the judgment under appeal and refer the case back to the General Court for a new ruling on the annulment of the contested decision sought as against the appellant;

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

Grounds of appeal and main arguments

In support of its appeal, the appellant relies on four grounds of appeal.

First and second grounds of appeal: infringement of the right to be heard and of the obligation to state grounds

As regards the first two grounds of appeal, the appellant argues that the General Court infringes procedural requirements of EU law, namely the appellant's right to be heard and the obligation of the General Court to state the grounds for the judgment. As a consequence of those infringements, the General Court errs in law by taking the view that there is State aid within the meaning of Article 107(1) TFEU.

By the first part of those two grounds of appeal, the appellant complains that the General Court did not take account of its submission relating to the determination of the amount of the surcharge under Paragraph 19(2) of the Stromnetzentgeltverordnung (German Ordinance on Electricity Network Charges, 'the StromNEV') when determining whether there is State control (paragraph 8 of the judgment under appeal).

By the second part of those two grounds of appeal, the appellant alleges that the General Court did not take account of its submission relating to the determination of the amount of the surcharge under Paragraph 19(2) of the StromNEV (paragraphs 12, 94, 103, 129, 135 and 146 of the judgment under appeal).

By the third part of those two grounds of appeal, the appellant complains that the General Court did not take account of its submission relating to the non-compensation of all losses in revenue and all costs resulting from the grant of exemptions from network charges (paragraphs 130 and 143 of the judgment under appeal).

By the fourth part of those two grounds of appeal, the appellant complains that the General Court did not take account of its submission relating to the invalidity of the decision of the Bundesnetzagentur (Federal Network Agency) of 2011 when determining whether the resources are State resources (paragraphs 107 and 125 of the judgment under appeal).

Third ground of appeal: infringement of Article 107(1) TFEU

As regards its third ground of appeal, the appellant further argues that the General Court infringes substantive EU law by regarding the surcharge under Paragraph 19(2) of the StromNEV as State aid within the meaning of Article 107(1) TFEU (paragraphs 78 to 145 of the judgment under appeal).

First, the appellant complains in that regard that the General Court applies in its assessment legally erroneous criteria under State aid law in taking the view that the surcharge in question constitutes an advantage. The General Court incorrectly takes the view that there is an advantage and fails to acknowledge the non-selectivity resulting from the very nature of the matter and from the scheme of the StromNEV.

Secondly, the appellant complains that the General Court incorrectly regards the surcharge under Paragraph 19(2) of the StromNEV as aid granted through State resources. In that regard, the General Court uses an incorrect point of reference for the assessment of whether the resources are State resources and wrongly takes the view that there is a levy indicating that the resources are State resources.

Thirdly, the appellant also complains that the General Court errs in law by taking the view that there is State control over the resources of the surcharge under Paragraph 19(2) of the StromNEV.

Fourth ground of appeal: infringement of the prohibition of discrimination

Lastly, the appellant alleges in its fourth ground of appeal an infringement of the prohibition of discrimination in so far as the General Court, first, fails to acknowledge the unlawful difference in treatment vis-à-vis the transitional rule under Paragraph 32(7) of the StromNEV 2013 as a result of the recovery of aid ordered by the Commission in the contested decision; secondly, makes an impermissible distinction between baseload consumers; and, thirdly, unjustifiably treats countercyclical consumers and baseload consumers in the same way (paragraphs 192 to 210 of the judgment under appeal).

Appeal brought on 16 December 2021 by the Federal Republic of Germany against the judgment of the General Court (Third Chamber) delivered on 6 October 2021 in Case T-745/18, Covestro Deutschland AG v European Commission

(Case C-791/21 P)

(2022/C 73/27)

Language of the case: German

Parties

Appellant: Federal Republic of Germany (represented by: J. Möller and R. Kanitz, acting as Agents)

Other parties to the proceedings: Covestro Deutschland AG, European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal of the General Court of the European Union of 6 October 2021 in Case T-745/18, in so far as it dismissed the action as unfounded;

— annul the Commission's Decision of 28 May 2018 on State aid SA.34045 (2013/c) (ex 2012/NN) implemented by Germany for baseload consumers under Paragraph 19 StromNEV C(2018) 3166 final, for the years 2012 and 2013 in accordance with Article 61(1) of the Statute of the Court of Justice;

— order the Commission to pay the costs before the General Court and the Court of Justice.

Grounds of appeal and main arguments

The appellant relies on a single ground of appeal, in which it alleges an infringement of Article 107(1) TFEU. According to the appellant, the General Court erred in law in assuming that the scheme in Paragraph 19(2) of the German Stromnetzentgeltverordnung (StromNEV) (Regulation on electricity network charges) constitutes State aid as provided for in Article 107(1) TFEU.

First, the General Court erred in law in finding, in the context of the assessment of the State nature of the network charges, that the existence of a mandatory charge on consumers or end users and the State control over the funds or over the administrators of those funds constituted two factors that were 'part of an alternative'.

Secondly, the General Court erred in law in finding, in the context of the assessment whether there is a 'mandatory charge on consumers or end users', that the relationship between an electricity supplier and electricity end users was irrelevant. In addition, the General Court erred in law by taking into account the obligation to levy and not the legal obligation to pay network charges.

Thirdly, the General Court erred in law in holding, in the context of the assessment whether State control or State power to dispose of funds exists, that the exclusive use of the network charges collected did not rule out that the State could dispose of those funds.

Appeal brought on 16 December 2021 by AZ against the judgment of the General Court (Third Chamber) delivered on 6 October 2021 in Case T-196/19, AZ v Commission

(Case C-792/21 P)

(2022/C 73/28)

Language of the case: German

Parties

Appellant: AZ (represented by: T. Hartmann, D. Fouquet, M. Kachel, Rechtsanwälte)

Other parties to the proceedings: European Commission, Federal Republic of Germany

Form of order sought

The appellant claims that the Court should:

1. (a) set aside the judgment of the General Court of the European Union of 6 October 2021, Case T-196/19, and annul European Commission Decision SA.34045 (2013/C) (ex 2012/NN) of 28 May 2018 notified under document C(2018) 3166 in respect of the years 2012 and 2013;

   (b) in the alternative to (a), set aside the judgment under appeal and annul the contested decision as against the appellant;

2. in the alternative to 1.,

   (a) set aside the judgment under appeal and annul the contested decision in so far as it orders that baseload consumers with at least 7 000 annual hours of use repay more than 20 % of the published network charges, baseload consumers with at least 7 500 annual hours of use repay more than 15 % of the published network charges and baseload consumers with at least 8 000 annual hours of use repay more than 10 % of the published network charges, and refer the case back to the General Court as to the remainder for a new ruling on claim 1(a) made at first instance seeking annulment of the contested decision also as to the remainder;

   (b) in the alternative to (a), set aside the judgment under appeal and annul the contested decision as against the appellant in so far as it orders that baseload consumers with at least 7 000 annual hours of use repay more than 20 % of the published network charges, and refer the case back to the General Court as to the remainder for a new ruling on claim 1(b) made at first instance seeking annulment of the contested decision in its entirety (or 'also as to the remainder') as against the appellant;

3. in the alternative to 2.,

   (a) set aside the judgment under appeal and refer the case back to the General Court for a new ruling on claim 1(a) made at first instance seeking annulment of the contested decision;

   (b) in the alternative to (a), set aside the judgment under appeal and refer the case back to the General Court for a new ruling on claim 1(b) made at first instance seeking annulment of the contested decision as against the appellant;

4. in the alternative to 3.,

   (a) set aside the judgment under appeal and annul the contested decision in so far as it orders that baseload consumers with at least 7 000 annual hours of use repay more than 20 % of the published network charges, baseload consumers with at least 7 500 annual hours of use repay more than 15 % of the published network charges and baseload consumers with at least 8 000 annual hours of use repay more than 10 % of the published network charges;

   (b) in the alternative to (a), set aside the judgment under appeal and annul the contested decision as against the appellant in so far as it orders that baseload consumers with at least 7 000 annual hours of use repay more than 20 % of the published network charges;

5. in the alternative to 4.,

   (a) set aside the judgment under appeal and refer the case back to the General Court for a new ruling on claim 2(a) made at first instance seeking annulment of the contested decision in so far as it orders that baseload consumers with at least 7 000 annual hours of use repay more than 20 % of the published network charges, baseload consumers with at least 7 500 annual hours of use repay more than 15 % of the published network charges and baseload consumers with at least 8 000 annual hours of use repay more than 10 % of the published network charges;

   (b) in the alternative to (a), set aside the judgment under appeal and refer the case back to the General Court for a new ruling on claim 2(b) made at first instance seeking annulment of the contested decision as against the appellant in so far as it orders that baseload consumers with at least 7 000 annual hours of use repay more than 20 % of the published network charges;

6. order the Commission to pay the costs of the proceedings, including lawyers' fees and travel expenses.

Grounds of appeal and main arguments

In support of the appeal, the appellant relies on four grounds of appeal.

First and second grounds of appeal: infringement of the right to be heard and of the obligation to state grounds

As regards the first two grounds of appeal, the appellant argues that the General Court infringes procedural requirements of EU law, namely the appellant's right to be heard and the obligation of the General Court to state the grounds for the judgment. As a consequence of those infringements, the General Court errs in law by taking the view that there is unauthorised State aid within the meaning of Article 107(1) TFEU.

By the first part of those two grounds of appeal, the appellant complains that the General Court did not take account of its submission relating to the erroneous nature of the reference framework as the basis for determining whether there is a selective advantage (paragraphs 8, 117 and 127 of the judgment under appeal).

By the second part of those two grounds of appeal, the appellant alleges that the General Court did not take account of its submission relating to the determination of the amount of the surcharge under Paragraph 19(2) of the Stromnetzentgeltverordnung (German Ordinance on Electricity Network Charges, 'the StromNEV') (paragraphs 12, 68, 100 and 101 of the judgment under appeal).

By the third part of those two grounds of appeal, the appellant complains that the General Court did not take account of its submission relating to the non-compensation of all losses in revenue and all costs resulting from the grant of exemptions from network charges when determining whether the resources are State resources (paragraphs 95 and 96 of the judgment under appeal).

By the fourth part of those two grounds of appeal, the appellant complains that the General Court did not take account of its submission relating to the invalidity of the decision of the Bundesnetzagentur (Federal Network Agency) of 2011 when determining whether the resources are State resources (paragraph 76 of the judgment under appeal).

Third ground of appeal: infringement of Article 107(1) TFEU

As regards its third ground of appeal, the appellant further argues that the General Court infringes substantive EU law by regarding the surcharge under Paragraph 19(2) of the StromNEV as State aid within the meaning of Article 107(1) TFEU.

First, the appellant complains in that regard that the General Court applies in its assessment legally erroneous criteria under State aid law for a levy under State aid law and for State control (paragraphs 77, 83, 86 and 101 of the judgment under appeal).

Secondly, the appellant complains that the General Court, relying on a distorted presentation of national law, errs in law by regarding the surcharge under Paragraph 19(2) of the StromNEV as a levy under State aid law, even though there was neither an obligation to levy on the part of network operators nor an obligation to pay on the part of network users or final electricity consumers, and network operators were not compensated for all losses in revenue and all costs (paragraphs 68 and 75 to 115 of the judgment under appeal).

Thirdly, the appellant complains that the General Court, relying on a distorted presentation of national law, errs in law by taking the view that there is State control over the surcharge under Paragraph 19(2) of the StromNEV because that Court presupposes an obligation to levy and full coverage of costs and takes the view that the Federal Network Agency determined the amount of the surcharge (paragraphs 100 to 112 of the judgment under appeal).

Fourthly, the appellant complains that the General Court, relying on the distorted presentation of national law, defines an incomplete and erroneous reference framework (paragraphs 8 and 128 to 131 of the judgment under appeal).

Fourth ground of appeal: infringement of the requirement of equal treatment

Lastly, the appellant alleges in its fourth ground of appeal an infringement of the prohibition of discrimination in so far as the General Court fails to acknowledge the unlawful difference in treatment vis-à-vis the transitional rule under Paragraph 32(7) of the StromNEV 2013 as a result of the recovery of aid ordered by the Commission in the contested decision and therefore concludes that there is no breach of the general principle of equal treatment under EU law (paragraph 141 of the judgment under appeal).

Appeal brought on 16 December 2021 by the Federal Republic of Germany against the judgment of the General Court (Third Chamber) delivered on 6 October 2021 in Case T-196/19, AZ v Commission

(Case C-793/21 P)

(2022/C 73/29)

Language of the case: German

Parties

Appellant: Federal Republic of Germany (represented by: J. Möller and R. Kanitz, acting as Agents)

Other parties to the proceedings: AZ, European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal of the General Court of the European Union of 6 October 2021 in Case T-196/19, in so far as it dismissed the action as unfounded;

— annul the Commission's Decision of 28 May 2018 on State aid SA.34045 (2013/c) (ex 2012/NN) implemented by Germany for baseload consumers under Paragraph 19 StromNEV C(2018) 3166 final, for the years 2012 and 2013 in accordance with Article 61(1) of the Statute of the Court of Justice;

— order the Commission to pay the costs before the General Court and the Court of Justice.

Grounds of appeal and main arguments

The appellant relies on a single ground of appeal, in which it alleges an infringement of Article 107(1) TFEU. According to the appellant, the General Court erred in law in assuming that the scheme in Paragraph 19(2) of the German Stromnetzentgeltverordnung (StromNEV) (Regulation on electricity network charges) constitutes a State aid as provided for in Article 107(1) TFEU.

First, the General Court erred in law in finding, in the context of the assessment of the State nature of the network charges, that the existence of a mandatory charge on consumers or end users and the State control over the funds or over the administrators of those funds constituted two factors that were 'part of an alternative'.

Secondly, the General Court erred in law in finding, in the context of the assessment whether there is a 'mandatory charge on consumers or end users', that the relationship between an electricity supplier and electricity end users was irrelevant. In addition, the General Court erred in law by taking into account the obligation to levy and not the legal obligation to pay network charges.

Thirdly, the General Court erred in law in holding, in the context of the assessment whether State control or State power to dispose of funds exists, that the exclusive use of the network charges collected did not rule out that the State could dispose of those funds.

Appeal brought on 16 December 2021 by the Federal Republic of Germany against the judgment of the General Court (Third Chamber) delivered on 6 October 2021 in Joined Cases T-233/19 and T-234/19, Infineon Technologies Dresden GmbH & Co. KG and Infineon Technologies AG v European Commission

(Case C-794/21 P)

(2022/C 73/30)

Language of the case: German

Parties

Appellant: Federal Republic of Germany (represented by: J. Möller and R. Kanitz, acting as Agents)

Other parties to the proceedings: Infineon Technologies Dresden GmbH & Co. KG, Infineon Technologies AG, European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal of the General Court of the European Union of 6 October 2021 in Joined Cases T-233/19 and T-234/19, in so far as it dismissed the actions as unfounded;

— annul the Commission's Decision of 28 May 2018 on State aid SA.34045 (2013/c) (ex 2012/NN) implemented by Germany for baseload consumers under Paragraph 19 StromNEV C(2018) 3166 final, for the years 2012 and 2013 in accordance with Article 61(1) of the Statute of the Court of Justice;

— order the Commission to pay the costs before the General Court and the Court of Justice.

Grounds of appeal and main arguments

The appellant relies on a single ground of appeal, in which it alleges an infringement of Article 107(1) TFEU. According to the appellant, the General Court erred in law in assuming that the scheme in Paragraph 19(2) of the German Stromnetzentgeltverordnung (StromNEV) (Regulation on electricity network charges) constitutes a State aid as provided for in Article 107(1) TFEU.

First, the General Court erred in law in finding, in the context of the assessment of the State nature of the network charges, that the existence of a mandatory charge on consumers or end users and the State control over the funds or over the administrators of those funds constituted two factors that were 'part of an alternative'.

Secondly, the General Court erred in law in finding, in the context of the assessment whether there is a 'mandatory charge on consumers or end users' that the relationship between an electricity supplier and electricity end users was irrelevant. In addition, the General Court erred in law by taking into account the obligation to levy and not the legal obligation to pay network charges.

Thirdly, the General Court erred in law in holding, in the context of the assessment whether State control or State power to dispose of funds exists, that the exclusive use of the network charges collected did not rule out that the State could dispose of those funds.

Appeal brought on 16 December 2021 by WEPA Hygieneprodukte GmbH and WEPA Deutschland GmbH & Co. KG, the latter formerly Wepa Leuna GmbH and Wepa Papierfabrik Sachsen GmbH, against the judgment of the General Court (Third Chamber) delivered on 6 October 2021 in Case T-238/19, Wepa Hygieneprodukte GmbH and Others v European Commission

(Case C-795/21 P)

(2022/C 73/31)

Language of the case: German

Parties

Appellants: WEPA Hygieneprodukte GmbH, WEPA Deutschland GmbH & Co. KG, the latter formerly Wepa Leuna GmbH and Wepa Papierfabrik Sachsen GmbH (represented by: H. Janssen, A. Vallone, Rechtsanwälte, D. Salm, Rechtsanwältin)

Other parties to the proceedings: European Commission, Federal Republic of Germany

Form of order sought

The appellants claim that the Court should:

1. set aside in full the judgment under appeal of the General Court (Third Chamber) of 6 October 2021 in Case T-238/19;

2. annul the Commission's Decision of 28 May 2018 in the case 'State aid SA.34045 (2013/c) (ex 2012/NN) implemented by Germany for baseload consumers under Paragraph 19 of StromNEV';

3. in the alternative, refer the case back to the General Court;

4. order the Commission to pay the costs of both sets of proceedings.

Grounds of appeal and main arguments

By their first ground of appeal, the appellants claim that the General Court distorted facts and misconstrued the meaning and scope of national law, in so far as it based its decision on the following: first that the Bundesnetzagentur (Federal Network Agency) had set the amount of the surcharge under Paragraph 19(2) of the German Stromnetzentgeltverordnung (StromNEV) (Federal Regulation on electricity network charges) in a binding manner; secondly that the Federal Network Agency had issued very detailed requirements; and, thirdly that the loss of revenues of the network operators had been fully covered by that surcharge. The appellants therefore claim that relevant facts for the General Court which should have demonstrated State control over the funds collected by the surcharge did not exist at all.

In their second ground of appeal the appellants put forward that the General Court misinterpreted the conditions for the existence of aid granted through State resources, within the meaning of Article 107(1) TFEU. First, the General Court failed to recognise the fact that the surcharge under Paragraph 19(2) StromNEV did not constitute a charge, a 'compulsory charge' or a 'parafiscal charge' (first part of the second ground of appeal). Second, the General Court misinterpreted the fact that the exemption for baseload consumers under the second sentence of Paragraph 19(2) StromNEV and the surcharge under Paragraph 19(2) StromNEV were not aid granted from State resources (second part of the second ground of appeal). If, however, as is the case, the surcharge does not constitute a charge, the prerequisite of Article 107(1) TFEU is not satisfied, which is also the view of the General Court. In addition, even if were to constitute charge, the prerequisite of Article 107(1) TFEU would not be satisfied, as the surcharge is not aid granted by the State or from State resources.

Appeal brought on 16 December 2021 by the Federal Republic of Germany against the judgment of the General Court (Third Chamber) delivered on 6 October 2021 in Case T-238/19, Wepa Hygieneprodukte GmbH and Others v Federal Republic of Germany

(Case C-796/21 P)

(2022/C 73/32)

Language of the case: German

Parties

Appellant: Federal Republic of Germany (represented by: J. Möller and R. Kanitz, acting as Agents)

Other parties to the proceedings: WEPA Hygieneprodukte GmbH, WEPA Deutschland GmbH & Co. KG, the latter formerly Wepa Leuna GmbH and Wepa Papierfabrik Sachsen GmbH, and European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal of the General Court of the European Union of 6 October 2021 in Case T-238/19, in so far as it dismissed the action as unfounded;

— annul the Commission's Decision of 28 May 2018 on State aid SA.34045 (2013/c) (ex 2012/NN) implemented by Germany for baseload consumers under Paragraph 19 StromNEV C(2018) 3166 final, for the years 2012 and 2013 in accordance with Article 61(1) of the Statute of the Court of Justice;

— order the Commission to pay the costs before the General Court and the Court of Justice.

Grounds of appeal and main arguments

The appellant relies on a single ground of appeal, in which it alleges an infringement of Article 107(1) TFEU. According to the appellant, the General Court erred in law in assuming that the scheme in Paragraph 19(2) of the German Stromnetzentgeltverordnung (StromNEV) (Regulation on electricity network charges) constitutes a State aid as provided for in Article 107(1) TFEU.

First, the General Court erred in law in finding, in the context of the assessment of the State nature of the network charges, that the existence of a mandatory charge on consumers or end users and the State control over the funds or over the administrators of those funds constituted two factors that were 'part of an alternative'.

Secondly, the General Court erred in law in finding, in the context of the assessment whether there is a 'mandatory charge on consumers or end users' that the relationship between an electricity supplier and electricity end users was irrelevant. In addition, the General Court erred in law by taking into account the obligation to levy and not the legal obligation to pay network charges.

Thirdly, the General Court erred in law in holding, in the context of the assessment whether State control or State power to dispose of funds exists, that the exclusive use of the network charges collected did not rule out that the State could dispose of those funds.

Appeal brought on 17 December 2021 by Infineon Technologies AG and Infineon Technologies Dresden GmbH & Co. KG against the judgment of the General Court (Third Chamber) delivered on 6 October 2021 in Joined Cases T-233/19 and T-234/19, Infineon Technologies Dresden GmbH & Co. KG and Infineon Technologies AG v European Commission

(Case C-800/21 P)

(2022/C 73/33)

Language of the case: German

Parties

Appellants: Infineon Technologies AG and Infineon Technologies Dresden GmbH & Co. KG (represented by: L. Assmann and M. Peiffer, Rechtsanwälte)

Other parties to the proceedings: European Commission, Federal Republic of Germany

Form of order sought

The appellants claim that the Court should:

— set aside in full the judgment under appeal of the General Court (Third Chamber) of 6 October 2021 in the Joined Cases T-233/19 and T-234/19 (ECLI:EU:T:2021:647);

— annul the Commission's Decision of 28 May 2018 in 'State aid [case] SA.34045 (2013/c) (ex 2012/NN) implemented by Germany for baseload consumers under Paragraph 19 StromNEV';

— in the alternative, refer the case back to the General Court;

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

Grounds of appeal and main arguments

The background to the present proceedings is an exemption from network charges under which the appellants, in 2012 and 2013, were exempt from paying network charges to their electricity network operators for the supply of electricity from the general grid ('the exemption from network charges').

According to the appellants, the General Court found, in the judgment under appeal, that the exemption from network charges had been financed by means of State resources and therefore constituted State aid, within the meaning of Article 107 TFEU (paragraph 111 of the judgment under appeal). In that regard, the General Court fundamentally misconstrued the concept of State aid following the case-law of the Court of Justice.

The exemption from network charges had been financed through the surcharge under Paragraph 19(2) of the German Stromnetzentgeltverordnung (StromNEV) (Regulation on electricity network charges). That was not an obligatory charge in accordance with the case-law of the Court of Justice, contrary to the finding of the General Court in paragraph 97 of the judgment under appeal, which could be an indication of the State nature of the resources within the meaning of Article 107 (1) TFEU.

In the appeal, the appellants principally dispute the application of EU law and claim that the General Court incorrectly assessed the national law having regard to the criteria of European State aid law (first ground of appeal). According to the appellants, in fact the exemptions from network charges rightly had not been granted by means of State resources as provided for in Article 107(1) TFEU.

The appellants claims that it follows from the case-law of the Court of Justice that State resources, in that sense, only exist where there is a sufficiently direct link with the State budget. The surcharge under Paragraph 19(2) of the StromNEV that is the subject of the proceedings does not, however, have a sufficiently direct link with the German State budget. That surcharge consequently remains a private and not a State resource, that is be paid between network operators and network users.

Moreover, the appellants also claim, in support of their appeal, that the General Court distorted the facts by misconstruing the meaning and scope of the national law (second ground of appeal).

Appeal brought on 17 December 2021 by Versobank AS against the judgment of the General Court (Ninth Chamber, Extended Composition) delivered on 6 October 2021 in Joined Cases T-351/18 and T-584/18, Ukrselhosprom PCF and Versobank v ECB

(Case C-803/21 P)

(2022/C 73/34)

Language of the case: English

Parties

Appellant: Versobank AS (represented by: O. Behrends, Rechtsanwalt)

Other parties to the proceedings: European Central Bank (ECB), European Commission, Ukrselhosprom PCF LLC

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal;

— declare void the decisions of the ECB on the revocation of the appellant's authorization dated 26 March 2018 (the 'First Contested Decision') and 17 July 2018 (the 'Second Contested Decision');

— to the extent that the Court of Justice of the European Union is not in a position to take a decision on the merits, refer joined cases T-351/18 and T-584/18 back to the General Court for it to determine the actions for annulment; and

— order the ECB to pay the appellant's costs and the costs of this appeal.

Pleas in law and main arguments

In support of the appeal, the appellant relies on six grounds of appeal.

First ground of appeal alleging that the General Court erred in law by erroneously assuming that there is no need to adjudicate in case T-351/18, erroneously failed to take into consideration that the purported effect *ex tunc* of the Second Contested Decision violated Article 263 TFEU and erroneously assumed that the appellant has no interest in the annulment of the First Contested Decision.

Second ground of appeal alleging that the General Court erred in law with respect to numerous infringements of essential procedural requirements.

Third ground of appeal alleging that the General Court erroneously failed to recognise that the ECB exceeded its competence by making determinations in the areas of payment services and other financial services, AML/CFT (Anti-money Laundering/Counter-terrorism Financing) matters and resolution matters.

Fourth ground of appeal alleging that the General Court erred in law by making findings on an issue which was precluded by a settlement in front of a national administrative court.

Fifth ground of appeal alleging that the General Court erroneously applied the SRMR ([1]) instead of national law as to failing or likely to fail assessments and no resolution decisions and misinterpreted their significance without ordering the disclosure of such decisions.

Sixth ground of appeal alleging that the General Court (1) failed to respect the limits of its own competence pursuant to Article 263 TFEU by making determinations governed by national law which fall within the exclusive competence of the competent national authorities and courts and went beyond a review of the ECB's decisions by making determinations and assessments which the ECB had not made, (2) based its decision on surprising findings on the basis of a belated submission of voluminous documents immediately prior to the hearing without giving the appellant an opportunity to comment, (3) failed to take into consideration the violation of the appellant's rights pursuant to Article 47 of the Charter prior to the commencement of the procedure and the continuing lack of an effective representation of the appellant during the proceedings and (4) erroneously refused to order the production of resolution decisions on a national level but nonetheless expressed detailed but erroneous views on the legal significance and legal bass of these decisions.

([1]) Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ 2014 L 225, p. 1).

Appeal brought on 22 December 2021 by European Union Copper Task Force against the judgment of the General Court (First Chamber) delivered on 13 October 2021 in Case T-153/19, European Union Copper Task Force v Commission

(Case C-828/21 P)

(2022/C 73/35)

Language of the case: English

Parties

Appellant: European Union Copper Task Force (represented by: I. Moreno-Tapia Rivas and C. Vila Gisbert, abogadas)

Other parties to the proceedings: European Commission, European Parliament, Council of the European Union

Form of order sought

The appellant claims that the Court should:

— annul the judgment under appeal;

— issue a judgment on the substance of the action for annulment or, subsidiary, refer the case back to the General Court for judgment;

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

Pleas in law and main arguments

In support of the appeal, the applicant relies on the following pleas in law.

The General Court erred in law in relation to the scope of its judicial review and has breached the appellant's right to an effective judicial protection.

The General Court infringed the principle of non-arbitrariness by failing to require a harmonized approach in the scope of application of PBT (persistence, bioaccumulation and toxicity) criteria.

The General Court infringed the precautionary principle and the principle of proportionality.

The General Court breached the rules of procedure by dismissing the appellant's request to appoint an expert.

GENERAL COURT

Judgment of the General Court of 15 December 2021 — Czech Republic v Commission

(Case T-627/16 RENV) [1]

(EAGF and EAFRD — Expenditure excluded from financing — Expenditure incurred by the Czech Republic — Decoupled direct aid — Traditional on-the-spot checks and on-the-spot checks by remote sensing — Discrepancies between the results of the checks — Wine sector — On-the-spot checks of the investments by means of sampling)

(2022/C 73/36)

Language of the case: Czech

Parties

Applicant: Czech Republic (represented by: M. Smolek, O. Serdula, J. Pavliš and J. Vláčil, acting as Agents)

Defendant: European Commission (represented by: K. Walkerová and J. Aquilina, acting as Agents)

Intervener in support of the applicant: Kingdom of Sweden (represented by: C. Meyer-Seitz, F. Bergius and H. Shev, acting as Agents)

Re:

Application based on Article 263 TFEU seeking annulment of Commission Implementing Decision (EU) 2016/1059 of 20 June 2016 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2016 L 173, p. 59), in so far as it excludes the payments made by the Czech Republic under the EAGF in the amount of EUR 462 517,83 regarding expenditure for decoupled direct aid and in the amount of EUR 636 516,20 regarding expenditure relating to investments in the wine sector.

Operative part of the judgment

The Court:

1. Annuls Commission Implementing Decision (EU) 2016/1059 of 20 June 2016 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) in so far as it excludes the following payments made by the Czech Republic under the EAGF:

   — in respect of the direct decoupled aid scheme for the financial years 2013 to 2015, the amount of EUR 69 054,23 relating to the deficiencies in the risk analysis;

   — in respect of the aid scheme for investment in the wine sector for the financial years 2011 to 2014, the amount of EUR 636 516,20.

2. Dismisses the action as to the remainder;

3. Orders the Czech Republic and the European Commission to each bear their own costs relating to the proceedings before the General Court and the Court of Justice;

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

[1] OJ C 392, 24.10.2016.

Judgment of the General Court of 15 December 2021 — HG v Commission

(Case T-693/16 P RENV-RX) ([1])

(Appeal — Civil service — Officials — Posting to a third country — Family lodging provided by the administration — Non-compliance with the obligation to reside there with the family — Disciplinary procedure — Disciplinary penalty of deferment of advancement to a higher step — Making good of any damage suffered by the European Union — Article 22 of the Staff Regulations — Dismissal of the action on the merits — Setting aside on appeal — Judgment on appeal re-examined by the Court of Justice and set aside — Referral back to the General Court)

(2022/C 73/37)

Language of the case: French

Parties

Appellant: HG (represented by: L. Levi, lawyer)

Other party to the proceedings: European Commission (represented by: T. Bohr acting as Agent, and A. Dal Ferro, lawyer)

Re:

Appeal brought against the judgment of the Civil Service Tribunal of the European Union (Second Chamber) of 19 July 2016, *HG* v *Commission* (F-149/15, EU:F:2016:155), seeking to have that judgment set aside.

Operative part of the judgment

The Court:

1. Sets aside the judgment of the Civil Service Tribunal of the European Union (Second Chamber) of 19 July 2016, HG v Commission (F-149/15);

2. Fixes the amount of compensation owed by HG to the European Union at the sum of EUR 80 000 on the date of delivery of this judgment;

3. Dismisses the action in Case F-149/15 as to the remainder;

4. Orders HG and the European Commission to bear their own costs in Cases F-149/15, T-693/16 P, T-440/18 RENV and T-693/16 P-RENV-RX.

([1]) OJ C 441, 28.11.2016.

Judgment of the General Court of 8 December 2021 — Dyson and Others v Commission

(Case T-127/19) ([1])

(Non-contractual liability — Energy — Directive 2010/30/EU — Indication by labelling and standard product information of the consumption of energy — Delegated Regulation (EU) No 665/2013 — Energy labelling of vacuum cleaners — Energy efficiency — Measurement method — Annulment by the General Court — Sufficiently serious breach of a rule of law intended to confer rights on individuals)

(2022/C 73/38)

Language of the case: English

Parties

Applicants: Dyson Ltd (Malmesbury, United Kingdom) and the other applicants whose names are listed in the annex (represented by: E. Batchelor, T. Selwyn Sharpe and M. Healy, Solicitors)

Defendant: European Commission (represented by: J.-F. Brakeland, Y. Marinova and K. Talabér-Ritz, acting as Agents)

Re:

Application based on Article 268 TFEU for compensation for the loss allegedly suffered by the applicants as a result of the unlawfulness of Commission Delegated Regulation (EU) No 665/2013 of 3 May 2013 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of vacuum cleaners (OJ 2013 L 192, p. 1).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Dyson Ltd and the other applicants whose names appear in the annex shall bear their own costs and pay the costs incurred by the European Commission.

([1]) OJ C 139, 15.4.2019.

Judgment of the General Court of 8 December 2021 — Cyprus v EUIPO — Fontana Food (GRILLOUMI)

(Case T-556/19) ([1])

(EU trade mark — Opposition proceedings — Application for the EU word mark GRILLOUMI — Earlier national certification word marks ΧΑΛΛΟΥΜΙ HALLOUMI — Relative ground for refusal — No likelihood of confusion — Similarity between services and goods — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

(2022/C 73/39)

Language of the case: English

Parties

Applicant: Republic of Cyprus (represented by: S. Malynicz QC, S. Baran, Barrister, and V. Marsland, Solicitor)

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

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

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 29 May 2019 (Case R 1284/2018-4) relating to opposition proceedings between the Republic of Cyprus and Fontana Food.

Operative part of the judgment

The Court:

1. Annuls the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 29 May 2019 (Case R 1284/2018-4);

2. Orders EUIPO to bear its own costs and to pay those incurred by the Republic of Cyprus;

3. Orders Fontana Food AB to bear its own costs.

([1]) OJ C 328, 30.9.2019.

Judgment of the General Court of 8 December 2021 — Cyprus v EUIPO — Fontana Food (GRILLOUMI BURGER)

(Case T-593/19) ([1])

(EU trade mark — Opposition proceedings — Application for the EU word mark GRILLOUMI BURGER — Earlier national certification word marks ΧΑΛΛΟΥΜΙ HALLOUMI — Relative grounds for refusal — No likelihood of confusion — No detriment to repute — Article 8(1)(b) and Article 8(5) of Regulation (EC) No 207/2009 (now Article 8(1)(b) and Article 8(5) of Regulation (EU) 2017/1001))

(2022/C 73/40)

Language of the case: English

Parties

Applicant: Republic of Cyprus (represented by: S. Malynicz QC, S. Baran, Barrister, and V. Marsland, Solicitor)

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

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

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 19 June 2019 (Case R 1297/2018 4) relating to opposition proceedings between the Republic of Cyprus and Fontana Food.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Order the Republic of Cyprus to pay the costs.

([1]) OJ C 363, 28.10.2019.

Judgment of the General Court of 8 December 2021 — Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi v EUIPO — Fontana Food (GRILLOUMI BURGER)

(Case T-595/19) ([1])

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

(2022/C 73/41)

Language of the case: English

Parties

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

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

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

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 19 June 2019 (Case R 1356/2018-4), relating to opposition proceedings between Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi and Fontana Food.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi to pay the costs.

([1]) OJ C 357, 21.10.2019.

Judgment of the General Court of 8 December 2021 — JP v Commission

(Case T-247/20) ([1])

(Access to documents — Regulation (EC) No 1049/2001 — Documents relating to Open Competition EPSO/AD/363/18 for the recruitment of administrators at grade AD 7 in the field of taxation — Restriction of the scope of the application for access — Refusal to grant access — Article 4(3) of Regulation No 1049/2001 — Exception relating to the protection of the decision-making process — Article 6 of Annex III to the Staff Regulations — Secrecy of the selection board's proceedings — Partial access — Non-contractual liability)

(2022/C 73/42)

Language of the case: English

Parties

Applicant: JP (represented by: S. Rodrigues and A. Champetier, lawyers)

Defendant: European Commission (represented by: C. Ehrbar and D. Milanowska, acting as Agents)

Re:

Application pursuant to Article 263 TFEU seeking the annulment of Commission Decision C(2020) 1195 final of 24 February 2020 concerning a confirmatory application for access to documents under Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43), as well as a claim for compensation pursuant to Article 268 TFEU for the non-material damage allegedly suffered by the applicant.

Operative part of the judgment

The Court:

1. Annuls Commission Decision C(2020) 1195 final of 24 February 2020 concerning a confirmatory application for access to documents under Regulation (EC) No 1049/2001 in so far as it refused to grant JP access to the questions set out in the sections of the evaluation by the assessors of her answers during the field-related interview (Document No 1) headed 'Anchor' and 'Possible questions' and refused to grant access to the questions set out in the sections of the evaluation by the assessors of her answers during the general competency-based interview (Document No 2) headed 'Situation 1', 'Situation 2' and 'Situation 3' in the context of Competition EPSO/AD/363/18;

2. Dismisses the action as to the remainder;

3. Orders each party to bear its own costs.

([1]) OJ C 222, 6.7.2020.

Judgment of the General Court of 8 December 2021 — Talleres de Escoriaza v EUIPO — Salto Systems (KAAS KEYS AS A SERVICE)

(Case T-294/20) ([1])

(EU trade mark — Invalidity proceedings — EU word mark KAAS KEYS AS A SERVICE — Absolute grounds for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 207/2009 (now Article 7(1)(c) of Regulation (EU) 2017/1001) — No distinctive character — Article 7(1)(b) of Regulation No 207/2009 (now Article 7(1)(b) of Regulation 2017/1001) — Signs or indications which have become customary — Article 7(1)(d) of Regulation No 207/2009 (now Article 7(1)(d) of Regulation 2017/1001) — Obligation to state reasons — Right to be heard — Article 94(1) of Regulation 2017/1001)

(2022/C 73/43)

Language of the case: Spanish

Parties

Applicant: Talleres de Escoriaza, SA (Irun, Spain) (represented by: T. Müller and F. Togo, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Salto Systems, SL (Oiartzun, Spain) (represented by: A. Alejos Cutuli, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 28 February 2020 (Case R 1363/2019-4), relating to invalidity proceedings between Talleres de Escoriaza and Salto Systems.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Talleres de Escoriaza, SA to pay the costs.

([1]) OJ C 247, 27.7.2020.

Judgment of the General Court of 15 December 2021 — Stichting Comité N 65 Ondergronds Helvoirt v Commission

(Case T-569/20) ([1])

(Environment — Regulation (EC) No 1367/2006 — Obligation of Member States to protect and improve ambient air quality — Request for an internal review — Refusal of the request as inadmissible)

(2022/C 73/44)

Language of the case: Dutch

Parties

Applicant: Stichting Comité N 65 Ondergronds Helvoirt (Helvoirt, Netherlands) (represented by: T. Malfait and A. Croes, lawyers)

Defendant: European Commission (represented by: L. Haasbeek, G. Gattinara and M. Noll-Ehlers, acting as Agents)

Interveners in support of the defendant: Kingdom of the Netherlands (represented by: M. Bulterman, M. de Ree, J. Langer and J. Hoogveld, acting as Agents), European Parliament (represented by: W. Kuzmienko and C. Ionescu Dima, acting as Agents), Council of the European Union (represented by: K. Michoel and A. Maceroni, acting as Agents)

Re:

Application under Article 263 TFEU seeking the annulment of the Commission's decision of 6 July 2020 rejecting as inadmissible a request for internal review of the decision to close the complaint procedure CHAP (2019) 2512.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Stichting Comité N 65 Ondergronds Helvoirt to bear its own costs and to pay the costs incurred by the European Commission;

3. Orders the Kingdom of the Netherlands, the European Parliament and the Council of the European Union to bear their own costs.

(1) OJ C 378, 9.11.2020.

Judgment of the General Court of 8 December 2021 — Sun West and Others v Commission

(Case T-623/20) (1)

(State aid — Production of electricity by photovoltaic installations — Obligation to purchase the electricity at a higher price than the market price — Rejection of a complaint — Second subparagraph of Article 12(1) and Article 24(2) of Regulation (EU) 2015/1589)

(2022/C 73/45)

Language of the case: French

Parties

Applicants: Sun West (Saint-Allouestre, France), JB Solar (Saint-Allouestre), Azimut56 (Saint-Allouestre) (represented by: S. Manna, lawyer)

Defendant: European Commission (represented by: A. Bouchagiar and B. Stromsky, Acting as agents)

Re:

Application under Article 263 TFEU for annulment of the Commission's decision of 28 July 2020 rejecting the applicants' complaint concerning State aid granted unlawfully by the French Republic to photovoltaic energy producers under pricing decrees of 10 July 2006, and 12 January and 31 August 2010, in order to have the aid declared incompatible with the internal market.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Sun West, JB Solar and Azimut56 to bear their own costs and to pay those incurred by the European Commission.

(1) OJ C 414, 30.11.2020.

Judgment of the General Court of 15 December 2021 — HB v EIB

(Case T-689/20) ([1])

(Civil service — EIB staff — Dismissal — Manifest error of assessment — Principle of sound administration — Lack of competence of the author of the act)

(2022/C 73/46)

Language of the case: English

Parties

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

Defendant: European Investment Bank (represented by: G. Faedo and K. Carr, acting as Agents, and by B. Wägenbaur, lawyer)

Re:

Action under Article 270 TFEU and Article 50a of the Statute of the Court of Justice of the European Union seeking annulment of the decision of the EIB of 27 April 2020 terminating the applicant's employment.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders HB to bear her own costs and to pay those incurred by the European Investment Bank (EIB).

([1]) OJ C 9, 11.1.2021.

Judgment of the General Court of 15 December 2021 — OI v Commission

(Case T-705/20) ([1])

(Civil service — Officials — Recruitment — Internal competition COM/03/AD/18 (AD 6) — Decision not to include the applicant's name on the reserve list for the competition — Obligation to state reasons — Secrecy of the selection board's proceedings — No communication of the intermediate marks or the weighting of the elements of a test specified in the competition notice)

(2022/C 73/47)

Language of the case: French

Parties

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

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

Re:

Application under Article 270 TFEU for annulment of the decision of the selection board for the internal competition COM/03/AD/18 (AD 6) — Administrators of 25 March 2020 rejecting the applicant's request for review of the decision of that selection board of 16 December 2019 not to include the applicant's name on the reserve list for that competition.

Operative part of the judgment

The Court:

1. Annuls the decision of the selection board for the internal competition COM/03/AD/18 (AD6) — Administrators of 25 March 2020 not to include OI on the reserve list for the recruitment of administrators at grade AD 6 in the field of development cooperation and neighbourhood policy;

2. Orders the European Commission to pay the costs.

(1) OJ C 28, 25.1.2021.

Judgment of the General Court of 15 December 2021 — Rotondaro v EUIPO — Pollini (COLLINI)

(Case T-69/21) (1)

(EU trade mark — Opposition proceedings — Application for the EU figurative mark COLLINI — Earlier EU and national word marks POLLINI and STUDIO POLLINI — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

(2022/C 73/48)

Language of the case: Italian

Parties

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

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Pollini SpA (Gatteo, Italy) (represented by: F. Sanna, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 3 December 2020 (Case R 2518/2019-1), relating to opposition proceedings between Pollini and Mr Rotondaro.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Carmine Rotondaro to pay the costs.

(1) OJ C 98, 22.3.2021.

Judgment of the General Court of 15 December 2021 — QF v Commission

(Case T-85/21) (1)

(Civil service — Officials — Recruitment — Internal competition COM/03/AD/18 (AD 6) — Decision not to include the applicant's name on the reserve list for the competition — Obligation to state reasons — Secrecy of the selection board's proceedings — No communication of the intermediate marks or the weighting of the elements of a test specified in the competition notice)

(2022/C 73/49)

Language of the case: French

Parties

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

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

Re:

Application under Article 270 TFEU for annulment of the decision of the selection board for the internal competition COM/03/AD/18 (AD 6) — Administrators of 15 April 2020 rejecting the applicant's request for review of the decision of that selection board of 16 December 2019 not to include the applicant's name on the reserve list for that competition.

Operative part of the judgment

The Court:

1. Annuls the decision of the selection board for the internal competition COM/03/AD/18 (AD 6) — Administrators of 15 April 2020 not to include QF on the reserve list for the recruitment of administrators at grade AD 6 in the field of European public administration;

2. Orders the European Commission to pay the costs.

(1) OJ C 98, 22.3.2021

Order of the General Court of 29 November 2021 — Kanellou v Council

(Case T-515/16) (1)

(Civil service — Officials — 2014 Reform of the Staff Regulations — Reimbursement of annual travel expenses and grant of travelling time — Action manifestly lacking any foundation in law)

(2022/C 73/50)

Language of the case: French

Parties

Applicant: Despina Kanellou (Brussels, Belgium) (represented by: S. Pappas, lawyer)

Defendant: Council of the European Union (represented by: M. Bauer and R. Meyer, acting as Agents)

Intervener in support of the defendant: European Parliament (represented by: E. Tavena and M. Ecker, acting as Agents), European Commission (represented by: G. Gattinara and B. Mongin, acting as Agents)

Re:

Application pursuant to Article 270 TFEU seeking, in substance, annulment of the decision no longer to grant the applicant, as of 1 January 2014, reimbursement of annual travel costs so that she may maintain a connection with her place of origin.

Operative part of the order

1. The action is dismissed.

2. Ms Despina Kanellou shall bear her own costs and pay those incurred by the Council of the European Union.

3. The European Commission and the European Parliament shall each bear their own costs.

(1) OJ C 395, 10.11.2014 (case initially registered before the European Union Civil Service Tribunal under case number F-77/14 and transferred to the General Court of the European Union on 1.9.2016).

Order of the General Court of 29 November 2021 — Bergallou v Council

(Case T-521/16) ([1])

(Civil service — Contract staff — 2014 Reform of the Staff Regulations — Reimbursement of annual travel expenses and grant of travelling time — Action manifestly lacking any foundation in law)

(2022/C 73/51)

Language of the case: French

Parties

Applicant: Amal Bergallou (Lot, Belgium) (represented by: M. Velardo, lawyer)

Defendant: Council of the European Union (represented by: M. Bauer and R. Meyer, acting as Agents)

Intervener in support of the defendant: European Parliament (represented by: E. Tavena and M. Ecker, acting as Agents)

Re:

Application pursuant to Article 270 TFEU seeking, in substance, first, annulment of the decisions no longer to grant the applicant, as of 1 January 2014, travelling time and reimbursement of annual travel costs so that she may maintain a connection with her place of origin and, second, an order that the defendant pay damages in respect of the material and non-material harm that the applicant allegedly suffered.

Operative part of the order

1. The action is dismissed.

2. Ms Amal Bergallou shall bear her own costs and pay those incurred by the Council of the European Union.

3. The European Parliament shall bear its own costs.

([1]) OJ C 431, 1.12.2014 (case initially registered before the European Union Civil Service Tribunal under number F-98/14 and transferred to the General Court of the European Union on 1.9.2016).

Order of the General Court of 29 November 2021 — Nguyen v Council

(Case T-522/16) ([1])

(Civil service — Contract staff — 2014 Reform of the Staff Regulations — Reimbursement of annual travel expenses and grant of travelling time — Action manifestly lacking any foundation in law)

(2022/C 73/52)

Language of the case: French

Parties

Applicant: Huynh Duong Vi Nguyen (Woluwe Saint-Lambert, Belgium) (represented by: M. Velardo, lawyer)

Defendant: Council of the European Union (represented by: M. Bauer and R. Meyer, acting as Agents)

Intervener in support of the defendant: European Parliament (represented by: E. Tavena and M. Ecker, acting as Agents)

Re:

Application pursuant to Article 270 TFEU seeking, in substance, first, annulment of the decisions no longer to grant the applicant, as of 1 January 2014, travelling time and reimbursement of annual travel costs so that she may maintain a connection with her place of origin and, second, an order that the defendant pay damages in respect of the material and non-material harm that the applicant allegedly suffered.

Operative part of the order

1. The action is dismissed.

2. Ms Huynh Duong Vi Nguyen shall bear her own costs and pay those incurred by the Council of the European Union.

3. The European Parliament shall bear its own costs.

(1) OJ C 448, 15.12.2014 (case initially registered before the European Union Civil Service Tribunal under number F-99/14 and transferred to the General Court of the European Union on 1.9.2016).

Order of the General Court of 29 November 2021 — Aresu v Commission

(Case T-524/16) (1)

(Civil service — Officials — 2014 Reform of the Staff Regulations — Travelling time — Home leave — Action manifestly lacking any foundation in law)

(2022/C 73/53)

Language of the case: French

Parties

Applicant: Antonio Aresu (Brussels, Belgium) (represented by: M. Velardo, lawyer)

Defendant: European Commission (represented by: G. Gattinara and F. Blanc, acting as Agents)

Interveners in support of the defendant: European Parliament (represented by: E. Tavena and M. Ecker, acting as Agents), Council of the European Union (represented by: M. Bauer and R. Meyer, acting as Agents)

Re:

Application pursuant to Article 270 TFEU seeking annulment of the decision no longer to grant the applicant, as of 1 January 2014, travelling time of five days which he enjoyed previously on the basis of Article 7 of Annex V to the Staff Regulations of Officials of the European Union, as amended by Regulation (EU, Euratom) No 1023/2013 of the European Parliament and the Council of 22 October 2013 (OJ 2013 L 287, p. 15).

Operative part of the order

1. The action is dismissed.

2. Mr Antonio Aresu shall bear his own costs and pay those incurred by the European Commission, including those of the interlocutory proceedings.

3. The European Parliament and the Council of the European Union shall bear their own costs.

(1) OJ C 26, 26.1.2015 (case initially registered before the European Union Civil Service Tribunal under number F-106/14 and transferred to the General Court of the European Union on 1.9.2016).

Order of the President of the General Court of 1 December 2021 — OJ v Commission

(Case T-709/20 R)

(Application for interim measures — Civil service — Recruitment — Open competition — EPSO decision to refuse the extension of the dates of the multiple choice computer-based tests — Application for interim measures — No urgency)

(2022/C 73/54)

Language of the case: German

Parties

Applicant: OJ (represented by: H.-E. von Harpe, lawyer)

Defendant: European Commission (represented by: I. Melo Sampaio and L. Hohenecker, agents)

Re:

Application under Articles 278 and 279 TFEU seeking suspension of the selection procedure of Open Competition EPSO/AD/380/19 concerning the establishment for the Commission of a reserve list of administrators in the field of international cooperation and aid to non-member countries.

Operative part of the order

1. The application for interim measures is dismissed;

2. The costs are reserved.

Order of the General Court of 29 November 2021 — Grupa Azoty and Others v Commission

(Case T-726/20) [1]

(Action for annulment — State aid — Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021 — Eligible sectors — Exclusion of the fertiliser manufacturing sector — Lack of direct concern — Inadmissibility)

(2022/C 73/55)

Language of the case: English

Parties

Applicants: Grupa Azoty S.A. (Tarnów, Poland), Azomureș S.A. (Târgu Mureş, Romania), Lipasmata Kavalas LTD Ypokatastima Allodapis (Palaio Fáliro, Greece) (represented by: D. Haverbeke, L. Ruessmann and P. Sellar, lawyers)

Defendant: European Commission (represented by: A. Bouchagiar and G. Braga da Cruz, acting as Agents)

Re:

Application under Article 263 TFEU for the annulment in part of the Communication from the Commission of 25 September 2020 entitled 'Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021' (OJ 2020 C 317, p. 5).

Operative part of the order

1. The action is dismissed as inadmissible.

2. There is no longer any need to adjudicate on the application to intervene submitted by the EFTA Surveillance Authority.

3. Grupa Azoty S.A., Azomureș S.A. and Lipasmata Kavalas LTD Ypokatastima Allodapis shall bear their own costs and pay those incurred by the European Commission.

4. The EFTA Surveillance Authority shall bear the costs relating to its application to intervene.

(1) OJ C 72, 1.3.2021.

Order of the General Court of 29 November 2021 — Advansa Manufacturing and Others v Commission

(Case T-741/20) (1)

(Action for annulment — State aid — Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021 — Eligible sectors — Exclusion of the man-made fibres manufacturing sector — Lack of direct concern — Inadmissibility)

(2022/C 73/56)

Language of the case: English

Parties

Applicants: Advansa Manufacturing GmbH (Frankfurt am Main, Germany) and the 14 other applicants whose names are set out in an annex to the order (represented by: D. Haverbeke, L. Ruessmann and P. Sellar, lawyers)

Defendant: European Commission (represented by: A. Bouchagiar and G. Braga da Cruz, acting as Agents)

Re:

Application under Article 263 TFEU for the annulment in part of the Communication from the Commission of 25 September 2020 entitled 'Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021' (OJ 2020 C 317, p. 5).

Operative part of the order

1. The action is dismissed as inadmissible.

2. There is no longer any need to adjudicate on the application to intervene submitted by the EFTA Surveillance Authority.

3. Advansa Manufacturing GmbH and the other applicants whose names are set out in the annex shall bear their own costs and pay those incurred by the European Commission.

4. The EFTA Surveillance Authority shall bear the costs relating to its application to intervene.

(1) OJ C 79, 8.3.2021.

Order of the General Court of 30 November 2021 — Airoldi Metalli v Commission

(Case T-744/20) (1)

(Dumping — Imports of aluminium extrusions originating in China — Act imposing a provisional anti-dumping duty — Act not open to challenge — Preparatory act — Inadmissibility — Definitive anti-dumping duty — No longer any legal interest in bringing proceedings — No need to adjudicate)

(2022/C 73/57)

Language of the case: English

Parties

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

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

Re:

Application under Article 263 TFEU for annulment of Commission Implementing Regulation (EU) 2020/1428 of 12 October 2020 imposing a provisional anti-dumping duty on imports of aluminium extrusions originating in the People's Republic of China (OJ 2020 L 336, p. 8).

Operative part of the order

1. The action is dismissed as inadmissible.

2. Airoldi Metalli SpA shall bear its own costs and pay those incurred by the European Commission.

3. The European Parliament, Airoldi Metalli and the Commission shall each bear their own costs relating to the applications to intervene.

([1]) OJ C 53, 15.2.2021.

Order of the President of the General Court of 30 November 2021 — Roos and Others v Parliament

(Case T-710/21 R)

(Interim relief — Members of the European Parliament — Conditions of access to the European Parliament buildings at its three places of work related to the health crisis — Application for suspension of operation of a measure — Lack of any urgency)

(2022/C 73/58)

Language of the case: French

Parties

Applicants: Robert Roos (Poortugaal, Netherlands), Anne-Sophie Pelletier (Ixelles, Belgium), Francesca Donato (Palermo, Italy), Virginie Joron (Durningen, France) and IC (represented by: P. de Bandt, M. Gherghinaru and L. Panepinto, lawyers)

Defendant: European Parliament (represented by: S. Alves and A.-M. Dumbrăvan, acting as Agents)

Re:

Application under Articles 278 and 279 TFEU and seeking the suspension of operation of the decision of the Bureau of the Parliament of 27 October 2021 on exceptional health and safety rules governing access to the European Parliament buildings at its three places of work.

Operative part of the order

1. The application for interim relief is dismissed,

2. The order of 5 November 2021, Roos and Others v Parliament (T-710/21 R) is revoked.

3. The costs are reserved.

Order of the President of the General Court of 30 November 2021 — ID and Others v Parliament

(Case T-711/21 R)

(Application for interim measures — Civil service — Conditions of access to the European Parliament buildings at its three places of work related to the health crisis — Application for suspension of operation of a measure — No urgency)

(2022/C 73/59)

Language of the case: French

Parties

Applicants: ID and the six other applicants whose name appear in the annex to the order (represented by: P. de Bandt, M. Gherghinaru and L. Panepinto, lawyers)

Defendant: European Parliament (represented by: D. Boytha, S. Bukšek Tomac and L. Darie, acting as Agents)

Re:

Application under Articles 278 and 279 TFEU seeking suspension of operation of the decision of the Bureau of the Parliament of 27 October 2021 on exceptional health and safety rules governing access to the European Parliament buildings at its three places of work.

Operative part of the order

1. The application for interim relief is dismissed.

2. The order of 5 November 2021, ID and Others v Parliament (T-711/21 R) is cancelled.

3. The costs are reserved.

Action brought on 5 November 2021 — Agentur für Globale Gesundheitsverantwortung v EMA

(Case T-713/21)

(2022/C 73/60)

Language of the case: German

Parties

Applicant: Agentur für Globale Gesundheitsverantwortung (Elsbethen, Austria) (represented by: A. Steindl, lawyer)

Defendant: European Medicines Agency

Form of order sought

The applicant claims that the Court should:

— annul the EMA's decision of 21 September 2021 (EMA/468888/2021) rejecting the applicant's appeal of 13 August 2021 against the EMA's decision of 28 July 2021 (EMA/421922/2021);

— grant access to the 'c4591001-interim-ado-report-body' study on the basis of which the EMA's Assessment Report EMA/CHMP/282047/2021 Rev. 1 of 22 July 2021 or Commission Implementing Decision C(2021) 4034 (final) of 31 May 2021 were adopted.

Pleas in law and main arguments

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

1. First plea in law, alleging invalidity by reason of an error of law concerning the classification of anonymised data records of study C4591001 in respect of US participants in the study as personal data under Regulation 2018/7125. ([1])

2. Second plea in law, alleging invalidity by reason of an error of law by the EMA in finding that study C4591001 has not been finalised as regards a change in the paediatric indication and is consistent with 'EMA Policy(0070) on Clinical Data Publication' (EMA/144064/2019).

3. Third plea in law, alleging invalidity by reason of an error of law in the finding that the first indent of Article 4(2) of Regulation No 1049/2001 ([2]) ('protection of commercial interests of a natural or legal person, including intellectual property') is applicable.

4. Fourth plea in law, alleging invalidity by reason of an error of law in the finding that there is no overriding public interest pursuant to the last sentence of Article 4(2) of Regulation No 1049/2001.

([1]) Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ 2018 L 295, p. 39).

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

Action brought on 16 November 2021 — Greenspider v EISMEA

(Case T-733/21)

(2022/C 73/61)

Language of the case: Italian

Parties

Applicant: Greenspider GmbH (Germering, Germany) (represented by: G. Vignolo and V. Palmisano, lawyers)

Defendant: European Innovation Council and SMEs Executive Agency

Form of order sought

The applicant claims that the Court should:

— declare that the present action is admissible and well founded under Article 272 TFEU;

— find and declare that Greenspider correctly fulfilled its contractual obligations under the GA (Grant Agreement);

— find and declare that, under Article 1162 of the Belgian Civil Code, in case of doubt, the interpretation of the contract provided by Greenspider prevails over that provided by EISMEA;

— find that there were no grounds for EISMEA to issue a debit note to Greenspider and, consequently, that the amount requested therein is not due;

— find and declare that EISMEA has failed to fulfil its contractual obligations and consequently order EISMEA to pay Greenspider EUR 111 475;

— order EISMEA to pay the legal costs incurred by Greenspider in the present 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 that EASME failed to fulfil its contractual obligations.

   — The applicant submits in that regard that the plea is based on the fact that the reasons given by the Agency justifying the refusal to pay the balance of the eligible costs of the project are unfounded and on the fact that the unit costs are eligible.

2. Second plea in law, alleging infringement of the law applicable to the contract.

   — The applicant submits in that regard that the plea is based on infringement of Article 126 of Regulation No 966/2012 ([1]) of the European Parliament and of the Council of 25 October 2012; abuse of the principle of the freedom of choice: infringement and incorrect application of Article 1162 of the Belgian Civil Code and of Articles 3 and 5 of Council Directive 91/13/EEC ([2]) of 5 April 1993; breach of the principle of good faith in the execution of the contract and misuse of rights; breach of the principle of good administration; breach of the principles of legal certainty and legitimate expectations; and infringement of the principle of proportionality.

([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]) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).

Action brought on 19 November 2021 — Eurecna v Commission

(Case T-739/21)

(2022/C 73/62)

Language of the case: Italian

Parties

Applicant: Eurecna SpA (Venice, Italy) (represented by: R. Sciaudone, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the contested decisions requiring loans to be repaid as contained in the Commission's letters of 10 September 2021, 16 September 2021 and 30 September 2021 by which the Commission took steps to recover almost the entire sum paid out in the context of a project financed by the European Union and held to be repayable following alleged irregularities in financial reporting; and

— order the Commission to pay the costs in the case.

Pleas in law and main arguments

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

1. First plea in law, alleging that the decision of 10 September 2021 has no legal basis.

2. Second plea in law, alleging a breach of the rights of the defence in the context of the decision of 10 September 2021.

3. Third plea in law, alleging that the contested loan does not exist.

   — In that respect, the applicant relies on a breach of the principle of sound administration and diligence in administrative action in the context of the audit carried out by Ernst & Young (EY), a breach of the rights of the defence in the context of the audit carried out by EY, breach of the principle of sound administration due to a failure to comply with the duty of impartiality in administrative action, and a misinterpretation of the contract in the context of the relationship with EY.

Action brought on 7 December 2021 — SE v Commission

(Case T-763/21)

(2022/C 73/63)

Language of the case: English

Parties

Applicant: SE (represented by: L. Levi and A. Blot, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the decision dated 23 April 2021 to reject the applicant's candidacy to the Junior Professional Pilot program (hereinafter 'JPP program');

— annul, insofar as necessary, the decision dated 27 August 2021 rejecting the applicant's complaint of 27 April 2021;

— order compensation of his material prejudice resulting from the loss of a chance to be reclassified as a temporary agent AD 5 as from 1 October 2021, as estimated in the application;

— order compensation of his material prejudice resulting from the loss of a chance to become a permanent official based on participation in internal competitions restricted to temporary agents at AD level, as estimated in the application;

— order the defendant to pay the entire 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 age discrimination, in violation of Article 21(1) of the Charter of Fundamental Rights of the EU, Article 1d of the Staff Regulations and Article 10(1) of the Conditions of Employment of Other Servants.

2. Second plea in law, alleging abuse of mandate and/or lack of competence.

3. Third plea in law, alleging that the call for expressions of interest is illegal.

Action brought on 7 December 2021 — Imdea Materiales v Commission

(Case T-765/21)

(2022/C 73/64)

Language of the case: Spanish

Parties

Applicant: Fundación Imdea Materiales (Madrid, Spain) (represented by: P. Suárez Fernández, J. Salinas Casado and Z. Marcos Vaquero, lawyers)

Defendant: European Commission

Form of order sought

The applicant submits that the Court should:

— declare that the European Commission has failed to comply with Article II.22.5 of the General Conditions of the Contract entitled *'FP7 Grant Agreement — Annex II General Conditions'* so that the process reverts to the stage when observations are presented to the European Commission;

— declare that there has been no breach of the contractual terms and conditions by IMDEA (Fundación Imdea Materiales) so that the recovery and compensation measures imposed are ineffective;

— alternatively, in accordance with the principle of proportionality, recalculate the amount to be recovered by the European Commission.

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 by the European Commission of Article II.22.5 of the General Conditions, in view of the refusal of access to documentation and information provided to IMDEA, which could not be taken into account at the time when observations were presented;

2. Second plea in law, alleging the veracity of the expenses declared by the IMDEA to the European Commission for the researchers who were part of the Compose3 Project in relation to Articles II.14 and II.15 of the General Conditions;

   — In that regard, a large amount of evidence is provided, the combined assessment of which leads to the conclusion that the expenses were genuine;

3. Third plea in law, alleging infringement of Article II.22.6 of the General Conditions as a result of the breach of the principle of proportionality, in so far as the European Commission failed to carry out any balancing of the punitive measures imposed.

Action brought on 11 December 2021 — Bategu Gummitechnologie v Commission

(Case T-771/21)

(2022/C 73/65)

Language of the case: German

Parties

Applicant: Bategu Gummitechnologie GmbH (Vienna, Austria) (represented by: G. Maderbacher, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare the present action admissible;

— order the European Union, represented by the Commission, to pay EUR 70 695 720,35;

— order the European Union to pay the costs.

Pleas in law and main arguments

The applicant submits an application under Article 268 TFEU seeking compensation in respect of the harm which it allegedly suffered as a result of serious breaches by the Commission in the performance of its duties. The Commission failed, contrary to its obligations, to find and bring to an end infringements of Articles 101 TFEU and 102 TFEU by manufacturers of rail vehicles. The Commission has availed of legitimate expectations and prompted the applicant to make investments.

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

1. First plea in law, alleging serious misuse of powers and manifest errors of assessment by the Commission

   The Commission failed, in the context of a formal complaint brought by the applicant pursuant to Article 7 of Regulation No 1/2003, ([1]) to examine carefully all considerations of fact and law.

2. Second plea in law, alleging serious breach by the Commission of the principles of protection of legitimate expectations and legal certainty

   The Commission gave precise, unconditional and consistent assurances that the materials used in rail vehicles had to meet requirements which the Commission had itself laid down. In view of those assurances, the applicant made significant investments, inter alia, in the development of technology meeting those requirements, which would be rendered worthless by the Commission's inaction.

3. Third plea in law, alleging serious infringement by the Commission of the applicant's fundamental right to property pursuant to Article 17 of the Charter of Fundamental Rights of the European Union ([2])

   According to the case-law of the European Court of Human Rights on Article 1 of Protocol No 1 to the European Convention on Human Rights which, pursuant to Article 52 of the Charter must be taken into consideration in the interpretation of the Charter, the Commission is under an obligation to take positive measures to protect the applicant's intellectual property. The Commission failed to take such measures.

4. Fourth plea in law, alleging infringement of the applicant's right to good administration pursuant to Article 41 of the Charter

   After the applicant's formal antitrust complaint had been raised, it took the Commission approximately four years to inform the applicant that it did not intend, on the basis of that complaint, to bring the alleged infringement to an end and the Commission has as yet not taken a final decision on the complaint. There is nothing in the parts of the file which the Commission has disclosed that would justify the lengthy duration of the proceedings. The applicant thus alleges infringement of Article 41 of the Charter on the part of the Commission.

([1]) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ 2003 L 1, p. 1).
([2]) Charter of Fundamental Rights of the European Union (OJ 2012 C 326, p. 391).

Action brought on 13 December 2021 — Brobet v EUIPO — Efbet Partners (efbet)

(Case T-772/21)

(2022/C 73/66)

Language of the case: English

Parties

Applicant: Brobet ltd. (Ta'Xbiex, Malta) (represented by: F. Bojinova, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

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

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union word mark figurative mark efbet — European Union trade mark No 10 818 748

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 22 September 2021 in Case R 624/2021-2

Form of order sought

The applicant claims that the Court should:

— partially annul the contested decision, namely the part of the section 3 in which the appeal of Brobet Limited had been dismissed with respect to the revocation of the same party's rights in EUTM No. 010818748 for the following goods and services: *Computer interfaces; Recorded computer software, which can be transferred to another currier; Electronic game equipment; and the services in class 9 and Entertainment (except gambling); Information services in the field of entertainment (except gambling); Gaming (except gambling)* in class 41;

— order EUIPO to pay the costs incurred by the applicant in relation to the present action of annulment.

Pleas in law

— Infringement of Article 95(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement, alternatively, of Article 95(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council, as interpreted by the case-law of the Court of Justice of the European Union;

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

Action brought on 15 December 2021 — Financiere Batteur v EUIPO — Leno Beauty (by L.e.n.o beauty)

(Case T-779/21)

(2022/C 73/67)

Language in which the application was lodged: French

Parties

Applicant: Financiere Batteur (Hérouville-Saint-Clair, France) (represented by: P. Greffe and F. Donaud, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Leno Beauty Sas (Ventimiglia, Italy)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for EU figurative mark by L.e.n.o beauty — Application for registration No 18 083 647

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 13 October 2021 in Case R 514/2021-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

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

Action brought on 18 December 2021 — EAA v Commission

(Case T-781/21)

(2022/C 73/68)

Language of the case: English

Parties

Applicant: European Aluminium Association (EAA) (Brussels, Belgium) (represented by: B. O'Connor and M. Hommé, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Article 3 of Commission Implementing Regulation (EU) 2021/1784, by which the Commission does not order the collection of provisional duties;

— order the Commission to pay the applicant's costs incurred by this application.

Pleas in law and main arguments

In support of the action for annulment of Article 3 of Commission Implementing Regulation (EU) 2021/1784 ([1]), the applicant relies on three pleas in law.

1. First plea in law, alleging that the Commission has acted in breach of Regulation 2016/1036 of the European Parliament and of the Council ([2]), and in particular Article 10(2) thereof, the object and purpose of Regulation 2016/1036 of the European Parliament and of the Council and the established Commission practice to order the collection of provisional duties.

2. Second plea in law, alleging that the Commission has not complied with the obligation under Article 296 TFEU to state reasons.

3. Third plea in law, alleging that the Commission did not comply with the principles of due process and good administration.

([1]) Commission Implementing Regulation (EU) 2021/1784, of 8 October 2021, imposing a definitive anti-dumping duty on imports of aluminium flat-rolled products originating in the People's Republic of China (OJ 2021 L 359, p. 6).

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

Action brought on 18 December 2021 — EAA v Commission

(Case T-782/21)

(2022/C 73/69)

Language of the case: English

Parties

Applicant: European Aluminium Association (EAA) (Brussels, Belgium) (represented by: B. O'Connor and M. Hommé, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— Adopt a measure of organisation of procedure on two aspects of the case;

— Annul Implementing Decision (EU) 2021/1788 ([1]) by which the Commission suspends the effects of Implementing Regulation (EU) 2021/1784 ([2]);

— Order the European Commission to pay the applicant's costs incurred by the application.

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 the Commission acted in breach of Regulation 2016/1036 ([3]), and in particular Article 14(4) thereof. In particular, the Commission failed to examine the issue of injury as provided for in Article 3(5) of Regulation (EU) 2016/1036, but only examined a limited and reduced number of injury indicators. In addition, the Commission did not carry out a Union Interest evaluation. Moreover, the Commission failed to consider the Union's decarbonisation policy and imposed on itself a deadline which was not provided for in law. Finally, the Commission erred in the legal test to be applied with respect to the resumption of injury.

2. Second plea in law, alleging the Commission acted in breach of the principles of due process and good administration. In particular, the Commission's overall conduct of the suspension investigation was deficient and the suspension investigation has not been legally or factually initiated. In addition, the Commission imposed unnecessary time limits so as to meet an unreasonable and unnecessary deadline. Moreover, the Commission acted inconsistently in borrowing the concept of disclosure which applies to new and review investigations but not the deadlines which apply to those investigations. Finally, the assessment of the Union interest was not disclosed to parties and parties could not comment on it.

3. Third plea in law, alleging the Commission acted in breach of Article 296 TFEU by failing to adequately state reasons. In particular, the Commission failed to adequately state why it was necessary to set the deadline for the conclusion of the suspension investigation at the same time as the anti-dumping investigation. Moreover, the Commission did not give sufficient reasons why it was in the Union Interest to suspend measures.

4. Fourth plea in law, alleging the Commission manifestly erred in assessing the facts. In particular, the Commission erred in the examination of the changed market conditions; in the examination of the ability of the Union industry to supply the market; in the examination of data on production outside the EU; and in the examination of supply and demand.

5. Fifth plea in law, alleging the Commission made an inappropriate use of the suspension provision. The Commission misused its power by granting suspension as an alternative to unsuccessful applications to exclude products from the product scope.

([1]) Commission Implementing Decision (EU) 2021/1788 of 8 October 2021 suspending the definitive anti-dumping duties imposed by Implementing Regulation (EU) 2021/1784 on imports of aluminium flat-rolled products originating in the People's Republic of China ((OJ 2021, L 359, p. 105).

([2]) Commission Implementing Regulation (EU) 2021/1784 of 8 October 2021 imposing a definitive anti-dumping duty on imports of aluminium flat-rolled products originating in the People's Republic of China (OJ 2021 L 359, p. 6).

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

Action brought on 20 December 2021 — NP v Commission

(Case T-784/21)

(2022/C 73/70)

Language of the case: French

Parties

Applicant: NP (represented by: C. Mourato, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the decision of 8 February 2021 of the European Commission (appointing authority) in that it rejects in part the applicant's claims of 2 October 2020 based on psychological harassment for which the European Commission is liable on the basis of Articles12a(1) and (3) of the Staff Regulations, and more specifically by not acknowledging the harassment suffered since November 2014, by committing manifest errors of assessment of the alleged facts, by not drawing the appropriate conclusions, by infringing its obligation to provide assistance and by refusing to open the recognition procedure in respect of the applicant's invisible mental disability before the reintegration procedure following the applicant being declared unfit to work and by refusing to determine reasonable accommodations for the performance of the essential functions of the applicant's employment such as part-time work on medical grounds, teleworking and refresher training, in accordance with Articles 1d(4) and 33 of the Staff Regulations, Article 15 of Annex VIII of the Staff Regulations and Commission Decision C(2004) 1318 of 7 April 2004;

— order the European Commission to pay the applicant damages of EUR 40 000 as compensation for the non-material damage suffered in that context;

— order the European Commission to pay the applicant damages of EUR 106 649,02 as compensation for financial damage suffered in that context up to 31 December 2021, without prejudice to the applicant's right to request a reassessment covering the financial damage that will be incurred between 1 January 2022 and the requested date of reintegration;

— order the defendant to pay the costs of the proceedings, pursuant to Article 134 of the Rules of Procedure of the General Court of the European Union.

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 psychological harassment of the applicant by several members of the European Commission's Medical Service, concurrent breaches of the duty to have regard for the welfare of staff and of the principles of non-discrimination and proportionality in the context of the applicant's request for reintegration following invalidity since November 2014, manifest errors in the assessment of the facts alleged and an infringement of the obligation to provide assistance and lastly infringement of the obligation to initiate the procedure for establishing the applicant's disability which must take place before the procedure for the applicant's reintegration.

2. Second plea in law, requesting damages for the abovementioned harassment.

Action brought on 20 December 2021 — Team Beverage v EUIPO (TEAM BUSINESS IT DATEN — PROZESSE — SYSTEME)

(Case T-786/21)

(2022/C 73/71)

Language of the case: German

Parties

Applicant: Team Beverage AG (Bremen, Germany) (represented by: O. Spieker, D. Mienert and J. Selbmann, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for EU figurative mark TEAM BUSINESS IT DATEN — PROZESSE — SYSTEME in blue and grey — Application for registration No 17 660 655

Contested decision: Decision of the Second Board of Appeal of EUIPO of 8 October 2021 in Case R 2185/2020-2

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

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

Action brought on 21 December 2021 — UniSkin v EUIPO — Unicskin (UNISKIN by Dr. Søren Frankild)

(Case T-787/21)

(2022/C 73/72)

Language of the case: English

Parties

Applicant: UniSkin ApS (Silkeborg, Denmark) (represented by: M. Hoffgaard Rasmussen, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Unicskin, SL (Madrid, Spain)

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 UNISKIN by Dr. Søren Frankild — Application for registration No 18 153 435

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 20 October 2021 in Case R 771/2021-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and, subsequently, reject the opposition against the trade mark in its entirety;

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 22 December 2021 — PL v Commission

(Case T-790/21)

(2022/C 73/73)

Language of the case: French

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the reassignment decision of the Directorate-General for Human Resources and Security of 16 February 2021;

— annul, in so far as necessary, the decision rejecting the applicant's complaint submitted under Article 22c dated 16 September 2021;

— declare that the Commission has failed to comply with the judgments of the General Court of 15 April 2015 and 13 December 2018 in conformity with the grounds of those judgments and that the Commission disregarded the principle of *res judicata*;

— order the Commission to pay compensation of EUR 25 000 in respect of material harm suffered and EUR 100 000 in respect of non-material harm suffered;

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging the lack of competence of the administrative authority that rejected the applicant's complaint.

2. Second plea in law, alleging infringement of Article 266 TFEU, of the principle of *res judicata*, of the principle non-retroactivity, abuse of process, infringement of procedural safeguards, of the right to be heard effectively and in accordance with the intended objective of that right. That plea consists of three parts:

   — first part, alleging infringement of the applicant's rights of defence, infringement of the right to be heard, no administrative inquiry, breach of the adversarial principle, breach of the principle of equality of arms and infringement of Article 41 of the Charter of Fundamental Rights of the European Union and of the right to sound administration and failure to act within a reasonable time;

   — second part, alleging admission of the failure to observe the procedural aim and abuse of process, failure to comply with the duty to have regard for the welfare of staff and the protection given to informants;

   — third part, alleging infringement of the principles and rules concerning retroactive effect and legal certainty in relation to retroactive effect, infringement of the principles of impartiality (objective and subjective), willingness to adopt the same decision with the same scope and based on the same grounds instead of compensation for the loss of opportunity to see the procedural rights of the applicant respected in a timely and effective manner.

3. Third plea in law, alleging infringement of Article 22a of the Staff Regulations of Officials of the European Union ('the Staff Regulations'), breach of the duty to afford assistance and to have regard for the welfare of officials in the context of the procedure for reassignment, infringement of Article 22c of the Staff Regulations and of the protection afforded to whistleblowers, of the duties of care, neutrality, impartiality, objectivity, of the right of the applicant to equal treatment of his file by the administration and infringement of his legitimate expectations and abuse of process. That plea consists of four parts:

   — first part, alleging infringement of Article 22c of the Staff Regulations in that the appointing authority did not adopt the procedure laid down by that provision;

   — second part, alleging infringement of the duty to have regard for the welfare of officials;

   — third part, alleging infringement of the principles of objectivity, impartiality and neutrality of the competent appointing authority, infringement of the principle of equal treatment and non-discrimination;

   — fourth part, alleging infringement of the rules relating to the burden of proof.

Action brought on 21 December 2021 — Front Polisario v Council

(Case T-793/21)

(2022/C 73/74)

Language of the case: French

Parties

Applicant: Front populaire pour la libération de la Saguia el-Hamra et du Rio de oro (Front Polisario) (represented by: G. Devers, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare its action admissible;

— annul the contested regulation;

— order the Council to pay the costs.

Pleas in law and main arguments

In support of the action again Council Regulation (EU) 2021/1750 of 28 September 2021 amending Regulation (EU) 2019/440 on the allocation of fishing opportunities under the Sustainable Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco and the Implementation Protocol thereto (OJ 2021 L 349, p. 1), the applicant relies on a single plea in law, alleging absence of legal basis of that regulation on account of the illegality of Decision 2019/441. ([1])

1. First part, alleging lack of competence on the part of the Council to adopt Decision 2019/441, in so far as the European Union and the Kingdom of Morocco do not have competence to conclude an international agreement applicable to Western Sahara instead of the Sahrawi people, represented by the Front Polisario.

2. Second part, alleging failure to comply with the obligation to examine the question of respect for fundamental rights and for international humanitarian law, in so far as the Council failed to examine that question before adopting Decision 2019/441.

3. Third part, alleging breach, on the part of the Council, of its obligation to comply with the judgments of the Court of Justice, in so far as Decision 2019/441 disregards the grounds of the Court's judgment of 27 February 2019, *Western Sahara Campaign UK* (C-266/16, EU:C:2018:118).

4. Fourth part, alleging breach of the essential principles and values guiding the European Union's action on the international scene, since:

   first, in breach of the right of peoples to respect for their national unity, Decision 2019/441 denies the existence of the Sahrawi people by using the expressions 'the people of Western Sahara' and 'the people concerned' instead;

second, in breach of the right of peoples to dispose freely of their natural resources, Decision 2019/441 concludes an international agreement that organises, without the consent of the Sahrawi people, the exploitation of its fishery resources by EU vessels;

third, Decision 2019/441 concludes an international agreement applicable to occupied Western Sahara, with the Kingdom of Morocco, in the context of the latter's policy of annexation with regard to that territory and the systematic breaches of fundamental rights that maintaining such a policy entails.

5. Fifth part, alleging breach of the principle of protection of legitimate expectations, in so far as Decision 2019/441 is contrary to the declarations of the European Union which has consistently reiterated the need to observe the principles of self-determination and of the relative effect of treaties.

6. Sixth part, alleging misapplication of the principle of proportionality since, given the separate and distinct status of Western Sahara, the intangible character of the right to self-determination and the status of third party of the Sahrawi people, it was not for the Council to carry out a balancing exercise between the alleged 'benefits' from the Fisheries Agreement and its impact on Sahrawi natural resources.

7. Seventh part, alleging conflict with the Common Fisheries Policy since, in accordance with the agreement concluded by Decision 2019/441, EU vessels will be able to access the fishery resources of the Sahrawi people, without its consent, in exchange for a financial contribution paid to the Moroccan authorities, although Western Sahara waters are not Moroccan 'waters' for the purposes of Articles 61 and 62 of the United Nations Convention on the Law of the Sea.

8. Eight part, alleging breach of the right to self-determination since:

first, by using the expressions 'the people of Western Sahara' and 'the people concerned' instead, Decision 2019/441 denies the national unity of the Sahrawi people as a subject of the right to self-determination;

second, in breach of the right of the Sahrawi people to dispose freely of its natural resources, Decision 2019/441 organises, without its consent, the exploitation of its fishery resources by EU vessels;

third, in breach of the right of the Sahrawi people to respect for the territorial integrity of its national territory, Decision 2019/441 denies the separate and distinct status of Western Sahara and endorses the illegal division thereof by the Moroccan 'Berm'.

9. Ninth part, alleging breach of the principle of the relative effect of treaties since Decision 2019/441 denies the Sahrawi people's status of third party to EU-Morocco relations and imposes international obligations on the Sahrawi people concerning its national territory and its natural resources, without its consent.

10. Tenth part, alleging violations of international humanitarian law and international criminal law since:

first, Decision 2019/441 concludes an international agreement applicable to Western Sahara although the Moroccan occupying forces do not have *jus tractatus* with regard to that territory and are prohibited from exploiting its natural resources;

second, pursuant to the agreement concluded by Decision 2019/441, the European Union will subsidise Moroccan infrastructure in occupied Sahrawi territory, so that the Kingdom of Morocco may durably establish its own civilian population and its own armed forces there;

third, by using the expressions 'the people of Western Sahara' and 'the people concerned', Decision 2019/441 is endorsing the illegal transfer of Moroccan settlers to occupied Sahrawi territory.

11. Eleventh part, alleging breach, on the part of the European Union, of its obligations under the law of international responsibility since, by concluding an international agreement with the Kingdom of Morocco that is applicable to Western Sahara, Decision 2019/441 is endorsing serious violations of international law committed by the Moroccan occupying forces against the Sahrawi people and rendering aid and assistance in maintaining the situation arising from those violations.

([1]) Council Decision (EU) 2019/441 of 4 March 2019 on the conclusion of the Sustainable Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco, the Implementation Protocol thereto and the Exchange of Letters accompanying the Agreement (OJ 2019 L 77, p. 4).

Action brought on 22 December 2021 — Wenz Kunststoff v EUIPO — Mouldpro (MOULDPRO)

(Case T-794/21)

(2022/C 73/75)

Language in which the application was lodged: German

Parties

Applicant: Wenz Kunststoff GmbH & Co. KG (Lüdenscheid, Germany) (represented by: J. Bühling and D. Graetsch, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Mouldpro ApS (Ballerup, Denmark)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: EU word mark MOULDPRO — EU trade mark No 10 022 317

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 8 October 2021 in Case R 646/2020-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— reject the application of Mouldpro ApS of 30 January 2018 for cancellation of EU trade mark No 10 022 317;

in the alternative:

— reject the application for cancellation in so far as it covers anything other than hose couplings of plastic (included in Class 17);

in the alternative:

— refer the case back to EUIPO for a further hearing and decision;

— order EUIPO to pay the costs, including the costs incurred in the appeal proceedings.

Plea in law

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

Action brought on 22 December 2021 — Protectoplus v EUIPO (Li-SAFE)

(Case T-795/21)

(2022/C 73/76)

Language of the case: German

Parties

Applicant: Protectoplus GmbH (Rensburg, Germany) (represented by: W. Riegger, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: EU word mark 'Li-SAFE' — Application for registration No 18 288 094

Contested decision: Decision of the First Board of Appeal of EUIPO of 6 October 2021 in Case R 845/2021-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Pleas in law

— Infringement of 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 23 December 2021 — Gustopharma Consumer Health v EUIPO — Helixor Heilmittel (HELIXORIGINAL)

(Case T-797/21)

(2022/C 73/77)

Language of the case: English

Parties

Applicant: Gustopharma Consumer Health, SL (Madrid, Spain) (represented by: J. Wachinger and R. Drozdz, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Helixor Heilmittel GmbH (Rosenfeld, Germany)

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 HELIXORIGINAL — Application for registration No 17 234 824

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 18 October 2021 in Case R 1644/2019-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

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

Action brought on 23 December 2021 — Gustopharma Consumer Health v EUIPO — Helixor Heilmittel (HELIXFORTE)

(Case T-798/21)

(2022/C 73/78)

Language of the case: English

Parties

Applicant: Gustopharma Consumer Health, SL (Madrid, Spain) (represented by: J. Wachinger and R. Drozdz, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Helixor Heilmittel GmbH (Rosenfeld, Germany)

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 HELIXFORTE — Application for registration No 17 234 899

Procedure before EUIPO: Opposition proceedings/

Contested decision: Decision of the First Board of Appeal of EUIPO of 19 October 2021 in Case R 1645/2019-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

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

Action brought on 28 December 2021 — Fieldpoint (Cyprus) v EUIPO (HYPERLIGHTOPTICS)

(Case T-800/21)

(2022/C 73/79)

Language of the case: English

Parties

Applicant: Fieldpoint (Cyprus) LTD (Nicosia, Cyprus) (represented by: P. Rath and S. Gebele, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for European Union word mark HYPERLIGHTOPTICS — Application for registration No 18 335 960

Contested decision: Decision of the Second Board of Appeal of EUIPO of 6 October 2021 in Case R 1166/2021-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— declare European Union trademark application No 18 335 960 'HYPERLIGHTOPTICS' to be eligible for registration;

— order EUIPO to pay the costs of the proceedings before the Court.

Pleas in law

— Infringement of Articles 7(1)(b) and 7(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Articles 7(1)(c) and 7(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Breach of the principle of equality.

Action brought on 28 December 2021 — Fieldpoint (Cyprus) v EUIPO (HYPERLIGHTEYEWEAR)

(Case T-801/21)

(2022/C 73/80)

Language of the case: English

Parties

Applicant: Fieldpoint (Cyprus) LTD (Nicosia, Cyprus) (represented by: P. Rath and S. Gebele, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for European Union word mark HYPERLIGHTEYEWEAR — Application for registration No 18 335 969

Contested decision: Decision of the Second Board of Appeal of EUIPO of 6 October 2021 in Case R 1165/2021-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— declare European Union trade mark application No 18 335 969 'HYPERLIGHTEYEWEAR' to be eligible for registration;

— order EUIPO to pay the costs of the proceedings before the Court.

Pleas in law

— Infringement of Articles 7(1)(b) and 7(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Articles 7(1)(c) and 7(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Breach of the principle of equality.

Action brought on 23 December 2021 — just-organic.com v EUIPO (JUST ORGANIC)

(Case T-802/21)

(2022/C 73/81)

Language of the case: German

Parties

Applicant: just-organic.com GmbH (Essen, Germany) (represented by: C. Menebröcker, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: EU figurative mark containing the word element 'JUST ORGANIC' — Application for registration No 18 317 774

Contested decision: Decision of the Second Board of Appeal of EUIPO of 20 October 2021 in Case R 1010/2021-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision, in so far as the EU trade mark application No 18 317 774 was rejected;

— order EUIPO to pay the costs.

Pleas in law

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

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

Action brought on 23 December 2021 — NS v Parliament

(Case T-805/21)

(2022/C 73/82)

Language of the case: French

Parties

Applicant: NS (represented by: L. Levi and A. Blot, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— declare the present action admissible and well-founded;

— annul the decision of 21 January 2021 reassigning the applicant to the post of Adviser in the Directorate-General for the Presidency and, to the extent necessary, the decision of 8 March 2021 to recover the overpayment;

— in so far as necessary, annul the decision of 16 September 2021 rejecting the applicant's complaint of 7 April 2021;

— make good the applicant's material and non-material damage;

— order the defendant to pay all 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 Article 41 of the Charter of Fundamental Rights of the European Union and in particular breach of the right to be heard and breach of the obligation to give reasons.

2. Second plea in law, alleging manifest lack of interest of the service and breach of the duty to have regard for the welfare of officials.

3. Third plea in law, alleging misuse of power and abuse of process.

Action brought on 27 December 2021 — NT v EMA

(Case T-806/21)

(2022/C 73/83)

Language of the case: French

Parties

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

Defendant: European Medicines Agency

Form of order sought

The applicant claims that the Court should:

— annul the decision of 15 March 2021;

— to the extent necessary, annul the decision of 30 September 2021;

— order the defendant to pay compensation of EUR 2 500,00 for the non-material damage suffered by the applicant;

— order the defendant to pay 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 the legal inadequacy of the statement of reasons for the decision. In that regard, the applicant refers to a lack of a specific and thorough examination of the situation and contradictions in the findings that were submitted. In addition, she argues that the concept of 'occupational disease' was misinterpreted and that there was a manifest error of assessment.

2. Second plea in law, alleging that no or incorrect information was provided by the Agency's medical officer to the doctor appointed by the applicant and to the third doctor with respect to the classification of occupational disease within the meaning of the Staff Regulations of Officials.

3. Third plea in law, alleging a procedural irregularity and the premature nature of the findings of the invalidity committee in that they are meant to take account of the stressful situation caused by work while the facts underlying that situation are currently subject to an administrative enquiry.

4. Fourth plea in law, alleging breach of the applicant's right to be heard by the authority empowered to conclude contracts before the adoption of the decision, and breach of the duty of care, of assistance and of good administration.

5. Fifth plea in law, alleging maladministration in the treatment of the applicant's request, involving harm to her that is assessed *ex aequo et bono* at EUR 2 500,00.

Action brought on 29 December 2021 — QI v Commission

(Case T-807/21)

(2022/C 73/84)

Language of the case: French

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the decision of 26 February 2021 of the Director-General of the Directorate-General for Human Resources and Security to reject the applicant's complaint of 25 October 2020 made under Article 24 of the Staff Regulations;

— annul, in so far as necessary, the Commission's decision of 27 September 2021 rejecting the applicant's complaint of 26 May 2021;

— order the Commission to pay damages to the applicant in respect of the material and non-material harm she has suffered, assessed *ex aequo et bono* at EUR 100 000;

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

Pleas in law and main arguments

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

1. First plea in law, alleging that the rejection of the request for assistance was premature since it was made without opening an investigation and without waiting for the result of her request for access to her medical file, and was thus in breach of the right to be heard in an effective manner before the adoption of the decision.

2. Second plea in law, alleging a manifest error of assessment in relation to there being a lack of evidence of behaviour contrary to the Staff Regulations of Officials of the European Union ('the Staff Regulations'). The applicant argues that the harassment suffered actually occurred, that the procedural time limits were too short and raises a breach of Article 59 of the Staff regulations as not authorising the examinations which were carried out by the medical service in the present case.

3. Third plea in law, alleging breach of Article 41 of the Charter of Fundamental Rights of the European Union, of the duty to provide assistance and have regard for the welfare of staff, of the applicant's right to good administration, and also of the right to be treated fairly. The applicant also raises a breach of her legitimate expectations.

4. Fourth plea in law, alleging breach of the right to be heard in an effective manner owing to the lack of adversarial proceedings in relation to the information examined by the Investigation and Disciplinary Office of the Commission (IDOC) before closing the file.

5. Fifth plea in law, requesting compensation for the material and non-material damage suffered.

Order of the General Court of 26 November 2021 — Cepewa v EUIPO — Out of the blue (LIEBLINGSMENSCH)

(Case T-47/21) [1]

(2022/C 73/85)

Language of the case: German

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

[1] OJ C 88, 15.3.2021.

Order of the General Court of 26 November 2021 — Cepewa v EUIPO — Out of the blue (Lieblingsmensch)

(Case T-48/21) [1]

(2022/C 73/86)

Language of the case: German

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

[1] OJ C 88, 15.3.2021.

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

Publications Office
of the European Union
L-2985 Luxembourg
LUXEMBOURG

EN