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Information and Notices

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Contents

EN

General Court

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COURT OF JUSTICE OF THE EUROPEAN UNION

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

(2022/C 340/01)

Last publication

OJ C 326, 29.8.2022

Past publications

OJ C 318, 22.8.2022

OJ C 311, 16.8.2022

OJ C 303, 8.8.2022

OJ C 294, 1.8.2022

OJ C 284, 25.7.2022

OJ C 276, 18.7.2022

These texts are available on:

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

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Grand Chamber) of 14 July 2022 — Italian Republic, Comune di Milano v Council of the European Union

(Joined Cases C-59/18 and C-182/18) [1]

(Action for annulment — Law governing the institutions — EU bodies, offices and agencies — European Medicines Agency (EMA) — Competence to determine the location of the seat — Article 341 TFEU — Scope — Decision adopted by the Representatives of the Governments of the Member States in the margins of a Council meeting — Jurisdiction of the Court under Article 263 TFEU — Author and legal nature of the act — Absence of binding effects in the EU legal order)

(2022/C 340/02)

Language of the case: Italian

Parties

Applicants: Italian Republic (represented by: G. Palmieri, Agent, and by C. Colelli, S. Fiorentino and G. Galluzzo, avvocati dello Stato), Comune di Milano (represented by: M. Condinanzi, A. Neri and F. Sciaudone, avvocati)

Intervener in support of the Comune di Milano: Regione Lombardia (represented by: M. Tamborino, avvocato)

Defendant: Council of the European Union (represented by: M. Bauer, J. Bauerschmidt, F. Florindo Gijón and E. Rebasti, Agents)

Interveners in support of the defendant: Kingdom of the Netherlands (represented by: M.K. Bulterman and J. Langer, Agents), European Commission (represented by: K. Herrmann, M. Konstantinidis and D. Nardi, Agents)

Operative part of the judgment

The Court:

1. Dismisses the actions;

2. Orders the Italian Republic, the Comune di Milano and the Council of the European Union to bear their own costs;

3. Orders the Regione Lombardia, the Kingdom of the Netherlands and the European Commission to bear their own costs

[1] OJ C 94, 12.3.2018.

Judgment of the Court (Grand Chamber) of 14 July 2022 — Italian Republic (C-106/19), Comune di Milano (C-232/19) v Council of the European Union, European Parliament

(Joined Cases C-106/19 and C-232/19) ([1])

(Action for annulment — Law governing the institutions — Regulation (EU) 2018/1718 — Location of the seat of the European Medicines Agency (EMA) in Amsterdam (Netherlands) — Article 263 TFEU — Admissibility — Interest in bringing proceedings — Locus standi — Direct and individual concern — Decision adopted by the Representatives of the Governments of the Member States in the margins of a Council meeting in order to determine the location of the seat of an EU agency — Absence of binding effects in the EU legal order — Prerogatives of the European Parliament)

(2022/C 340/03)

Language of the case: Italian

Parties

Applicants: Italian Republic (represented by: G. Palmieri, Agent, and by C. Colelli, S. Fiorentino and G. Galluzzo, avvocati dello Stato) (C-106/19), Comune di Milano (represented by: J. Alberti, M. Condinanzi, A. Neri and F. Sciaudone, avvocati) (C-232/19)

Defendants: Council of the European Union (represented by: M. Bauer, J. Bauerschmidt, F. Florindo Gijón and E. Rebasti, Agents), European Parliament (represented by: I. Anagnostopoulou, A. Tamás and L. Visaggio, Agents)

Interveners in support of the defendants: Kingdom of the Netherlands (represented by: M.K. Bulterman and J. Langer, Agents), European Commission (represented by: K. Herrmann, D. Nardi and P.J.O. Van Nuffel, Agents)

Operative part of the judgment

The Court:

1. Dismisses the actions;

2. Orders the Italian Republic, the Council of the European Union and the European Parliament to bear their own costs in Case C-106/19;

3. Orders the Comune di Milano, the Council of the European Union and the European Parliament to bear their own costs in Case C-232/19;

4. Orders the Kingdom of the Netherlands and the European Commission to bear their own costs.

([1]) OJ C 112, 25.3.2019.

Judgment of the Court (Grand Chamber) of 14 July 2022 — European Parliament v Council of the European Union

(Case C-743/19) ([1])

(Action for annulment — Law governing the institutions — Bodies, offices and agencies of the European Union — European Labour Authority (ELA) — Competence to determine the location of the seat — Article 341 TFEU — Scope — Decision adopted by the Representatives of the Governments of the Member States in the margins of a Council meeting — Jurisdiction of the Court under Article 263 TFEU — Author and legal nature of the act — Absence of binding effects in the EU legal order)

(2022/C 340/04)

Language of the case: Italian

Parties

Applicant: European Parliament (represented by: I. Anagnostopoulou, C. Biz and L. Visaggio, Agents)

Defendant: Council of the European Union (represented by: M. Bauer, J. Bauerschmidt and E. Rebasti, Agents)

Interveners in support of the defendant: Kingdom of Belgium (represented by: J.-C. Halleux, M. Jacobs, C. Pochet and L. Van den Broeck, Agents, Czech Republic (represented by: L. Březinová, D. Czechová, K. Najmanová, M. Smolek and J. Vláčil, Agents), Kingdom of Denmark (represented by: M. Jespersen, V. Pasternak Jørgensen, J. Nymann-Lindegren and M. Søndahl Wolff, Agents), Ireland (represented by: M. Browne, G. Hodge, A. Joyce and J. Quaney, Agents, and by D. Fennelly, Barrister-at-Law), Hellenic Republic (represented by: K. Boskovits and E.-M. Mamouna, Agents), Kingdom of Spain (represented by: S. Centeno Huerta and A. Gavela Llopis, Agents), French Republic (represented by: A. Daly, A.-L. Desjonquères, E. Leclerc and T. Stehelin, Agents), Grand Duchy of Luxembourg (represented by: A. Germeaux, C. Schiltz and T. Uri, Agents), Hungary (represented by: M.Z. Fehér and K. Szíjjártó, Agents), Kingdom of the Netherlands (represented by: M.K. Bulterman, J.M. Hoogveld and J. Langer, Agents), Republic of Poland (represented by: B. Majczyna, Agent), Slovak Republic (represented by: E.V. Drugda and B. Ricziová, Agents), Republic of Finland (represented by: M. Pere, Agent)

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders the European Parliament and the Council of the European Union to bear their own costs;

3. Orders the Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Grand Duchy of Luxembourg, Hungary, the Kingdom of the Netherlands, the Republic of Poland, the Slovak Republic and the Republic of Finland to bear their own costs.

([1]) OJ C 399, 25.11.2019.

Judgment of the Court (Grand Chamber) of 21 June 2022 (request for a preliminary ruling from the Cour constitutionnelle — Belgium) — Ligue des droits humains v Conseil des ministres

(Case C-817/19) ([1])

(Reference for a preliminary ruling — Processing of personal data — Passenger Name Records (PNR) — Regulation (EU) 2016/679 — Article 2(2)(d) — Scope — Directive (EU) 2016/681 — Use of PNR data of air passengers of flights operated between the European Union and third countries — Power to include data of air passengers of flights operated within the European Union — Automated processing of that data — Retention period — Fight against terrorist offences and serious crime — Validity — Charter of Fundamental Rights of the European Union — Articles 7, 8 and 21 as well as Article 52(1) — National legislation extending the application of the PNR system to other transport operations within the European Union — Freedom of movement within the European Union — Charter of Fundamental Rights — Article 45)

(2022/C 340/05)

Language of the case: French

Referring court

Cour constitutionnelle

Parties to the main proceedings

Applicant: Ligue des droits humains

Defendant: Conseil des ministres

Operative part of the judgment

1. Article 2(2)(d) and Article 23 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), must be interpreted as meaning that that regulation applies to the processing of personal data envisaged by national legislation intended to transpose, into domestic law, the provisions of Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data, those of Directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC and also those of Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime, in respect of, on the one hand, data processing operations carried out by private operators and, on the other hand, data processing operations carried out by public authorities covered, solely or in addition, by Directive 2004/82 or Directive 2010/65. By contrast, the said regulation does not apply to the data processing operations envisaged by such legislation which are covered only by Directive 2016/681 and are carried out by the passenger information unit (PIU) or by the authorities competent for the purposes referred to in Article 1(2) of that directive.

2. Given that an interpretation of Directive 2016/681 in the light of Articles 7, 8 and 21 as well as Article 52(1) of the Charter of Fundamental Rights of the European Union ensures that that directive is consistent with those articles of the Charter of Fundamental Rights, the examination of Questions 2 to 4 and Question 6 referred for a preliminary ruling has revealed nothing capable of affecting the validity of the said directive.

3. Article 6 of Directive 2016/681, read in the light of Articles 7 and 8 as well as Article 52(1) of the Charter of Fundamental Rights, must be interpreted as precluding national legislation which authorises passenger name records (PNR data) collected in accordance with that directive to be processed for purposes other than those expressly referred to in Article 1(2) of the said directive.

4. Article 12(3)(b) of Directive 2016/681 must be interpreted as precluding national legislation pursuant to which the authority put in place as the passenger information unit (PIU) is also designated as a competent national authority with power to approve the disclosure of PNR data upon expiry of the period of six months after the transfer of those data to the PIU.

5. Article 12(1) of Directive 2016/681, read in conjunction with Articles 7 and 8 as well as Article 52(1) of the Charter of Fundamental Rights, must be interpreted as precluding national legislation which provides for a general retention period of five years for PNR data, applicable indiscriminately to all air passengers, including those for whom neither the advance assessment under Article 6(2)(a) of that directive nor any verification carried out during the period of six months referred to in Article 12(2) of the said directive nor any other circumstance have revealed the existence of objective evidence capable of establishing a risk that relates to terrorist offences or serious crime having an objective link, even if only an indirect one, with the carriage of passengers by air.

6. Directive 2004/82 must be interpreted as not applying to flights, whether scheduled or non-scheduled, carried out by an air carrier flying from the territory of a Member State and that are planned to land on the territory of one or more of the other Member States, without any stop-overs in the territory of a third country (intra-EU flights).

7. EU law, in particular Article 2 of Directive 2016/681, read in the light of Article 3(2) TEU, Article 67(2) TFEU and Article 45 of the Charter of Fundamental Rights, must be interpreted as precluding:

— national legislation which, in the absence of a genuine and present or foreseeable terrorist threat with which the Member State concerned is confronted, establishes a system for the transfer, by air carriers and tour operators, as well as for the processing, by the competent authorities, of the PNR data of all intra-EU flights and transport operations carried out by other means within the European Union, departing from, going to or transiting through that Member State, for the purposes of combating terrorist offences and serious crime. In such a situation, the application of the system established by Directive 2016/681 must be limited to the transfer and processing of the PNR data of flights and/or transport operations relating, inter alia, to certain routes or travel patterns or to certain airports, stations or

seaports for which there are indications that are such as to justify that application. It is for the Member State concerned to select the intra-EU flights and/or the transport operations carried out by other means within the European Union for which there are such indications and to review regularly that application in accordance with changes in the circumstances that justified their selection, for the purposes of ensuring that the application of that system to those flights and/or those transport operations continues to be limited to what is strictly necessary, and

— national legislation providing for such a system for the transfer and processing of those data for the purposes of improving external border controls and combating illegal immigration.

8. EU law must be interpreted as precluding a national court from limiting the temporal effects of a declaration of illegality which it is bound to make under national law in respect of national legislation requiring carriers by air, by rail and by road as well as tour operators to transfer PNR data, and providing for the processing and retention of those data, in breach of the provisions of Directive 2016/681, read in the light of Article 3(2) TEU, Article 67(2) TFEU, Articles 7, 8 and 45 as well as Article 52(1) of the Charter of Fundamental Rights. The admissibility of the evidence thus obtained is, in accordance with the principle of procedural autonomy of the Member States, a matter for national law, subject to compliance, inter alia, with the principles of equivalence and effectiveness.

([1]) OJ C 36, 3.2.2020.

Judgment of the Court (Grand Chamber) of 14 July 2022 (request for a preliminary ruling from the Landesgericht Klagenfurt — Austria) — GSMB Invest GmbH & Co. KG v Auto Krainer GesmbH

(Case C-128/20) ([1])

(Reference for a preliminary ruling — Approximation of laws — Regulation (EC) No 715/2007 — Approval of motor vehicles — Article 3(10) — Article 5(1) and (2) — Defeat device — Motor vehicles — Diesel engines — Pollutant emissions — Emission control system — Software installed in the electronic engine controller — Exhaust gas recirculation valve ('EGR valve') — Reduction in nitrogen oxide (NOx) emissions limited by a 'temperature window' — Prohibition on the use of defeat devices that reduce the effectiveness of emission control systems — Article 5(2)(a) — Exception to that prohibition)

(2022/C 340/06)

Language of the case: German

Referring court

Landesgericht Klagenfurt

Parties to the main proceedings

Applicant: GSMB Invest GmbH & Co. KG

Defendant: Auto Krainer GesmbH

Operative part of the judgment

1. Article 3(10) of Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information, read in conjunction with Article 5(1) of that regulation must be interpreted as meaning that a device which ensures compliance with the emission limits laid down by that regulation only when the outside temperature is between 15 and 33 °C and the driving altitude is below 1 000 metres constitutes a 'defeat device' within the meaning of Article 3(10) of that regulation.

2. Article 5(2)(a) of Regulation No 715/2007 must be interpreted as meaning that a defeat device, which guarantees compliance with the emission limits laid down by that regulation only where the outside temperature is between 15 and 33 °C and the driving altitude is less than 1 000 metres, cannot fall within the exception to the prohibition on the use of such devices, laid down in that provision, solely because that device contributes to the protection of parts such as the exhaust gas recirculation valve, the exhaust gas recirculation cooler and the diesel particulate filter, unless it is established that that device strictly meets the need to avoid immediate risks of damage or accident to the engine, caused by a malfunction of one of those parts, of such a serious nature as to give rise to a specific hazard when a vehicle fitted with that device is driven. In any event, a defeat device which, under normal driving conditions, operated during most of the year in order to protect the engine from damage or accident and ensure the safe operation of the vehicle could not fall within the exception provided for in Article 5(2)(a) of Regulation No 715/2007.

(1) OJ C 271, 17.8.2020.

Judgment of the Court (Grand Chamber) of 14 July 2022 (request for a preliminary ruling from the Landesgericht Eisenstadt — Austria) — IR v Volkswagen AG

(Case C-134/20) (1)

(Reference for a preliminary ruling — Approximation of laws — Regulation (EC) No 715/2007 — Approval of motor vehicles — Article 3(10) — Article 5(1) and (2) — Defeat device — Motor vehicles — Diesel engines — Pollutant emissions — Emission control system — Software installed in the electronic engine controller — Exhaust gas recirculation valve ('EGR valve') — Reduction in nitrogen oxide (NOx) emissions limited by a 'temperature window' — Prohibition on the use of defeat devices that reduce the effectiveness of emission control systems — Article 5(2)(a) — Exception to that prohibition — Directive 1999/44/EC — Sale of consumer goods and associated guarantees — Article 3(2) — Device installed during the repair of a vehicle)

(2022/C 340/07)

Language of the case: German

Referring court

Landesgericht Eisenstadt

Parties to the main proceedings

Applicant: IR

Defendant: Volkswagen AG

Operative part of the judgment

1. Article 3(10) of Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information, read in conjunction with Article 5(1) of that regulation, must be interpreted as meaning that a device which ensures compliance with the emission limits laid down by that regulation only when the outside temperature is between 15 and 33 °C and the driving altitude is below 1 000 metres constitutes a 'defeat device' within the meaning of Article 3(10) of that regulation.

2. Article 5(2)(a) of Regulation No 715/2007 must be interpreted as meaning that a defeat device, which guarantees compliance with the emission limits laid down by that regulation only where the outside temperature is between 15 and 33 °C, and the driving altitude is less than 1 000 metres, cannot fall within the exception to the prohibition on the use of such devices, laid down in that provision, solely because that device is intended to protect the exhaust gas recirculation valve, unless it is established that that device strictly meets the need to avoid immediate risks of damage or accident to

the engine, caused by a malfunction of that part, of such a serious nature as to give rise to a specific hazard when a vehicle fitted with that device is driven. In any event, a defeat device which, under normal driving conditions, operated during most of the year in order to protect the engine from damage or accident and ensure the safe operation of the vehicle could not fall within the exception provided for in Article 5(2)(a) of Regulation No 715/2007.

3. Article 5(1) and (2) of Regulation No 715/2007, read in conjunction with Article 3(10) of that regulation, must be interpreted as meaning that the fact that a defeat device, within the meaning of that provision, was installed after a vehicle was put into service, in the course of a repair, within the meaning of Article 3(2) of Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees, is irrelevant for the purposes of assessing whether the use of that device is prohibited under Article 5(2) of that directive.

(1) OJ C 271, 17.8.2020.

Judgment of the Court (Grand Chamber) of 14 July 2022 (request for a preliminary ruling from the Oberster Gerichtshof — Austria) — DS v Porsche Inter Auto GmbH & Co. KG, Volkswagen AG

(Case C-145/20) (1)

(Reference for a preliminary ruling — Approximation of laws — Regulation (EC) No 715/2007 — Approval of motor vehicles — Article 5(2) — Defeat device — Motor vehicles — Diesel engines — Emission control system — Software installed in the electronic engine controller — Exhaust gas recirculation valve ('EGR valve') — Reduction in nitrogen oxide (NOx) emissions limited by a 'temperature window' — Prohibition on the use of defeat devices that reduce the effectiveness of emission control systems — Article 5(2)(a) — Exception to that prohibition — Consumer protection — Directive 1999/44/EC — Sale of consumer goods and associated guarantees — Article 2(2)(d) — Concept of 'goods which show the quality and performance which are normal in goods of the same type and which the consumer can reasonably expect, given the nature of the goods' — Vehicle covered by an EC type-approval — Article 3(6) — Concept of a 'minor lack of conformity')

(2022/C 340/08)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Applicant: DS

Defendant: Porsche Inter Auto GmbH & Co. KG, Volkswagen AG

Operative part of the judgment

1. Article 2(2)(d) of Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees must be interpreted as meaning that a motor vehicle that falls within the scope of Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information does not show the quality which is normal in goods of the same type and which the consumer can reasonably expect where, although it is covered by a valid EC type-approval and may, consequently, be used on the road, that vehicle is fitted with a defeat device, the use of which is prohibited under Article 5(2) of that regulation.

2. Article 5(2)(a) of Regulation No 715/2007 must be interpreted as meaning that a defeat device, which guarantees, in particular, compliance with the emission limits laid down by that regulation only where the outside temperature is between 15 and 33 °C, can be justified under that provision only where it is established that that device strictly meets the need to avoid immediate risks of damage or accident to the engine, caused by a malfunction of a component of the exhaust gas recirculation system, of such a serious nature as to give rise to a specific hazard when a vehicle fitted with that device is driven. In any event, a defeat device which, under normal driving conditions, operated during most of the year in order to protect the engine from damage or accident and ensure the safe operation of the vehicle could not fall within the exception provided for in Article 5(2)(a) of Regulation No 715/2007.

3. Article 3(6) of Directive 1999/44 must be interpreted as meaning that a lack of conformity consisting of the presence, in a vehicle, of a defeat device, the use of which is prohibited under Article 5(2) of Regulation No 715/2007, is not to be classified as 'minor' even where the consumer would still have purchased that vehicle if he or she had been aware of the existence and operation of that device.

([1]) OJ C 279, 24.8.2020.

Judgment of the Court (Fifth Chamber) of 14 July 2022 — European Commission v Kingdom of Denmark

(Case C-159/20) ([1])

(Failure of a Member State to fulfil obligations — Regulation (EU) No 1151/2012 — Quality schemes for agricultural products and foodstuffs — Article 13 — Use of the protected designation of origin (PDO) 'Feta' to designate cheese produced in Denmark and intended for export to third countries — Article 4(3) TEU — Principle of sincere cooperation)

(2022/C 340/09)

Language of the case: Danish

Parties

Applicant: European Commission (represented by: M. Konstantinidis, I. Naglis and U. Nielsen, acting as Agents)

Defendant: Kingdom of Denmark (represented by: M.P. Brøchner Jespersen, J. Nymann-Lindegren, V. Pasternak Jørgensen, M. Søndahl Wolff and L. Teilgård, acting as Agents)

Interveners in support of the applicant: Hellenic Republic (represented by: E.-E. Krompa, E. Leftheriotou, E. Tsaousi and A.-E. Vasilopoulou, acting as Agents), Republic of Cyprus (represented by: V. Christoforou and E. Zachariadou, acting as Agents)

Operative part of the judgment

The Court:

1. Declares that, by failing to prevent or stop the use by Danish dairy producers of the protected designation of origin (PDO) 'Feta' to designate cheese which does not comply with the product specification for that PDO, the Kingdom of Denmark has failed to fulfil its obligations under Article 13(3) of Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs;

2. Dismisses the action as to the remainder;

3. Orders the Kingdom of Denmark to bear its own costs and to pay four fifths of the costs of the European Commission;

4. Orders the European Commission to bear one fifth of its costs;

5. Orders the Hellenic Republic and the Republic of Cyprus each to bear their own costs.

(1) OJ C 201, 15.6.2020.

Judgment of the Court (Fourth Chamber) of 14 July 2022 (request for a preliminary ruling from the Tribunal Superior de Justicia de la Comunidad Valenciana — Spain) — Asociación Estatal de Entidades de Servicios de Atención a Domicilio (ASADE) v Consejería de Igualdad y Políticas Inclusivas

(Case C-436/20) (1)

(Reference for a preliminary ruling — Articles 49 and 56 TFEU — Purely internal situation — Services in the internal market — Directive 2006/123/EC — Scope — Article 2(2)(j) — Public procurement — Directive 2014/24/EU — Concept of a 'public contract' — Articles 74 to 77 — Provision of social services in the form of personal assistance — Contractual action agreements with private, social initiative entities — Exclusion of profit-making operators — Location of the entity as a selection criterion)

(2022/C 340/10)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de la Comunidad Valenciana

Parties to the main proceedings

Applicant: Asociación Estatal de Entidades de Servicios de Atención a Domicilio (ASADE)

Defendant: Consejería de Igualdad y Políticas Inclusivas

Operative part of the judgment

1. Articles 76 and 77 of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC must be interpreted as not precluding national legislation which reserves the right for private non-profit organisations to conclude, subject to a competitive bidding process, agreements under which those organisations provide social services in the form of personal assistance in return for reimbursement of the costs which they incur, irrespective of the estimated value of those services, even where those organisations do not satisfy the requirements laid down in Article 77, provided, on the one hand, that the legal and contractual framework within which the activity of those organisations is carried out contributes effectively to the social purpose and objectives of solidarity and budgetary efficiency on which that legislation is based and, on the other hand, that the principle of transparency, as specified in particular in Article 75 of that directive, is respected.

2. Article 76 of Directive 2014/24 must be interpreted as precluding national legislation under which, in the award of a public contract for social services referred to in Annex XIV of that directive, the location of the economic operator in the place where the services are to be provided is a criterion for the selection of economic operators, prior to the examination of their tenders.

(1) OJ C 423, 7.12.2020.

Judgment of the Court (Fifth Chamber) of 14 July 2022 (request for a preliminary ruling from the Oberster Gerichtshof — Austria) — ÖBB-Infrastruktur Aktiengesellschaft v Lokomotion Gesellschaft für Schienentraktion mbH

(Case C-500/20) ([1])

(Reference for a preliminary ruling — International agreements — Railway transport — Convention concerning International Carriage by Rail (COTIF) — Uniform Rules concerning the contract for the use of infrastructure in international rail traffic (CUI) — Article 4 — Mandatory law — Article 8 — Liability of the manager — Article 19 — Other actions — Jurisdiction of the Court — Damage to the carrier's locomotives following a derailment — Leasing of replacement locomotives — Obligation on the infrastructure manager to reimburse lease costs — Contract extending the parties' liability by reference to national law)

(2022/C 340/11)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Applicant: ÖBB-Infrastruktur Aktiengesellschaft

Defendant: Lokomotion Gesellschaft für Schienentraktion mbH

Operative part of the judgment

1. The Court of Justice of the European Union, acting in accordance with Article 267 TFEU, has jurisdiction to interpret Article 4, Article 8(1)(b) and Article 19(1) of Appendix E to the Convention concerning International Carriage by Rail of 9 May 1980, as amended by the Vilnius Protocol of 3 June 1999, entitled 'Uniform Rules concerning the contract for the use of infrastructure in international rail traffic (CUI)';

2. Article 8(1)(b) of Appendix E to the Convention concerning International Carriage by Rail of 9 May 1980, as amended by the Vilnius Protocol of 3 June 1999 must be interpreted as meaning that the liability of the infrastructure manager for loss of or damage to property does not include the costs incurred by the railway undertaking as a result of having to lease replacement locomotives while the damaged locomotives were being repaired;

3. Article 4 and Article 19(1) of Appendix E to the Convention concerning International Carriage by Rail of 9 May 1980, as amended by the Vilnius Protocol of 3 June 1999 must be interpreted as meaning that the parties to the contract may assume greater liability by means of a blanket reference to national law, under which the extent of the infrastructure manager's liability is greater and such liability is conditional upon fault.

([1]) OJ C 19, 18.1.2021.

Judgment of the Court (Third Chamber) of 14 July 2022 (request for a preliminary ruling from the College van Beroep voor het bedrijfsleven — Netherlands) — Sense Visuele Communicatie en Handel vof (also trading under the name De Scharrelderij) v Minister van Landbouw, Natuur en Voedselkwaliteit

(Case C-36/21) ([1])

(Reference for a preliminary ruling — Common agricultural policy — Regulation (EU) No 1307/2013 — Direct support schemes — Common rules — Article 30(6) and Article 50(2) — Application for payment entitlements from the national reserve for young farmers — National administrative authority which has given incorrect information about the classification of a person as a 'young farmer' — Principle of the protection of legitimate expectations — Action seeking reparation for loss or harm based on the failure to comply with the national law principle of legitimate expectations)

(2022/C 340/12)

Language of the case: Dutch

Referring court

College van Beroep voor het bedrijfsleven

Parties to the main proceedings

Applicant: Sense Visuele Communicatie en Handel vof (also trading under the name De Scharrelderij)

Defendant: Minister van Landbouw, Natuur en Voedselkwaliteit

Operative part of the judgment

EU law and, in particular, the principle of the protection of legitimate expectations must be interpreted as not precluding an injured party from obtaining, by virtue of the principle of the protection of legitimate expectations recognised by national law and solely on the basis of that law, compensation for loss or harm resulting from a misinterpretation by a national authority of an unambiguous provision of EU law, provided that that compensation is not equivalent to the grant of an advantage contrary to EU law, that it is not borne by the EU budget and that it is not such as to give rise to distortions of competition between Member States.

([1]) OJ C 128, 12.4.2021.

Judgment of the Court (Second Chamber) of 14 July 2022 — Universität Bremen v European Research Executive Agency (REA)

(Case C-110/21 P) ([1])

(Appeal — Action for annulment — Article 19 of the Statute of the Court of Justice of the European Union — Representation of non-privileged parties in a direct action before the Courts of the European Union — University teacher — University teacher teaching at the university represented in that action and performing duties as coordinator and head of the project that is the subject matter of the dispute — Condition of independence — Existence of a direct and personal interest in the outcome of the dispute)

(2022/C 340/13)

Language of the case: German

Parties

Appellant: Universität Bremen (represented by: C. Schmid)

Other party to the proceedings: European Research Executive Agency (REA) (represented by: V. Canetti and S. Payan Lagrou, Agents, and by R. van der Hout, advocaat, and C. Wagner, Rechtsanwalt)

Operative part of the judgment

The Court:

1. Sets aside the order of the General Court of the European Union of 16 December 2020, *Universität Bremen* v *REA* (T-660/19, not published, EU:T:2020:633);

2. Refers Case T-660/19 back to the General Court of the European Union;

3. Reserves the costs.

(1) OJ C 182, 10.5.2021.

Order of the Court (Eighth Chamber) of 19 May 2022 (request for a preliminary ruling from a notario del Ilustre Colegio Notarial de Andalucía — Spain) — Frontera Capital SARL

(Case C-722/21) (1)

(Reference for a preliminary ruling — Article 53(2) of the Rules of Procedure of the Court — Article 267 TFEU — Notary — Meaning of a 'court or tribunal' — Criteria — No dispute before the referring body — Manifest inadmissibility)

(2022/C 340/14)

Language of the case: Spanish

Referring court

Notario del Ilustre Colegio Notarial de Andalucía

Parties to the main proceedings

Applicant: Frontera Capital SARL

Operative part of the order

The request for a preliminary ruling made by a notario del Ilustre Colegio Notarial de Andalucía (notary belonging to the Association of Notaries of Andalusia, Spain) by decision of 25 November 2021 is manifestly inadmissible.

(1) Date lodged: 25 November 2021

Order of the Court (Seventh Chamber) of 14 July 2022 (request for a preliminary ruling from the Bundesfinanzgericht — Austria) — CM v Finanzamt Österreich

(Case C-25/22) (1)

(Reference for a preliminary ruling — Article 53(2) and Article 94 of the Rules of Procedure of the Court of Justice — Requirement to provide reasons justifying the need for an answer to the questions referred — Lack of sufficient information — Manifest inadmissibility)

(2022/C 340/15)

Language of the case: German

Referring court

Bundesfinanzgericht

Parties to the main proceedings

Applicant: CM

Defendant: Finanzamt Österreich

Operative part of the order

The request for a preliminary ruling made by the Bundesfinanzgericht (Federal Finance Court, Austria), by decision of 31 December 2021, is manifestly inadmissible.

([1]) Date of filing: 10.1.2022.

Appeal brought on 4 March 2022 by Magic Box Int. Toys SLU against the judgment of the General Court (Tenth Chamber) delivered on 21 December 2021 in Case T-549/20, Magic Box Int. Toys v EUIPO — KMA Concepts

(Case C-194/22 P)

(2022/C 340/16)

Language of the case: Spanish

Parties

Appellant: Magic Box Int. Toys SLU (represented by: J. L. Rivas Zurdo, abogado)

Other parties to the proceedings: European Union Intellectual Property Office, KMA Concepts Ltd.

By order of 7 June 2022, the Court of Justice (Chamber determining whether appeals may proceed) did not allow the appeal and ordered Magic Box Int. Toys to bear its own costs.

Appeal brought on 4 April 2022 by Meta Cluster GmbH against the judgment of the General Court (Ninth Chamber) delivered on 26 January 2022 in Case T-233/21, Meta Cluster GmbH v European Union Intellectual Property Office

(Case C-233/22 P)

(2022/C 340/17)

Language of the case: German

Parties

Appellant: Meta Cluster GmbH (represented by: H. Baumann, Rechtsanwalt)

Other party to the proceedings: European Union Intellectual Property Office

By order of 15 July 2022, the Court of Justice of the European Union (Chamber determining whether appeals may proceed) decided that the appeal should not be allowed to proceed and ordered the appellant to bear its own costs.

Appeal brought on 3 May 2022 by Govern d'Andorra against the judgment of the General Court (Ninth Chamber) delivered on 23 February 2022 in Case T-806/19, Govern d'Andorra v EUIPO

(Case C-300/22 P)

(2022/C 340/18)

Language of the case: Spanish

Parties

Appellant: Govern d'Andorra (represented by: P. González-Bueno Catalán de Ocón, abogado)

Other party to the proceedings: European Union Intellectual Property Office

By order of 12 May 2022, the Vice-President of the Court of Justice declared the appeal inadmissible and ordered Govern d'Andorra to bear its own costs.

Request for a preliminary ruling from the Landgericht Köln (Germany) lodged on 11 May 2022 — Gesamtverband Autoteile-Handel eV v Scania CV AB

(Case C-319/22)

(2022/C 340/19)

Language of the case: German

Referring court

Landgericht Köln

Parties to the main proceedings

Applicant: Gesamtverband Autoteile-Handel eV

Defendant: Scania CV AB

Questions referred

I. Does the requirement in the second sentence of Article 61(1) of Regulation (EU) 2018/858, ([1]) according to which

'Information shall be presented in an easily accessible manner in the form of machine-readable and electronically processable datasets',

cover all repair and maintenance information within the meaning of point 48 of Article 3 of that regulation, **or** is that requirement limited to 'spare parts information' ('*parts of the vehicle […] that can be replaced by spare parts*') pursuant to point 6.1 of Annex X to that regulation?

II. Must the second sentence of Article 61(1) of Regulation (EU) 2018/858, according to which information is to be presented

'in an easily accessible manner in the form of machine-readable and electronically processable datasets',

and the second subparagraph of Article 61(2), according to which, for independent operators other than repairers,

'the information shall also be given in a machine-readable format that is capable of being electronically processed with commonly available information technology tools and software and which allows independent operators to carry out the task associated with their business in the aftermarket supply chain',

be interpreted as meaning that the vehicle manufacturer fulfils its obligations in that regard only by

1. making the information accessible via the internet by means of a machine-controlled query via a database interface, which provides the possibility to download the results, or is it sufficient that the vehicle manufacturer enables only a manual search by a human user on-screen on a website and limits the result of the query to the visible content of the pages displayed on-screen?

and

2. making it possible for all information in the database linked to the vehicle manufacturer's vehicle identification numbers (VINs) to be searched for on the basis of those VINs, which are to be provided by it in a separate list, and, independently of that possibility,

— also on the basis of other vehicle identification characteristics in accordance with the third subparagraph of point 6.1 of Annex X to the regulation

— and on the basis of the terms that the vehicle manufacturer otherwise uses for categories (such as categories of components, spare parts, repair and maintenance instructions and technical illustrations) and other database entries in any combination

or is it sufficient that the manufacturer offers the search exclusively as an individual query based on the VIN of a single, specific vehicle without at the same time providing an up-to-date list of all its vehicles' VINs?

and

3. providing those datasets in files in a format which is intended to make the datasets contained therein directly amenable to (further) electronic processing, the description of the dataset concerned being specified (in the case of texts and tables), **or** is the possibility to export mere screenshots in any conventional file format, such as a PDF file, sufficient for that purpose?

III. Does Article 61(1) of Regulation (EU) 2018/858 constitute, for vehicle manufacturers, a legal obligation within the meaning of Article 6(1)(c) of the GDPR which justifies the disclosure of VINs or information linked to VINs to independent operators as other controllers within the meaning of point 7 of Article 4 of the GDPR?

([1]) Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ 2018 L 151, p. 1).

Request for a preliminary ruling from the Varhoven administrativen sad (Bulgaria) lodged on 17 May 2022 — Zamestnik izpalnitelen direktor na Darzhaven fond 'Zemedelie' v IW

(Case C-329/22)

(2022/C 340/20)

Language of the case: Bulgarian

Referring court

Varhoven administrativen sad

Parties to the main proceedings

Applicant: Zamestnik izpalnitelen direktor na Darzhaven fond 'Zemedelie'

Defendant: IW

Questions referred

1. Must the second sentence of Article 29(3) of Regulation (EU) No 1305/2013 ([1]) of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 ('Regulation [EU] No 1305/2013') be interpreted as precluding a national provision such as Article 11(5) (formerly Article 11(4)) of Naredba No 4 ot 24.02.2015 za prilagane na myarka 11 'Biologichno zemedelie' ot Programata za razvitie na selskite rayoni za perioda 2014-2020 (Ordinance No 4 of 24 February 2015 on the application of measure 11 'Organic farming' of the Rural Development Programme for the period 2014-2020), under which the possibility of receiving financial support for organic production during conversion is limited to a period not exceeding the minimum conversion periods under Article 36(1), Article 37(1) and Article 38 of Commission Regulation (EC) No 889/2008 ([2]) of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control?

2. If the first question is answered in the affirmative, must the second sentence of Article 29(3) of Regulation (EU) No 1305/2013 be interpreted as meaning that the Member States are authorised to lay down by statute a maximum period for the granting of support for conversion to organic farming on the sole basis of the type of production and not on the basis of the particularities of each individual case?

3. How must the phrase 'Member States may determine a shorter initial period corresponding to the period of conversion' ([second] sentence of Article 29(3) of Regulation (EU) No 1305/2013) be interpreted? Are the terms 'initial period' and 'period of conversion' used interchangeably or do they have different meanings?

4. Must the phrase 'Member States may determine a shorter initial period corresponding to the period of conversion' in the [second] sentence of Article 29(3) of Regulation (EU) No 1305/2013 be interpreted as meaning that the entire 'organic farming' measure applies to activities for 'conversion' to organic farming for a period shorter than that referred to in the first sentence of Article 29(3) of that regulation, or must that phrase be interpreted as meaning that, within the framework of the overall commitment to 'organic farming', there is an initial period for activities during the conversion to organic farming?

(1) OJ 2013 L 347, p. 487.
(2) OJ 2008 L 250, p. 1.

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 27 May 2022 — PT v VB

(Case C-343/22)

(2022/C 340/21)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Defendant and appellant on a point of law: PT

Claimant and respondent in the appeal on a point of law: VB

Question referred

Must Article 34(2) of the Lugano Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters of 30 October 2007 ('the Lugano Convention') (1) be interpreted as meaning that the statement of claim in an action seeking repayment of a debt, which was brought after a Swiss order for payment had been issued previously and which did not include an application for the annulment of the objection lodged against the order for payment, constitutes the document which instituted the proceedings?

(1) OJ 2009 L 147, p. 1.

Request for a preliminary ruling from the Rechtbank van eerste aanleg Oost-Vlaanderen, afdeling Gent (Belgium) lodged on 1 June 2022 — BV Osteopathie Van Hauwermeiren v Belgische Staat

(Case C-355/22)

(2022/C 340/22)

Language of the case: Dutch

Referring court

Rechtbank van eerste aanleg Oost-Vlaanderen, afdeling Gent

Parties to the main proceedings

Applicant: BV Osteopathie Van Hauwermeiren

Defendant: Belgische Staat

Questions referred

1. Should the judgment of the Court of Justice of 8 April 1976 in Case 43/75 *Defrenne* v *SABENA* ([1]) be interpreted as granting the national court autonomous power — *sua sponte* and without submitting a request for a preliminary ruling under Article 267 TFEU — to maintain, on the basis of a purely internal legal provision, the effects, as regards the past, of national legislation concerning the VAT exemption for medical and paramedical services in respect of which the same court (having previously, in the same dispute, submitted three requests for a preliminary ruling under Article 267 TFEU to the Court of Justice, which the Court answered by judgment of 27 June 2019 in Case C-597/17) ([2]) subsequently found that the contested provision is contrary to European Union law and partially annulled that contested provision of national law, while maintaining the effects, as regards the past, of that provision of national law found to be contrary to EU law, thereby completely denying taxable persons liable for VAT the right to a refund of VAT levied in breach of EU law?

2. Is the national court entitled to maintain — autonomously and without submitting a request for a preliminary ruling under Article 267 TFEU — the effects, as regards the past, of a national provision held to be contrary to the VAT Directive, on the basis of a general reference to 'important considerations of legal certainty affecting all the interests involved, both public and private' and an alleged 'practical impossibility of refunding unduly collected VAT to the recipients of the supplies or services provided by the taxable person or of claiming payment from them in the event of an erroneous failure to charge them, particularly where a large number of unidentified persons is involved, or where the taxable persons do not have an accounting system that enables them subsequently to identify the supplies or services in question and their value' when the taxable persons have not even been given the possibility of demonstrating that such a 'practical impossibility' does not exist?

([1]) EU:C:1976:56.
([2]) EU:C:2019:544.

Request for a preliminary ruling from the Cour de cassation (France) lodged on 1 June 2022 — Bolloré logistics SA v Direction interrégionale des douanes et droits indirects de Caen, Recette régionale des douanes et droits indirects de Caen, Bolloré Ports de Cherbourg SAS

(Case C-358/22)

(2022/C 340/23)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Appellant in cassation: Bolloré logistics SA

Respondents in cassation: Direction interrégionale des douanes et droits indirects de Caen, Recette régionale des douanes et droits indirects de Caen, Bolloré Ports de Cherbourg SAS

Questions referred

1. Must Articles 195, 217 and 221 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, ([1]) as amended by Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty, ([2]) be interpreted as meaning that the customs administration may not demand payment of a customs debt from the joint and several guarantor when the duties have not been lawfully communicated to the debtor?

2 (a) Does observance of the rights of the defence, including the right to present observations before any measure adversely affecting a person, which is a fundamental principle of EU law, mean that where, in the case of non-payment of the customs debt by the debtor within the prescribed period, its recovery is sought from the guarantor, the customs administration must first place the guarantor in a position in which it can effectively make known its views as regards the information on which the customs administration intends to base its decision to enforce payment?

(b) Is the fact that the debtor of the customs debt has itself been placed in a position in which it can effectively make known its views before the communication of the duties relevant to the answer to Question 2(a)?

(c) If Question 2(a) is answered in the affirmative, what is the decision adversely affecting the guarantor before which there must be an *inter partes* phase: the decision of the customs administration to enter the duties in the accounts and to notify them to the debtor of the customs debt or the decision to enforce payment from the guarantor?

(1) OJ 1992 L 302, p. 1.
(2) OJ 2009 L 324, p. 23.

Request for a preliminary ruling from the Verwaltungsgericht Minden (Germany) lodged on 7 June 2022 — J.B., S.B. and F.B. v Federal Republic of Germany

(Case C-364/22)

(2022/C 340/24)

Language of the case: German

Referring court

Verwaltungsgericht Minden

Parties to the main proceedings

Applicants: J.B., S.B., F.B.

Defendant: Federal Republic of Germany

Questions referred

1. Must Article 33(2)(d) of Directive 2013/32/EU [1] be interpreted as precluding a national rule under which a further application for international protection must be refused as inadmissible irrespective of whether the applicant concerned returned to his or her country of origin after an application for international protection was rejected and before a further application for international protection was made?

2. In the context of the answer to Question 1, does it make any difference whether the applicant concerned was removed to his or her country of origin or returned there voluntarily?

3. Must Article 33(2)(d) of Directive 2013/32/EU be interpreted as precluding a Member State from refusing a further application for international protection as inadmissible where, although a decision on the granting of subsidiary protection status was not taken by way of the decision on the earlier application, grounds preventing removal were examined, and that examination is comparable in substance to the examination as to the granting of subsidiary protection status?

4. Are the examination of grounds preventing removal and the examination as to the granting of subsidiary protection status comparable where, in the examination of grounds preventing removal, it was necessary cumulatively to examine whether, in the country to which the applicant concerned is to be removed, he or she faces

   (a) a real risk of torture or inhuman or degrading treatment or punishment;

   (b) a risk of being subjected to the death penalty or execution;

   (c) a risk of being the subject of an infringement of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights — ECHR); or

   (d) a real and significant threat to his or her life and limb or freedom;

   or whether he or she

   (e) is exposed, as a member of the civilian population, to a significant individual threat to life or limb in the context of an international or internal armed conflict?

(1) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ 2013 L 180, p. 60).

Request for a preliminary ruling from the Okrazhen sad Burgas (Bulgaria) lodged on 14 June 2022 — Obshtina Pomorie v 'Anhialo auto' OOD

(Case C-390/22)

(2022/C 340/25)

Language of the case: Bulgarian

Referring court

Okrazhen sad Burgas

Parties to the main proceedings

Appellant: Obshtina Pomorie

Respondent: 'Anhialo auto' OOD

Questions referred

1. Do the provisions of Regulation (EC) No 1370/2007 ([1]) permit a Member State to introduce, by way of national legislation or internal rules, additional requirements and restrictions in relation to the payment of compensation to a transport undertaking for the discharge of a public service obligation which are not provided for in that regulation?

2. Does Article 4(1)(b)(i) of Regulation (EC) No 1370/2007 permit the payment of compensation to the transport undertaking for the discharge of a public service obligation where the parameters on the basis of which the compensation is to be calculated were not established in advance in a public service contract, but in general rules, and the net financial effect or the amount of compensation due was determined in accordance with the mechanism provided for in Regulation (EC) No 1370/2007?

([1]) Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ 2007 L 315, p. 1).

Request for a preliminary ruling from the Conseil d'État (France) lodged on 20 June 2022 — Ministre de l'Economie, des Finances et de la Relance v Manitou BF SA

(Case C-407/22)

(2022/C 340/26)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Appellant: Ministre de l'Economie, des Finances et de la Relance

Respondent: Manitou BF SA

Question referred

Does Article 49 of the Treaty on the Functioning of the European Union preclude legislation of a Member State relating to a tax integration scheme under which a tax-integrated parent company benefits from the neutralisation of the proportion of costs and expenses added back in respect of dividends received by it from resident companies which are parties to the integration and, for the purpose of taking account of the judgment of 2 September 2015, *Groupe Steria SCA* (C-386/14), in respect of dividends received from subsidiaries established in another Member State which, had they been resident, would

objectively have been eligible, if they so elected, for the tax integration scheme but which refuses the benefit of that neutralisation to a resident parent company which, despite the existence of capital links with other resident entities allowing for the constitution of a tax-integrated group, has not opted to belong to such a group, both in respect of the dividends distributed to it by its resident subsidiaries and in respect of those from subsidiaries established in other Member States which meet the eligibility criteria other than residence?

Request for a preliminary ruling from the Conseil d'État (France) lodged on 20 June 2022 — Ministre de l'Économie, des Finances et de la Relance v Bricolage Investissement France SA

(Case C-408/22)

(2022/C 340/27)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Appellant: Ministre de l'Économie, des Finances et de la Relance

Respondent: Bricolage Investissement France SA

Question referred

Does Article 49 of the Treaty on the Functioning of the European Union preclude legislation of a Member State relating to a tax integration scheme under which a tax-integrated parent company benefits from the neutralisation of the proportion of costs and expenses added back in respect of dividends received by it from resident companies which are parties to the integration and, for the purpose of taking account of the judgment of 2 September 2015, *Groupe Steria SCA* (C-386/14), in respect of dividends received from subsidiaries established in another Member State which, had they been resident, would objectively have been eligible, if they so elected, for the tax integration scheme but which refuses the benefit of that neutralisation to a resident parent company which, despite the existence of capital links with other resident entities allowing for the constitution of a tax-integrated group, has not opted to belong to such a group, both in respect of the dividends distributed to it by its resident subsidiaries and in respect of those from subsidiaries established in other Member States which meet the eligibility criteria other than residence?

Request for a preliminary ruling from the Szegedi Törvényszék (Hungary) lodged on 28 June 2022 — SOLE-MiZo Zrt. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

(Case C-426/22)

(2022/C 340/28)

Language of the case: Hungarian

Referring court

Szegedi Törvényszék

Parties to the main proceedings

Applicant: SOLE-MiZo Zrt.

Defendant: Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

Questions referred

1. In circumstances in which, in accordance with national law, interest on the amount of excess deductible VAT which could not be recovered because of the paid consideration condition ('interest on the VAT') is calculated by the application of an interest rate which undisputedly covers the short-term money market credit interest rate and which corresponds to the central bank's base rate increased by two percentage points, in relation to the VAT reporting period, so that that the interest runs from the day following the lodging of the VAT return form on which the taxable person indicated an excess of VAT that had to be carried forward to the following reporting period because of the paid consideration condition until the last day for lodging the next VAT return form, must European Union law, in particular Article 183 of Council Directive 2006/112/EC ([1]) of 28 November 2006 on the common system of value added tax ('the VAT Directive'); the principles of effectiveness and equivalence, direct effect and proportionality; and the judgment of the Court of Justice of 23 April 2020 in Joined Cases *Sole-Mizo and Dalmandi Mezőgazdasági* (C-13/18 and C-126/18) ('judgment in *Sole-Mizo and Dalmandi Mezőgazdasági*'), be interpreted as precluding a practice of a Member State, such as that at issue in the present case, which does not permit, in addition to interest on the VAT, the payment of interest to compensate the taxable person for the monetary erosion of the amount in question caused by the passage of time following that reporting period up until the actual payment of that interest?

2. If the answer to the previous question is in the affirmative, must the European Union law mentioned in that question and the judgment in *Sole-Mizo and Dalmandi Mezőgazdasági* be interpreted as meaning that it is compatible with that law and that judgment for a national court to set the interest rate applicable to the monetary erosion by making that rate the same as the inflation rate?

3. Must the European Union law mentioned in question 1 and the judgment in *Sole-Mizo and Dalmandi Mezőgazdasági* be interpreted as precluding a practice of a Member State which, in calculating the amount of the monetary erosion, also takes into account the fact that, until compliance with the paid consideration condition, in other words until payment of the consideration for the goods or the service, the taxable person concerned had at its disposal the consideration paid for the purchases and the applicable tax, and which also assesses, in addition to the inflation rate recorded during the period of monetary erosion, how long the taxable person had to forgo (could not reclaim) the VAT?

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

Appeal brought on 5 July 2022 by Leon Leonard Johan Veen against the judgment of the General Court (Eighth Chamber) delivered on 27 April 2022 in Case T-436/21 *Veen* v *Europol*

(Case C-444/22 P)

(2022/C 340/29)

Language of the case: Slovak

Parties

Appellant: Leon Leonard Johan Veen (represented by: M. Mandzák, lawyer)

Other party to the proceedings: European Union Agency for Law Enforcement Cooperation

Form of order sought

— Set aside the judgment under appeal in its entirety;

— Refer the case back to the General Court for further proceedings;

— Declare that the General Court must rule as to the costs of the proceedings.

Pleas in law and main arguments

The appeal in its entirety is made up of four grounds of appeal. The General Court erred in its legal assessment of the case and misapplied substantive law, in particularly so far as concerns the defendant's liability for harm and its obligation to process personal data in the context of cross-checks. The General Court also incorrectly found that there was a lack of a causal connection between the defendant's conduct and the harmful event, and gave inadequate reasons for the judgment under appeal.

Appeal brought on 4 July 2022 by Larko Geniki Metalleftiki kai Metallourgiki AE against the judgment of the General Court (Third Chamber) delivered on 4 May 2022 in Case T-423/14 RENV, Larko Geniki Metalleftiki kai Metallourgiki AE v Commission

(Case C-445/22P)

(2022/C 340/30)

Language of the case: Greek

Parties

Appellant: Larko Geniki Metalleftiki kai Metallourgiki AE (represented by: N. Korogiannakis, I. Drillerakis and E. Rantos, dikigoroi)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment delivered by the General Court (Third Chamber) on 4 May 2022 in Case T-423/14 RENV, *Larko Geniki Metalleftiki kai Metallourgiki AE* (ECLI:EU:T:2022:268);

— refer the matter back to the General Court for reconsideration; and

— reserve the costs of the present proceedings.

Grounds of appeal and main arguments

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

Ground of appeal: infringement of Article 107(1) TFEU, in that the General Court found that measure No 2 (2008 State guarantee) conferred an advantage on the appellant

According to the appellant, the General Court's assessment that measure No 2 (2008 State guarantee) conferred an advantage on the appellant, for the purposes of Article 107(1) TFEU, is vitiated by a number of errors of law.

The appellant submits in particular that the General Court's finding is vitiated, first, by an error of assessment of point 3.2 (d) of the Guarantee Notice and, second, by an incorrect allocation of the burden of proof between the Commission and the Member State concerned, in breach of the authority devolving from the case-law of the Court of Justice.

Furthermore, the conclusion reached by the judgment under appeal rests on completely insufficient evidence which, in any event, does not predate the granting of measure No 2, in breach of the case-law of the Court in the judgment of 26 March 2020, *Larko Geniki Metalleftiki kai Metallourgiki AE* v *Commission* (C-244/18 P, EU:C:2020:238).

Lastly, the appellant submits that that conclusion is based merely on a negative assumption, which rests on the lack of information allowing the opposite conclusion to be reached, without there being any other evidence of such a nature as positively to establish the existence of such an advantage.

Appeal brought on 5 July 2022 by Robert Roos and Others against the judgment of the General Court (Eighth Chamber, Extended Composition) delivered on 27 April 2022 in Cases T-710/21, T-722/21 and T-723/21 Robert Roos and Others v European Parliament

(Case C-458/22 P)

(2022/C 340/31)

Language of the case: French

Parties

Appellants: Robert Roos and Others (represented by: P. de Bandt, avocat, M. R. Gherghinaru, V. Heinen, avocates)

Other parties to the proceedings: European Parliament, IC and Others

Form of order sought

The appellants claim that the Court of Justice should:

— set aside points 1 and 2 of the operative part of the judgment of the General Court of 27 April 2022 in Cases T-710/21, T-722/21 and T-723/21;

— order the European Parliament to pay the costs of the present proceedings before the Court, including the legal costs.

Grounds of appeal and main arguments

In support of their appeal, the appellants rely on two grounds of appeal.

First ground of appeal, alleging an error in law in that the contested decision lacked a valid legal basis

The General Court erred in law when it ruled that Article 25(2) of the Rules of Procedure of the European Parliament constituted a valid legal basis, first, to restrict access to European Parliament buildings only to persons with a valid EU digital COVID certificate and, second, to justify the processing of highly sensitive personal data of the appellants. The judgment under appeal entails, in particular, infringement of the following legal provisions and general principles of law: (i) Articles 8 and 52(1) and (3) of the Charter of Fundamental Rights of the European Union; (ii) Article 7 of Protocol No 7 on the privileges and immunities of the European Union; (iii) Article 2 of Decision of the European Parliament 2005/684/EC, Euratom, of 28 September 2005 adopting the Statute for Members of the European Parliament; ([1]) (iv) Article 5(2) of Regulation 2018/1725 ([2]); (v) the General Court's obligation to state reasons under Article 36 and the first subparagraph of Article 53 of the Statute of the Court of Justice of the European Union; (vi) the general principle of parallelism of forms; and (vii) the principle of the hierarchy of norms.

Second ground of appeal, alleging an error in law consisting in the infringement of the purpose limitation principle of the processing of data and the principle of legality

The General Court erred in law when it ruled that the European Parliament was authorised to process the personal data contained in the appellants' national COVID certificates for the purpose of restricting access to European Parliament buildings even though that purpose is not provided for by Belgian or French law. The General Court also erred in law by ruling that the processing of personal data by the European Parliament falls under the exception provided for in Article 6 of Regulation 2018/1725.

In doing so, the judgment under appeal infringes the following legal provisions and general principles of law: (i) Article 4(1) (a), (b) and (c) and Articles 5 and 6 of Regulation 2018/1725; and (ii) the General Court's obligation to state reasons under Article 36 and the first subparagraph of Article 53 of the Statute of the Court of Justice of the European Union.

([1]) OJ 2005 L 262, p. 1

([2]) Regulation (EU) 2018/1725 of the European Parliament and 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).

Appeal brought on 14 July 2022 by OC against the judgment of the General Court (Ninth Chamber) delivered on 4 May 2022 in Case T-384/20, OC v Commission

(Case C-479/22 P)

(2022/C 340/32)

Language of the case: Greek

Parties

Appellant: OC (represented by: I. Ktenidis, dikigoros)

Other party to the proceedings: European Commission

Form of order sought

Appeal seeking to have set aside the judgment of the General Court (Ninth Chamber) of 4 May 2022 in Case T-384/20, *OC* v *European Commission* (ECLI:EU:T:2022:273)

The appellant claims that the Court should:

— set aside in its entirety the judgment under appeal;

— give a final judgment in the dispute;

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

Grounds of appeal and main arguments

In support of the appeal, the appellant raises the following three grounds:

1. **First ground**: Incorrect interpretation of Article 3(1) of Regulation 2018/1725 ([1]) regarding, first, the concept of 'identifiable' physical person and, second, the concept of means that are reasonably likely to be used to identify a natural person, as well as distortion of the clear sense of the evidence relating to the identification of the appellant by a specific person.

2. **Second ground**: Incorrect interpretation of Article 9(1) of Regulation No 883/2013 ([2]) and of Article 48(1) of the Charter, read in conjunction with Article 6(2) of the ECHR, regarding the scope of the presumption of innocence.

3. **Third ground**: Distortion of the clear sense of the evidence relating to the breach of the right to good administration under Article 41 of the Charter.

([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 (Text with EEA relevance), OJ 2018 L 295, p. 39.

([2]) Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999, OJ 2013 L 248, p. 1.

Appeal brought on 22 July 2022 by the European Commission against the judgment of the General Court (Sixth Chamber) delivered on 11 May 2022 in Case T-151/20 Czech Republic v Commission

(Case C-494/22 P)

(2022/C 340/33)

Language of the case: Czech

Parties

Appellant: European Commission (represented by: J.-P. Keppenne, T. Materne, P. Němečková, Agents)

Other parties to the proceedings: Czech Republic, Kingdom of Belgium, Republic of Poland

Form of order sought

— Set aside point (1) of [the operative part of] the judgment of the General Court of the European Union of 11 May 2022, *Czech Republic* v *Commission* (T-151/20, EU:T:2022:281);

— Dismiss the action in Case T-151/20, or, as appropriate, refer the case back to the General Court for a decision on those parts of the pleas in law which have not yet been considered;

— Should the Court of Justice give final judgment in that case, order the Czech Republic to pay the costs incurred by the European Commission in the proceedings before the General Court of the European Union and the Court of Justice or, should the case be referred back to the General Court, reserve the decision on the costs.

Pleas in law and main arguments

The appellant puts forward two grounds of appeal on points of law in support of its appeal.

1. First, it alleges that the General Court erred in law in its interpretation of Article 6(3)(b) and Article 17(2) of Council Regulation (EC, Euratom) No 1150/2000 ([1]) of 22 May 2000, as amended.

   In that connection, the General Court is to have erred in law in the interpretation of Article 6(3) of that Regulation, when it decided that recording the amounts corresponding to the entitlements established under Article 2 of that regulation in Account B is purely an accounting transaction and the time limit for that recording must thus be calculated not from the day on which the entitlements concerned should have been established, but from the day on which those entitlements were actually established by the competent Czech authorities.

   The General Court as a result further erred in its legal assessment when it found that the Czech Republic may rely on the possibility to be exempted from the obligation to provide the Commission with the disputed amount on the basis of Article 17(2) of that Regulation (ground directed against paragraphs 85 to 93 of the judgment under appeal).

2. Second, it alleges that the General Court also erred in law in the interpretation of Article 2(1) and Article 17(1) of Regulation No 1150/2000, in conjunction with Article 217(1) of Council Regulation (EEC) No 2913/92 ([2]) of 12 October 1992 establishing the Community Customs Code, and with Article 325 TFEU, which requires Member States to counter fraud and any other illegal activities affecting the financial interests of the European Union, in so far as it found that the Czech Republic did not establish the customs duty concerned late when it failed to establish that customs duty in the days following the return of the representative of the Czech customs authorities, who had participated in the inspection mission carried out by the European Anti-Fraud Office (OLAF) in Laos in November 2007 (ground directed against paragraphs 94 to 126 of the judgment under appeal).

   The General Court is thus to have erred in its assessment of the legal framework, in the sense that it found that that legal framework enabled the Czech Republic to wait until OLAF provided the evidence gathered during the mission (and thus not to satisfy the obligation to establish the European Union's entitlement to own resources), to the detriment of the European Union's financial interests. The General Court should have interpreted the applicable EU law to the effect that the Czech Republic was required, under the duty of diligence, to request OLAF for the evidence gathered during the inspection mission immediately after the return of its representative from that mission, which would have enabled it to establish the European Union's entitlement to own resources in the days following the return of the Czech representative from the inspection mission to Laos.

([1]) Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 implementing Decision 94/728/EC, Euratom on the system of the Communities' own resources (OJ 2000 L 130, p. 1).

([2]) OJ 1992 L 302, p. 1.

GENERAL COURT

Judgment of the General Court of 6 July 2022 — ABLV Bank v SRB

(Case T-280/18) ([1])

(Economic and monetary union — Banking union — Single resolution mechanism for credit institutions and certain investment firms (SRM) — Resolution procedure applicable where an entity is failing or is likely to fail — Decision of the SRB not to adopt a resolution scheme — Action for annulment — Act adversely affecting a person — Interest in bringing proceedings — Standing to bring proceedings — Inadmissibility in part — Article 18 of Regulation (EU) No 806/2014 — Power of the author of the measure — Right to be heard — Obligation to state reasons — Proportionality — Equal treatment)

(2022/C 340/34)

Language of the case: English

Parties

Applicant: ABLV Bank AS (Riga, Latvia) (represented by: O. Behrends, lawyer)

Defendant: Single Resolution Board (represented by: J. De Carpentier, E. Muratori and H. Ehlers, acting as Agents, and by J. Rivas Andrés, lawyer, and B. Heenan, Solicitor)

Intervener in support of the defendant: European Central Bank, (represented by: R. Ugena, A. Witte and A. Lefterov, acting as Agents)

Re:

By its action under Article 263 TFEU, the applicant seeks the annulment of the decisions of the Single Resolution Board (SRB) of 23 February 2018 not to adopt resolution schemes in respect of the credit institutions ABLV Bank AS and ABLV Bank Luxembourg SA within the meaning of Article 18(1) of 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).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders ABLV Bank AS to pay, in addition to its own costs, the costs incurred by the Single Resolution Board (SRB);

3. Orders the European Central Bank (ECB) to bear its own costs.

([1]) OJ C 259, 23.7.2018.

Judgment of the General Court of 6 July 2022 — Puigdemont i Casamajó and Comín i Oliveres v Parliament

(Case T-388/19) ([1])

(Law governing the institutions — Members of the European Parliament — Refusal of the President of the Parliament to recognise the status of Member of the European Parliament and the associated rights of elected candidates — Action for annulment — Act not open to challenge — Inadmissibility)

(2022/C 340/35)

Language of the case: English

Parties

Applicants: Carles Puigdemont i Casamajó (Waterloo, Belgium), Antoni Comín i Oliveres (Waterloo) (represented by: P. Bekaert, G. Boye, S. Bekaert, lawyers, and by B. Emmerson QC)

Defendant: European Parliament (represented by: N. Görlitz, T. Lukácsi and C. Burgos, acting as Agents)

Intervener in support of the defendant: Kingdom of Spain (represented by: A. Gavela Llopis, acting as Agent)

Re:

By their action based on Article 263 TFEU, the applicants seek the annulment of, first, the Instruction of 29 May 2019 of the President of the European Parliament refusing them access to the special welcome and assistance service offered to incoming Members of the European Parliament and the grant of temporary accreditation and, second, the refusal of the President of the Parliament to recognise their status as Members of the European Parliament, contained in the letter of 27 June 2019.

Operative part of the judgment

The Court:

1. Dismisses the action as inadmissible;

2. Orders Mr Carles Puigdemont i Casamajó and Mr Antoni Comín i Oliveres to bear their own costs and to pay those incurred by the European Parliament, including the costs in Cases T-388/19 R, C-646/19 P(R) and T-388/19 R-RENV;

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

([1]) OJ C 270, 12.8.2019.

Judgment of the General Court of 13 July 2022 — Design Light & Led Made in Europe and Design Luce & Led Made in Italy v Commission

(Case T-886/19) ([1])

(Competition — Abuse of dominant position — Agreements, decisions and concerted practices — LED lighting sector — Patent Licensing Program — Decision rejecting a complaint — Article 7 of Regulation (EC) No 773/2004 — Manifest error of assessment — Duty to state reasons — No EU interest — Probability of being able to establish the existence of an infringement)

(2022/C 340/36)

Language of the case: Italian

Parties

Applicants: Design Light & Led Made in Europe (Milan, Italy) and Design Luce & Led Made in Italy (Rome, Italy) (represented by: M. Maresca, D. Maresca and S. Pelleriti, lawyers)

Defendant: European Commission (represented by: B. Ernst, C. Sjödin and J. Szczodrowski, acting as Agents)

Intervener in support of the defendant: Signify Holding BV (Eindhoven, Netherlands) (represented by: R. Snelders, R. Lepetska and N. Van Belle, lawyers)

Re:

By their action based under Article 263 TFEU, the applicants seek annulment of Commission Decision C(2019) 7805 final of 25 October 2019 rejecting their complaint concerning infringements of Articles 101 or 102 TFEU allegedly committed by Koninklijke Philips NV (Case AT.39913 — LED).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Design Light & Led Made in Europe and Design Luce & Led Made in Italy to pay the costs;

3. Orders Signify Holding BV to bear its own costs.

([1]) OJ C 61, 24.2.2020.

Judgment of the General Court of 13 July 2022 — Tartu Agro v Commission

(Case T-150/20) ([1])

(State aid — Agriculture — Lease contract for agricultural land in Estonia — Decision declaring the aid incompatible with the internal market and ordering its recovery — Advantage — Determination of the market price — Private operator principle — Complex economic assessments — Judicial review — Taking into account of all relevant factors — Duty of care)

(2022/C 340/37)

Language of the case: Estonian

Parties

Applicant: Tartu Agro AS (Tartu, Estonia) (represented by: T. Järviste, T. Kaurov, M. Valberg and M. Peetsalu, lawyers)

Defendant: European Commission (represented by: V. Bottka and E. Randvere, acting as Agents)

Re:

By its action based under Article 263 TFEU, the applicant seeks annulment of Commission Decision C(2020) 252 final of 24 January 2020 on State aid SA.39182 (2017/C) (ex 2017/NN) (ex 2014/CP) — Alleged illegal aid to AS Tartu Agro.

Operative part of the judgment

The Court:

1. Annuls Commission Decision C(2020) 252 final of 24 January 2020 on State aid SA.39182 (2017/C) (ex 2017/NN) (ex 2014/CP) — Alleged illegal aid to AS Tartu Agro;

2. Orders the European Commission to bear its own costs and to pay those incurred by Tartu Agro, including those relating to the interlocutory proceedings.

([1]) OJ C 175, 25.5.2020.

Judgment of the General Court of 6 July 2022 — JP v Commission

(Case T-179/20) ([1])

(Civil service — Open competition — Notice of Competition EPSO/AD/363/18 for the recruitment of administrators in the field of taxation (AD 7) — Non-inclusion on the reserve list — Composition of the selection board — Stability — Manifest error of assessment — Liability)

(2022/C 340/38)

Language of the case: English

Parties

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

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

Re:

By her action under Article 270 TFEU, the applicant seeks, first, annulment of the decision of 10 December 2019 by which the selection board for Competition EPSO/AD/363/18 refused, after review, to include her name on the reserve list of successful candidates in that competition and, second, compensation for the damage which she claims to have suffered as a result of that decision.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders JP to pay the costs.

(1) OJ C 209, 22.6.2020.

Judgment of the General Court of 6 July 2022 — Aerospinning Master Franchising v EUIPO — Mad Dogg Athletics (SPINNING)

(Case T-246/20) (1)

(EU trade mark — Revocation proceedings — EU word mark SPINNING — Trade mark which has become the common name in the trade for a product or service in respect of which it is registered — Article 51(1)(b) of Regulation (EC) No 207/2009 (now Article 58(1)(b) of Regulation (EU) 2017/1001) — Relevant public)

(2022/C 340/39)

Language of the case: English

Parties

Applicant: Aerospinning Master Franchising s. r. o. (Prague, Czech Republic) (represented by: K. Labalestra, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Mad Dogg Athletics, Inc. (Venice, California, United States) (represented by: J. Steinberg, lawyer)

Re:

By its action under Article 263 TFEU, the applicant seeks the annulment of the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 26 February 2020 (Case R 369/2019-4), relating to revocation proceedings between itself and the intervener.

Operative part of the judgment

The Court:

1. Dismisses the action.

2. Orders Aerospinning Master Franchising s. r. o. to pay the costs.

(1) OJ C 215, 29.6.2020.

Judgment of the General Court of 6 July 2022 — Zhejiang Hangtong Machinery Manufacture and Ningbo Hi-Tech Zone Tongcheng Auto Parts v Commission

(Case T-278/20) (1)

(Dumping — Imports of steel road wheels originating in China — Imposition of a definitive anti-dumping duty and definitive collection of the provisional duty — Articles 17(4), 18 and 20 of Regulation (EU) 2016/1036 — Lack of cooperation — Insufficient information provided to the Commission)

(2022/C 340/40)

Language of the case: English

Parties

Applicants: Zhejiang Hangtong Machinery Manufacture Co. Ltd (Taizhou, China) and Ningbo Hi-Tech Zone Tongcheng Auto Parts Co. Ltd (Ningbo, China) (represented by: K. Adamantopoulos and P. Billiet, lawyers)

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

Re:

By their action based on Article 263 TFEU, the applicants seek the partial annulment of Commission Implementing Regulation (EU) 2020/353 of 3 March 2020 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of steel road wheels originating in the People's Republic of China (OJ 2020 L 65, p. 9).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Zhejiang Hangtong Machinery Manufacture Co. Ltd and Ningbo Hi-Tech Zone Tongcheng Auto Parts Co. Ltd to pay the costs.

(1) OJ C 222, 6.7.2020.

Judgment of the General Court of 6 July 2022 — MZ v Commission

(Case T-631/20) (1)

(Civil Service — Officials — Competition EPSO/AD/363/18 for the recruitment of administrators in the field of taxation — Limitation of the choice of the second language in which the tests are to be carried out — Non-inclusion on the reserve list — Plea of illegality — Admissibility — Discrimination based on language — Special nature of the posts to be filled — Justification — Interests of the service — Proportionality)

(2022/C 340/41)

Language of the case: Italian

Parties

Applicant: MZ (represented by: M. Velardo, lawyer)

Defendant: European Commission (represented by: T. Lilamand, D. Milanowska and A.-C. Simon, acting as Agents, and by A. Dal Ferro, lawyer)

Re:

By her action based on Article 270 TFEU, the applicant seeks the annulment of the decision of 10 December 2019 by which the selection board for competition EPSO/AD/363/18 decided, after review, not to place her name on the reserve list for the recruitment of administrators at grade AD 7 in the field of taxation.

Operative part of the judgment

The Court:

1. Annuls the decision of 10 December 2019 by which the selection board for competition EPSO/AD/363/18 decided, after review, not to place the name of MZ on the reserve list for the recruitment of administrators at grade AD 7 in the field of taxation;

2. Orders the European Commission to pay the costs.

(1) OJ C 423, 7.12.2020.

Judgment of the General Court of 6 July 2022 — OC v EEAS

(Case T-681/20) ([1])

(Liability — Civil service — EEAS staff posted to a third country — Reporting of irregularities — Inspection report — Transfer — Acts adversely affecting an official — Conduct not entailing a decision — Compliance with the requirements of the pre-litigation procedure — Protection of whistleblowers — Article 22a of the Staff Regulations — Duty of care — Articles 7 and 8 of the Charter of Fundamental Rights — Right to privacy — Protection of personal data)

(2022/C 340/42)

Language of the case: French

Parties

Applicant: OC (represented by: L. Levi and A. Champetier, lawyers)

Defendant: European External Action Service (represented by: S. Marquardt and R. Spáč, acting as Agents)

Re:

By her action based on Article 270 TFEU, the applicant seeks compensation for the damage that she allegedly suffered as a result of acts or conduct of the European External Action Service (EEAS).

Operative part of the judgment

The Court:

1. Orders the European External Action Service (EEAS) to pay the sum of EUR 10 000 to OC for the non-material damage suffered;

2. Dismisses the action as to the remainder;

3. Orders the EEAS to bear its own costs and to pay half of the costs incurred by OC.

([1]) OJ C 19, 18.1.2021.

Judgment of the General Court of 6 July 2022 — VI v Commission

(Case T-20/21) ([1])

(Civil service — Officials — Recruitment — Open Competition EPSO/AD/363/18 — Non-inclusion on the reserve list — Equal treatment — Stability in the composition of the selection board)

(2022/C 340/43)

Language of the case: English

Parties

Applicant: VI (represented by: D. Rovetta and V. Villante, lawyers)

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

Re:

By her action pursuant to Article 270 TFEU, the applicant seeks annulment of, first, the decision of the selection board for Competition EPSO/AD/363/18 not to include her on the competition reserve list, second, the decision of that selection board to refuse the applicant's request for review of the initial decision, third, the Commission's decision of 20 August 2019 rejecting her complaint, fourth, the notice of Competition EPSO/AD/363/18 of 11 October 2018 organised for the purpose of drawing up two reserve lists from which the Commission would recruit administrators (AD 7) in the fields of customs and taxation and, fifth, the competition reserve list, as well as, moreover, seeking compensation for the damage which she claims to have suffered.

Operative part of the judgment

The Court:

1. Annuls the decision, adopted after review, of the selection board for Open Competition EPSO/AD/363/18 of 27 February 2020 not to include VI's name on the reserve list for that competition;

2. Dismisses the action as to the remainder;

3. Orders the European Commission to pay the costs.

(1) OJ C 128, 12.4.2021.

Judgment of the General Court of 6 July 2022 — Colombani v EEAS

(Case T-129/21) (1)

(Civil Service — Officials — EEAS staff — Post of Head of the EU Delegation to Canada — Post of Director for Middle East and North Africa — Rejection of application)

(2022/C 340/44)

Language of the case: French

Parties

Applicant: Jean-Marc Colombani (Auderghem, Belgium) (represented by: N. de Montigny, lawyer)

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

Re:

By his action under Article 270 TFEU, the applicant seeks annulment of the decision of 17 April 2020 by which the European External Action Service (EEAS) rejected his application for the post of Director for Middle East and North Africa (vacancy notice 2020/48) and of the decision of 6 July 2020 by which EEAS rejected his application for the post of Head of the Delegation to Canada (vacancy notice 2020/134).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Jean-Marc Colombani to pay the costs.

(1) OJ C 182, 10.5.2021.

Judgment of the General Court of 6 July 2022 — Zdút v EUIPO — Nehera and Others (nehera)

(Case T-250/21) (1)

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

(2022/C 340/45)

Language of the case: English

Parties

Applicant: Ladislav Zdút (Bratislava, Slovakia) (represented by: Y. Echevarría García, lawyer)

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

Other parties to the proceedings before the Board of Appeal of EUIPO, interveners before the General Court: Isabel Nehera, (Sutton, Ontario, Canada), Jean-Henri Nehera (Burnaby, British Columbia, Canada), Natacha Sehnal, (Montferrier-sur-Lez, France) (represented by: W. Woll, lawyer)

Re:

By its action under Article 263 TFEU, the applicant seeks annulment of the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 10 March 2021 (Case R 1216/2020-2).

Operative part of the judgment

The Court:

1. Annuls the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 10 March 2021 (Case R 1216/2020-2);

2. Orders EUIPO to bear its own costs and those incurred by Mr Ladislav Zdút, including the necessary costs incurred in the appeal proceedings before the Board of Appeal;

3. Declares that Ms Isabel Nehera, Mr Jean-Henri Nehera and Ms Natacha Sehnal are to bear their own costs.

([1]) OJ C 278, 12.7.2021.

Judgment of the General Court of 13 July 2022 — Tigercat International v EUIPO — Caterpillar (Tigercat)

(Case T-251/21) ([1])

(EU trade mark — Opposition proceedings — Application for EU word mark Tigercat — Earlier EU figurative mark CAT — 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 340/46)

Language of the case: English

Parties

Applicant: Tigercat International Inc. (Cambridge, Ontario, Canada) (represented by: B. Führmeyer and E. Matthes, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Caterpillar Inc. (Peoria, Illinois, United States) (represented by: A. Renck and S. Petivlasova, lawyers)

Re:

By its action under Article 263 TFEU, the applicant seeks the annulment and modification of the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 25 February 2021 (Case R 16/2020-2), relating to opposition proceedings between the intervener and the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Tigercat International Inc. to pay the costs.

([1]) OJ C 263, 5.7.2021.

Judgment of the General Court of 13 July 2022 — Pejovič v EUIPO — ETA živilska industrija (TALIS)

(Case T-283/21) ([1])

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

(2022/C 340/47)

Language of the case: English

Parties

Applicant: Edvin Pejovič (Pobegi, Slovenia) (represented by: U. Pogačnik, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the Court: ETA živilska industrija d.o.o. (Kamnik, Slovenia) (represented by: J. Sibinčič, lawyer)

Re:

By its action under Article 263 TFEU, the applicant, Mr Edvin Pejovič, seeks the annulment and alteration of the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 23 March 2021 (Case R 888/2020-4) ('the contested decision').

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 23 March 2021 (Case R 888/2020-4);

2. Dismisses the action as to the remainder;

3. Orders EUIPO to bear its own costs and to pay those incurred by Mr Edvin Pejovič for the purposes of the present proceedings and for the purposes of the proceedings before the Board of Appeal;

4. Orders ETA živilska industrija d.o.o. to bear its own costs.

([1]) OJ C 278, 12.7.2021.

Judgment of the General Court of 13 July 2022 — Pejovič v EUIPO — ETA živilska industrija (RENČKI HRAM)

(Case T-284/21) ([1])

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

(2022/C 340/48)

Language of the case: English

Parties

Applicant: Edvin Pejovič (Pobegi, Slovenia) (represented by: U. Pogačnik, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the Court: ETA živilska industrija d.o.o. (Kamnik, Slovenia) (represented by: J. Sibinčič, lawyer)

Re:

By its action under Article 263 TFEU, the applicant, Mr Edvin Pejovič, seeks the annulment and alteration of the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 23 March 2021 (Case R 1050/2020-4) ('the contested decision').

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 23 March 2021 (Case R 1050/2020-4);

2. Dismisses the action as to the remainder;

3. Orders EUIPO to bear its own costs and to pay those incurred by Mr Edvin Pejovič for the purposes of the present proceedings and for the purposes of the proceedings before the Board of Appeal;

4. Orders ETA živilska industrija d.o.o. to bear its own costs.

(1) OJ C 278, 12.7.2021.

Judgment of the General Court of 13 July 2022 — Pejovič v EUIPO — ETA živilska industrija (RENŠKI HRAM)

(Case T-286/21) (1)

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

(2022/C 340/49)

Language of the case: English

Parties

Applicant: Edvin Pejovič (Pobegi, Slovenia) (represented by: U. Pogačnik, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the Court: ETA živilska industrija d.o.o. (Kamnik, Slovenia) (represented by: J. Sibinčič, lawyer)

Re:

By its action under Article 263 TFEU, the applicant, Mr Edvin Pejovič, seeks the annulment and alteration of the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 23 March 2021 (Case R 679/2020-4) ('the contested decision').

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 23 March 2021 (Case R 679/2020-4);

2. Dismisses the action as to the remainder;

3. Orders EUIPO to bear its own costs and to pay those incurred by Mr Edvin Pejovič for the purposes of the present proceedings and for the purposes of the proceedings before the Board of Appeal;

4. Orders ETA živilska industrija d.o.o. to bear its own costs.

(1) OJ C 278, 12.7.2021.

Judgment of the General Court of 13 July 2022 — Pejovič v EUIPO — ETA živilska industrija (SALATINA)

(Case T-287/21) ([1])

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

(2022/C 340/50)

Language of the case: English

Parties

Applicant: Edvin Pejovič (Pobegi, Slovenia) (represented by: U. Pogačnik, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the Court: ETA živilska industrija d.o.o. (Kamnik, Slovenia) (represented by: J. Sibinčič, lawyer)

Re:

By its action under Article 263 TFEU, the applicant, Mr Edvin Pejovič, seeks the annulment and alteration of the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 23 March 2021 (Case R 889/2020-4) ('the contested decision').

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 23 March 2021 (Case R 889/2020-4);

2. Dismisses the action as to the remainder;

3. Orders EUIPO to bear its own costs and to pay those incurred by Mr Edvin Pejovič for the purposes of the present proceedings and for the purposes of the proceedings before the Board of Appeal;

4. Orders ETA živilska industrija d.o.o. to bear its own costs.

([1]) OJ C 278, 12.7.2021.

Judgment of the General Court of 6 July 2022 — ALO jewelry CZ v EUIPO — Cartier International (ALOve)

(Case T-288/21) ([1])

(EU trade mark — Opposition proceedings — Application for the EU figurative mark ALOve — Earlier international figurative mark LOVe — Relative ground for refusal — Taking unfair advantage of the distinctive character or repute of the earlier mark — Article 8(5) of Regulation (EC) No 207/2009 (now Article 8(5) of Regulation (EU) 2017/1001))

(2022/C 340/51)

Language of the case: English

Parties

Applicant: ALO jewelry CZ s. r. o. (Prague, Czech Republic) (represented by: K. Čermák, 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: Cartier International AG (Steinhausen, Switzerland) (represented by: A. Zalewska, lawyer)

Re:

By its action based on Article 263 TFEU, the applicant seeks annulment of the decision of the Fifth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 18 March 2021 (Case R 2679/2019-5).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders ALO jewelry CZ s. r. o. to pay the costs.

(1) OJ C 278, 12.7.2021.

Judgment of the General Court of 6 July 2022 — HB v Commission

(Case T-408/21) (1)

(Public service contracts — Provision of technical assistance services to the High Judicial Council and to the Ukrainian authorities — Irregularities in the contract award procedures — Recovery of sums wrongly paid — Enforceable decisions — Article 299 TFEU — Competence of the author of the act — Non-contractual liability of the Union)

(2022/C 340/52)

Language of the case: French

Parties

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

Defendant: European Commission (represented by: B. Araujo Arce, J. Estrada de Solà and J. Baquero Cruz, acting as Agents)

Re:

By her action, the applicant seeks, first, on the basis of Article 263 TFEU, the annulment of Commission Decision C(2021) 3339 final of 5 May 2021 relating to the recovery of a debt in the amount of EUR 4 241 507,00 payable by the applicant under the contract with reference TACIS/2006/101-510, and of Commission Decision C(2021) 3340 final of 5 May 2021 relating to the recovery of a debt in the amount of EUR 1 197 055,86 payable by the applicant under the contract with reference CARDS/2008/166-429; and, secondly, on the basis of Article 268 TFEU, the reimbursement of any amounts recovered by the European Commission on the basis of those decisions, together with late-payment interest at the rate applied by the European Central Bank (ECB) plus seven points, and the payment of symbolic damages of EUR 1, subject to increase, for the non-material damage which she claims to have suffered.

Operative part of the judgment

The Court:

1. Annuls Commission Decision C(2021) 3339 final of 5 May 2021 relating to the recovery of a debt of EUR 4 241 507 payable by HB and Commission Decision C(2021) 3340 final of 5 May 2021 relating to the recovery of a debt of EUR 1 197 055,86 payable by HB;

2. Dismisses the action as to the remainder;

3. Orders HB and the European Commission each to bear their own costs, including those relating to the interlocutory proceedings.

(1) OJ C 338, 23.8.2021.

Judgment of the General Court of 6 July 2022 — Les Éditions P. Amaury v EUIPO — Golden Balls (BALLON D'OR)

(Case T-478/21) ([1])

(EU trade mark — Revocation proceedings — EU word mark BALLON D'OR — Genuine use of the mark — Partial revocation — Article 51(1)(a) of Regulation (EC) No 207/2009 (now Article 58(1)(a) of Regulation (EU) 2017/1001) — Proof of genuine use — Assessment of the evidence — Classification of the services)

(2022/C 340/53)

Language of the case: English

Parties

Applicant: Les Éditions P. Amaury (Boulogne-Billancourt, France) (represented by: T. de Haan and M. Laborde, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Golden Balls Ltd (London, United Kingdom) (represented by: M. Hawkins, Solicitor, and T. Dolde and V. Pati, lawyers)

Re:

By its action under Article 263 TFEU, the applicant seeks annulment of the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 7 June 2021 (Case R 1073/2020-4).

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 7 June 2021 (Case R 1073/2020-4) in so far as it upheld the decision of the Cancellation Division to revoke the mark in respect of the following services in Class 41 of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, as revised and amended: 'entertainment', 'television entertainment' and 'organisation of competitions (entertainment)';

2. Dismisses the action as to the remainder;

3. Orders each party to bear its own costs.

([1]) OJ C 382, 20.9.2021.

Judgment of the General Court of 6 July 2022 — YF v EFCA

(Case T-664/21) ([1])

(Civil service — Members of the temporary staff — Contract for an indefinite period — Termination of contract — Incompetence — Manifest error of assessment — Principle of good administration)

(2022/C 340/54)

Language of the case: French

Parties

Applicant: YF (represented by: M. Casado García-Hirschfeld, lawyer)

Defendant: European Fisheries Control Agency (represented by: S. Steele, acting as Agent, and by B. Wägenbaur, lawyer)

Re:

By his action based on Article 270 TFEU, the applicant seeks annulment of the decision of the European Fisheries Control Agency (EFCA) of 18 February 2021 by which his contract of indefinite duration was terminated.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders YF to pay the costs.

(1) OJ C 502, 13.12.2021.

Judgment of the General Court of 27 July 2022 — RT France v Council

(Case T-125/22) (1)

(Common foreign and security policy — Restrictive measures taken in view of Russia's actions destabilising the situation in Ukraine — Temporary ban on broadcasting and suspension of authorisations to broadcast the content of certain media — Inclusion on the list of entities to which restrictive measures apply — Powers of the Council — Rights of the defence — Right to be heard — Freedom of expression and information — Proportionality — Freedom to conduct a business — Principle of non-discrimination on grounds of nationality)

(2022/C 340/55)

Language of the case: French

Parties

Applicant: RT France (Boulogne-Billancourt, France) (represented by: E. Piwnica and M. Nguyen Chanh, lawyers)

Defendant: Council of the European Union (represented by: S. Lejeune, R. Meyer and S. Emmerechts, acting as Agents)

Interveners in support of the defendant: Kingdom of Belgium (represented by: C. Pochet, M. Van Regemorter and L. Van den Broeck, acting as Agents), Republic of Estonia (represented by: N. Grünberg and M. Kriisa, acting as Agents), French Republic (represented by: A.-L. Desjonquères, J.-L. Carré, W. Zemamta and T. Stéhelin, acting as Agents), Republic of Latvia (represented by: K. Pommere, J. Davidoviča, I. Hūna, D. Ciemiņa and V. Borodiņeca, acting as Agents), Republic of Lithuania (represented by: D. Karolis and V. Kazlauskaitė-Švenčionienė, acting as Agents), Republic of Poland (represented by: B. Majczyna and A. Miłkowska, acting as Agents), European Commission (represented by: D. Calleja Crespo, V. Di Bucci, J.-F. Brakeland and M. Carpus Carcea, acting as Agents), High Representative of the Union for Foreign Affairs and Security Policy (represented by: F. Hoffmeister, L. Havas and M. A. De Almeida Veiga, acting as Agents)

Re:

By its action based on Article 263 TFEU, the applicant seeks annulment of Council Decision (CFSP) 2022/351 of 1 March 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ 2022 L 65, p. 5), and of Council Regulation (EU) 2022/350 of 1 March 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ 2022 L 65, p. 1), in so far as those acts relate to it.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders RT France to bear its own costs and to pay those incurred by the Council of the European Union, including those relating to the interlocutory proceedings;

3. Orders the Kingdom of Belgium, the Republic of Estonia, the French Republic, the Republic of Latvia, the Republic of Lithuania, the Republic of Poland, the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy to bear their own costs.

(1) OJ C 148, 4.4.2022.

Order of the General Court of 6 July 2022 — JP v Commission

(Case T-638/20) ([1])

(Action for annulment and for damages — Civil service — Open competition — Notice of Competition EPSO/AD/363/18 for the recruitment of administrators in the field of taxation (AD 7) — Non-inclusion on the reserve list — Lis pendens — Manifest inadmissibility)

(2022/C 340/56)

Language of the case: English

Parties

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

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

Re:

By her action under Article 270 TFEU, the applicant seeks, first, annulment of the decision of 10 December 2019 by which the selection board for Competition EPSO/AD/363/18 refused, after review, to include her name on the reserve list of successful candidates in that competition, and, secondly, compensation for the damage which she claims to have suffered as a result of that decision.

Operative part of the order

1. The action is dismissed.

2. JP shall pay the costs.

([1]) OJ C 433, 14.12.2020.

Order of the General Court of 14 July 2022 — IN.PRO.DI v EUIPO — Aiello (CAPRI)

(Case T-203/21) ([1])

(EU trade mark — Revocation of the contested decision — Action which has become devoid of purpose — No need to adjudicate)

(2022/C 340/57)

Language of the case: Italian

Parties

Applicant: IN.PRO.DI — Inghirami produzione distribuzione SpA (Milan, Italy) (represented by: V. Piccarreta, 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: Antonino Aiello (Naples, Italy) (represented by: L. Manna, lawyer)

Re:

By its action under Article 263 TFEU, the applicant seeks annulment of the decision of the First Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 3 February 2021 (Case R 49/2020-1).

Operative part of the order

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

2. The European Union Intellectual Property Office (EUIPO) shall pay the costs.

(1) OJ C 217, 7.6.2021.

Order of the General Court of 12 July 2022 — LW v Commission

(Case T-728/21) (1)

(Civil service — Applicant who has ceased to reply to the Court's requests — No need to adjudicate)

(2022/C 340/58)

Language of the case: English

Parties

Applicant: LW (represented by: L. Levi and N. Flandin, lawyers)

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

Re:

By her action based on Article 270 TFEU, the applicant seeks, first, annulment of the decision of the European Commission of 8 January 2021 by which she was reassigned to another post within the same unit and, in so far as necessary, annulment of the Commission's decision of 29 July 2021 rejecting the complaint lodged under Article 90(2) of the Staff Regulations of Officials of the European Union against that decision and, second, compensation for the non-material damage which she claims to have suffered as a result of those decisions.

Operative part of the order

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

2. LW shall bear her own costs and pay those incurred by the European Commission.

(1) OJ C 11, 10.1.2022.

Order of the General Court of 6 July 2022 — ClientEarth v Commission

(Case T-792/21) (1)

(Access to documents — Regulation (EC) No 1049/2001 — Aarhus Convention — Regulation (EC) No 1367/2006 — Impact assessment report and other documents relating to a legislative initiative in the environmental field — Implied refusal of access — Express decision adopted after the action was brought — No need to adjudicate)

(2022/C 340/59)

Language of the case: English

Parties

Applicant: ClientEarth AISBL (Brussels, Belgium) (represented by: F. Logue, Solicitor)

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

Re:

By its action under Article 263 TFEU, the applicant seeks annulment of the implied decision of the European Commission of 12 October 2021 rejecting the confirmatory application for access to several documents relating to the European Union's legislative initiative regarding sustainable corporate governance.

Operative part of the order

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

2. The European Commission is to pay the costs.

([1]) OJ C 84, 21.2.2022.

Order of the General Court of 6 July 2022 — Perez Lopes Pargana Calado v Court of Justice of the European Union

(Case T-31/22) ([1])

(Public procurement of services — Withdrawal of the contested decisions — No need to adjudicate)

(2022/C 340/60)

Language of the case: Portuguese

Parties

Applicant: Ana Teresa Perez Lopes Pargana Calado (Lisbon, Portugal) (represented by: Marques Matias, lawyer)

Defendant: Court of Justice of the European Union (represented by: J. Inghelram and Á. Almendros Manzano, acting as Agents)

Re:

By her action brought, in essence, under Article 263 TFEU, the applicant seeks annulment of the decisions of the Court of Justice of the European Union rejecting her applications to participate in the public procurement procedure for the translation of legal texts from certain official languages of the European Union into Portuguese.

Operative part of the order

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

2. The Court shall bear its own costs and those incurred by Ms Ana Teresa Perez Lopes Pargana Calado.

([1]) OJ C 158, 11.4.2022.

Order of the President of the General Court of 14 July 2022 — Telefónica de España v Commission

(Case T-170/22 R)

(Interim relief — Public contracts for services — Trans-European Services for Telematics between Administrations (TESTA) — Application for interim measures — Lack of urgency)

(2022/C 340/61)

Language of the case: English

Parties

Applicant: Telefónica de España, SA (Madrid, Spain) (represented by: F. González Díaz, J. Blanco Carol, lawyers, and P. Stuart, Barrister)

Defendant: European Commission (represented by: L. André and M. Ilkova, acting as Agents)

Re:

By its application based on Articles 278 and 279 TFEU, the applicant seeks, first, suspension of the operation of the decision of the European Commission of 21 January 2022 relating to the Call for Tenders DIGIT/A 3/PR/2019/010, entitled 'Trans-European Services for Telematics between Administrations (TESTA)', informing the applicant that its tender was not successful in the procurement procedure and announcing the imminent signing of the contract with the successful tenderer and, secondly, an order requiring the Commission to suspend the signing of that contract.

Operative part of the order

1. The application for interim measures is dismissed.

2. The order of 1 April 2022, Telefónica de España v Commission (T-170/22 R), is cancelled.

3. There is no longer any need to rule on the application to intervene lodged by the company BT Global Services Belgium BV.

4. The costs are reserved, with the exception of those incurred by the company BT Global Services Belgium BV. It shall bear the costs in connection with its application to intervene.

Action brought on 3 June 2022 — Stöttingfjällets Miljöskyddsförening v Commission

(Case T-345/22)

(2022/C 340/62)

Language of the case: English

Parties

Applicant: Stöttingfjällets Miljöskyddsförening (Lycksele, Sweden) (represented by: G. Byrne, Barrister-at-Law)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— order the annulment of the Commission's decision rejecting as inadmissible the applicant's request dated 15 December 2021 to conduct an internal review, notified to the applicant by letter dated 1 April 2022, on grounds that it infringes the Treaties;

— further/or in the alternative, declare that the Commission has unlawfully failed to act under Article 265 TFEU when called upon to do so by way of the applicant's letter dated 15 December 2021 and/or failed to define its position regarding the applicant's complaint therein;

— declare that, in circumstances wherein Sweden's Integrated National Energy and Climate Plan of January 2020 (hereafter the 'Swedish NECP') is non-compliant with the Aarhus Convention, it has been unlawfully assessed and/or adopted and/or published by the Commission, and is therefore in breach of EU and international law and/or is illegal;

— declare that, in circumstances wherein serious violations of environmental law have persisted and are ongoing, the Commission failed in its positive obligations under EU and international law to take such measures as were necessary and appropriate in order to address and/or remedy the Swedish NECP's non-compliance with the Aarhus Convention;

— declare that Regulation (EU) 2018/1999 of the European Parliament and of the Council [1] does not give effect to the provisions of the Aarhus Convention, including Article 7 thereof, and as such is non-compliant with EU and international environmental law, and is therefore illegal;

— having regard to the NCEPs' and, in particular, the Swedish NECP's non-compliance with the Aarhus Convention, declare that the Commission's failure to fulfil its obligations pursuant to Regulation (EU) 2018/1999 constitutes a breach of the said regulation, a violation of the Convention and, moreover, constitutes an infringement of the Commission's positive obligations under the Treaties;

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

Pleas in law and main arguments

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

1. First plea in law, alleging the Commission's decision communicated to the applicant by way of letter dated 1 April 2022 should be annulled. The applicant submitted a request to the Commission by way of letter dated 15 December 2021. In response to the applicant's request, by way of its aforesaid letter, the Commission deemed the applicant's response inadmissible. The applicant contends that the Commission's decision in that regard is fundamentally flawed, amounts to a breach of EU and international environmental law, and constitutes an infringement of the Treaties. The applicant contends that the Commission is in breach of its positive obligations under the Treaties and international law, including Articles 3, 6 and 7 of the United Nations Economic Commission for Europe Convention on Access to information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention). The applicant further claims that the Commission's impugned decision has infringed secondary EU legislation including Articles 9 and 10 of Regulation (EC) No 1367/2006 of the European Parliament and of the Council. ([2]) The applicant claims that the Commission's decision violates the applicant's right of access to justice under the Aarhus Convention and Regulation No 1367/2006. The Applicant further contends that the Commission's administrative act as defined in Regulation No 1367/2006 constitutes an infringement of the Treaties.

2. Second plea in law, alleging, further or in the alternative to the first plea, that the Commission has failed to act within the meaning of Article 265 TFEU in relation to the NECPs assessed, adopted and published by the Commission including, in particular, the impugned Swedish NECP. In failing to act on foot of the applicant's request for internal review submitted in accordance with Article 265 TFEU, the Commission is in breach of its positive obligations under the Treaties including in particular Article 3 TEU and Article 191 TFEU. This infringement also reflects a flagrant breach of the international and European customary and treaty law, including Articles 3, 6 and 7 of the Aarhus Convention, Articles 9 and 10 of Regulation No 1367/2006 and Decision VII/8f of the Meeting of the Parties to the Aarhus Convention on compliance by the European Union with its obligations under the Convention (as amended), adopted on 21 October 2021.

3. Third plea in law, alleging that the Commission's failure to ensure the Swedish NECP's full compliance with the Aarhus Convention means that the said NECP is, and has been at all material times, assessed, adopted and published in manifest breach of EU and international law and is therefore illegal. In that regard, the applicant raises an objection of illegality pursuant to Article 277 TFEU in respect of the said NECP.

4. Fourth plea in law, alleging Regulation (EU) 2018/1999 does not give effect to the provisions of the Aarhus Convention, including Article 7 thereof, and as such is non-compliant with EU and international environmental law. Accordingly, the applicant contends that Regulation (EU) 2018/1999 infringes the Treaties and ought to be declared illegal.

([1]) Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ 2018 L 328, p. 1).

([2]) Regulation (EC) No 1367/2006 of the European Parliament and of the Council, of 6 September 2006, on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ 2006, L 264 p. 13).

Action brought on 30 June 2022 — Good Services v EUIPO — ITV Studios Global Distribution (EL ROSCO)

(Case T-381/22)

(2022/C 340/63)

Language in which the application was lodged: Spanish

Parties

Applicant: Good Services ltd. (Sliema, Malta) (represented by: L. Alonso Domingo, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: ITV Studios Global Distribution Ltd (London, United Kingdom)

Details of the proceedings before EUIPO

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

Trade mark at issue: EU word mark EL ROSCO — EU trade mark No 17 907 312

Proceedings before EUIPO: Invalidity proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 20 April 2022 in Case R 959/2021-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and confirm the registration of EU trade mark No 17 907 312 for all the goods and services for which it was granted or, in the alternative, refer the case back to the Board of Appeal of EUIPO for further consideration following directions from the Court;

— order the defendant to bear the costs of these proceedings and the previous proceedings before EUIPO.

Pleas in law

— Infringement of Article 59(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of the case-law interpreting that article and the concept of bad faith, and the point at which bad faith is to be assessed.

Action brought on 30 June 2022 — Good Services v EUIPO — ITV Studios Global Distribution (EL ROSCO)

(Case T-382/22)

(2022/C 340/64)

Language in which the application was lodged: Spanish

Parties

Applicant: Good Services ltd. (Sliema, Malta) (represented by: L. Alonso Domingo, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: ITV Studios Global Distribution Ltd (London, United Kingdom)

Details of the proceedings before EUIPO

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

Trade mark at issue: EU word mark EL ROSCO — EU trade mark No 13 265 021

Proceedings before EUIPO: Invalidity proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 20 April 2022 in Case R 957/2021-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and confirm the registration of EU trade mark No 13 265 021 for all the goods and services for which it was granted or, in the alternative, refer the case back to the Board of Appeal of EUIPO for further consideration following directions from the Court;

— order the defendant to bear the costs of these proceedings and the previous proceedings before EUIPO.

Pleas in law

— Infringement of Article 59(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of the case-law interpreting that article and the concept of bad faith, and the point at which bad faith is to be assessed.

Action brought on 30 June 2022 — Good Services v EUIPO — ITV Studios Global Distribution (EL ROSCO)

(Case T-383/22)

(2022/C 340/65)

Language in which the application was lodged: Spanish

Parties

Applicant: Good Services ltd. (Sliema, Malta) (represented by: L. Alonso Domingo, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: ITV Studios Global Distribution Ltd (London, United Kingdom)

Details of the proceedings before EUIPO

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

Trade mark at issue: EU figurative mark EL ROSCO — EU trade mark No 13 265 483

Proceedings before EUIPO: Invalidity proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 20 April 2022 in Case R 958/2021-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and confirm the registration of EU trade mark No 13 265 483 for all the goods and services for which it was granted or, in the alternative, refer the case back to the Board of Appeal of EUIPO for further consideration following directions from the Court;

— order the defendant to bear the costs of these proceedings and the previous proceedings before EUIPO.

Pleas in law

— Infringement of Article 59(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of the case-law interpreting that article and the concept of bad faith, and the point at which bad faith is to be assessed.

Action brought on 1 July 2022 — Productos Ibéricos Calderón y Ramos v EUIPO — Hijos de Rivera (ESTRELLA DE CASTILLA)

(Case T-384/22)

(2022/C 340/66)

Language in which the application was lodged: Spanish

Parties

Applicant: Productos Ibéricos Calderón y Ramos, SL (Salamanca, Spain) (represented by: J. C. Erdozain López, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Hijos de Rivera, SA (La Coruña, Spain)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for EU figurative trade mark ESTRELLA DE CASTILLA — Application No 17 992 941

Proceedings before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 13 April 2022 in Case R 1576/2021-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO and the intervener, in the event that the latter appears before the Court and contests the application, to pay the costs.

Plea in law

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

Action brought on 24 June 2022 — Carmeuse Holding v Commission

(Case T-385/22)

(2022/C 340/67)

Language of the case: English

Parties

Applicant: Carmeuse Holding SRL (Brașov, Romania) (represented by: S. Olaru, R. Ionescu and R. Savin, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare the application admissible and well-founded;

— annul the Commission Decision 2022/C 160/09 of 14 February 2022 instructing the central administrator of the European Union Transaction Log to enter changes to the national allocation tables of Belgium, Bulgaria, Czechia, Denmark, Germany, Estonia, Ireland, Spain, France, Italy, Lithuania, Hungary, Romania, Slovenia, Finland and Sweden into the European Union Transaction Log ([1]) to the extent that it sets a wrong number of free allowances to be allocated to the applicant's installations Valea Mare Pravat and Fieni for years 2021-2025 and reduces:

— a number of 5 355 free allowances for Carmeuse Holding SRL — Valea Mare Pravat installation, located in Valea Mare Pravat, Arges County, Romania, ID 55 in the Union Registry for each of the years 2021-2025;

— a number of 4 569 free allowances for the Carmeuse Holding SRL — Fieni installation, located in Fieni, Garii Street No. 2, Dambovita County, Romania, ID 56 in the Union Registry for each of the years 2021-2025;

— order the Defendant to pay the costs incurred by the Applicant in these proceedings;

— take such other or further measures as justice may require.

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 contested decision errs on the calculation of the number of free emission allowances to be allocated to Carmeuse's installations.

2. Second plea in law, alleging that the Commission breached several fundamental principles of EU law when issuing the contested decision, namely the principle of equality, the principle of certainty and legitimate expectations and Carmeuse's right to good administration and right of defence, which has resulted in the allocation of fewer free emission allowances to Carmeuse's installations.

3. Third plea in law, alleging the contested decision is insufficiently reasoned as regards the number of free emission allowances allocated to Carmeuse's installations, in that it does not detail the decision-making process, nor the reasons for rejecting Carmeuse's arguments, and it does not address the essential reasons for which the formula thus applied by the Commission supersedes the binding legislation.

([1]) Commission Decision of 14 February 2022 instructing the Central Administrator of the European Union Transaction Log to enter changes to the national allocation tables of Belgium, Bulgaria, Czechia, Denmark, Germany, Estonia, Ireland, Spain, France, Italy, Lithuania, Hungary, Romania, Slovenia, Finland and Sweden into the European Union Transaction Log 2022/C 160/09 — C/2022/968 (OJ 2022 C 160, p. 27).

Action brought on 1 July 2022 — Fresenius Kabi Austria and Others v Commission

(Case T-416/22)

(2022/C 340/68)

Language of the case: English

Parties

Applicants: Fresenius Kabi Austria GmbH (Graz, Austria) and 14 other applicants (represented by: W. Rehmann and A. Knierim, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— declare Commission Decision of 24 May 2022 C(2022) 3591 null and void insofar as it orders the Member States of the European Union to suspend the national marketing authorisations for the medicinal products as referred to in Annex I thereof;

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

— in the alternative, by way of precautionary motion, declare Commission Decision of 24 May 2022 C(2022) 3591 null and void insofar as it orders Member States of the European Union to suspend the national Marketing Authorisations for the medicinal products of the claimants for the medicinal products as referred to in Annex I thereof.

Pleas in law and main arguments

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

1. First plea in law, alleging that the requirements of Article 116 of Directive 2001/83/EC of the European Parliament and of the Council ([1]) justifying a suspension of the marketing authorisation for hydroxyethyl starch-containing medicinal products are not met. Consequently, the Commission cannot render a decision requiring that Member States will by way of implementing the decision suspend the respective marketing authorisations.

2. Second plea in law, alleging that the decision of the Commission is infringing the precautionary principle.

3. Third plea in law, alleging that the suspension of the marketing authorisation of hydroxyethyl starch-containing medicinal products is neither adequate nor proportionate to address the safety concerns resulting from the Drug Utilisation Study. Off-label use should not lead to suspension of in-label use that has well documented beneficial effects, particularly in the absence of any new adverse safety signals.

4. Fourth plea in law, alleging that the decision is contradictory in itself and, therefore, lacks sufficient reasoning.

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

Action brought on 11 July 2022 — D'Agostino and Dafin v ECB

(Case T-424/22)

(2022/C 340/69)

Language of the case: Italian

Parties

Applicants: Vincenzo D'Agostino (Naples, Italy) and Dafin Srl (Casandrino, Italy) (represented by: M. De Siena, lawyer)

Defendant: European Central Bank

Form of order sought

The applicants claim that the Court should:

— find and declare that the European Central Bank (ECB), represented by the President Christine Lagarde is non-contractually liable:

(a) for having caused a collapse in the value of the securities owned by Vincenzo D'Agostino titled SI FTSE.COPERP amounting to a loss equal to the entire value of the capital invested, namely EUR 450 596,28, in so far as, on 12 March 2020, Christine Lagarde, in her capacity as President of the ECB, used the infamous phrase 'We are not here to close spreads, this is not the function or the mission of the ECB' and thereby caused a significant reduction in the value of securities on stock exchanges around the world and a reduction of 16,92 % on the Milan Stock Exchange, namely in a percentage never before seen in the history of that institution, or on other stock exchanges around the world; the phrase was used in a press conference broadcast globally, and confirmed that the ECB would no longer guarantee the value of securities issued by countries in difficulty and, therefore, signalled a massive change in the direction of the monetary policy that had been adopted by the ECB under the presidency of Mario Draghi, whose mandate finished in November 2019;

(b) for having caused a reduction in the value of the applicant's assets through that conduct and as a result of the huge drop in the index of the Milan Stock Exchange;

(c) for having required him, as a result of the substantial and significant reduction in the value of the applicant's assets, in order to offset that reduction in his assets, and as guarantor for the company Dafin Srl in respect of the credit line available to that company by Banca Fideuram SpA, to extinguish the part of that credit line that had been used, which meant that it was provisionally necessary for him to sell other securities he owned within a ridiculous timescale and thereby suffer a loss of EUR 2 534 422,16 in 2020 and subsequently of EUR 336 517,30 between January 2021 and 15 April 2021 and, therefore, a total loss of EUR 2 870 939,30;

(d) for causing material damage in the form of loss of profit in the amount of EUR 1 013 074,00;

(e) for having consequently caused a total amount of material damage in the amount of EUR 4 334 609,28;

— order the ECB, in the person of the President:

— to provide compensation for material damage (including both actual loss and loss of profit), non-material damage and damages from loss of opportunity suffered by the applicant Vincenzo D'Agostino, assessed according to the criteria set out in the relevant chapters and paragraphs of the present application, by making payments in the following amounts: (i) EUR 4 334 609,28 for material damage, (ii) EUR 1 000 000 for non-material damage, (iii) and, therefore, a total payment in the amount of EUR 5 321 535;

— in the alternative, to pay amounts of different sizes to be assessed during the proceedings, to the extent that they are upheld by the Court, or by recourse to an expert's report to be obtained by the Court under Article 70 of the Rules of Procedure of the General Court of the European Union;

— to pay the latter sum which the Court shall determine and assess to be equitable compensation for damage in the form of loss of opportunity;

— in addition, to pay default interest to be calculated from 12 March 2020, the date of the event that gave rise to the damage, to the date on which the compensation is actually paid;

— order the defendant to pay the legal costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the ECB is liable under the third paragraph of Article 340 TFEU and Article 2043 of the Codice civile (Italian Civil Code) for the material and non-material damage suffered by the applicant himself and in his capacity as a shareholder in Dafin Srl.

2. Second plea in law, which refers to principles established in the case-law of the European Union, in particular in the judgments of 28 October 2021, *Vialto Consulting* v *Commission* (C-650/19 P, EU:C:2021:879), of 9 February 2022, *QI and Others* v *Commission and ECB* (T-868/16, EU:T:2022:58) and of 21 January 2014, *Klein* v *Commission* (T-309/10, EU:T:2014:19).

   The applicant sets out the circumstances in which an EU institution can incur non-contractual liability vis-à-vis an EU citizen and alleges that those circumstances are present in this case.

3. Third plea in law, alleging an infringement by the ECB of primary and secondary EU law and abuse of power by the President.

   The applicant alleges that, on 12 March 2020, the ECB, acting through its President, infringed Article 127 TFEU under Chapter 1, which is headed Monetary Policy, Articles 3, 10, 11, 12, 13 and 38 of the Statute of the European System of Central Banks and of the European Central Bank, and Article 17.2 and 17.3 of the Rules of Procedure adopted by a decision of the ECB on 19 February 2004. ([1])

4. The fourth plea in law quantifies, substantiates and documents the material damage suffered by the applicant (actual loss and loss of profit).

([1]) Decision 2004/257/EC of the European Central Bank of 19 February 2004 adopting the Rules of Procedure of the European Central Bank (ECB/2004/2) (OJ 2004 L 80, p. 33), as amended by Decision ECB/2014/1 of the European Central Bank of 22 January 2014 (OJ 2014 L 95, p. 56).

Action brought on 6 July 2022 — Nordea Bank v SRB

(Case T-430/22)

(2022/C 340/70)

Language of the case: English

Parties

Applicant: Nordea Bank Oyj (Helsinki, Finland) (represented by: H. Berger and M. Weber, lawyers)

Defendant: Single Resolution Board

Form of order sought

The applicant claims that the Court should:

— annul the decision of the SRB of 11 April 2022, document no. SRB/ES/2022/18, including Annexes I, II and III, as far as it concerns the *ex-ante* contribution of the applicant;

— order the SRB to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the SRB has breached Article 69 of Regulation (EU) No 806/2014 ([1]) and Articles 16, 17, 41 and 52 of the Charter of Fundamental Rights of the European Union by taking a dynamic approach to determine the target level for the *ex-ante* contributions.

2. Second plea in law, alleging that the determination of the target level by the SRB in the contested decision suffers from manifest errors of assessment regarding the expected growth rate for covered deposits and the evaluation of the current business cycle.

3. Third plea in law, alleging that the SRB has infringed Article 70(2) of Regulation (EU) No 806/2014 and Articles 16, 17 and 52 of the Charter of Fundamental Rights of the European Union by not applying the binding 12,5 % cap to the target level when determining the annual target level.

4. Fourth plea in law, alleging that Articles 69 and 70 of Regulation (EU) No 806/2014 are in breach of the principle of risk-oriented setting of the contributions and the principle of proportionality, thereby infringing Articles 16, 17 and 52 of the Charter of Fundamental Rights of the European Union, if the target level is to be determined in a dynamic way and the cap according to Article 70(2) of Regulation (EU) No 806/2014 is not to be applied, as would be the case if the contested decision is upheld.

([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).

Action brought on 12 July 2022 — Machková v EUIPO — Aceites Almenara (ALMARA SOAP)

(Case T-436/22)

(2022/C 340/71)

Language in which the application was lodged: English

Parties

Applicant: Veronika Machková (Šestajovice, Czech Republic) (represented by: M. Balcar, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Aceites Almenara, SL (Puebla de Almenara, 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 ALMARA SOAP — Application for registration No 18 198 833

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 25 April 2022 in Case R 1613/2021-1

Form of order sought

The applicant claims that the Court should:

— reject the contested decision for all the contested goods;

— in the alternative, return the case to EUIPO for a new assessment;

— order that the European Union trade mark application No 18 198 833 is recorded in the Register in accordance with the provisions of Article 51, paragraph 1 of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— order Aceites Almenara, SL to bear the costs of the opposition, fixed at EUR 620;

— order Aceites Almenara to bear the costs of the appeal, fixed at EUR 720;

— order Aceites Almenara to bear the costs of this action.

Pleas in law

— Infringement of Article 10(1) of Commission Delegated Regulation (EU) 2018/625;

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

Action brought on 13 July 2022 — International British Education XXI v EUIPO — Saint George's School (IBE ST. GEORGE'S)

(Case T-438/22)

(2022/C 340/72)

Language in which the application was lodged: Spanish

Parties

Applicant: International British Education XXI SL (Madrid, Spain) (represented by: N. Fernández Fernández-Pacheco, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Saint George's School SL (Fornells De La Selva, Spain)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for EU figurative mark IBE ST. GEORGE'S — Application No 18 020 505

Proceedings before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 11 May 2022 in Case R 2226/2020-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— grant EU trade mark No 18 020 505 IBE ST. GEORGE'S in respect of all of the goods and services applied for;

— order the intervener and the defendant, if applicable, to pay the costs incurred in all the proceedings before EUIPO and the General Court.

Plea in law

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

Action brought on 19 July 2022 — Hofmeir Magnetics v EUIPO — Healthfactories (Hofmag)

(Case T-452/22)

(2022/C 340/73)

Language in which the application was lodged: English

Parties

Applicant: Hofmeir Magnetics Ltd (Witney, United Kingdom) (represented by: S. Baur, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Healthfactories GmbH (Saaldorf-Surheim, Germany)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union word mark Hofmag — Application for registration No 18 107 493

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 3 May 2022 in Case R 1367/2021-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to bear the costs, including those incurred in the appeal proceeding.

Pleas in law

— Incorrect restriction of the claimant's unregistered mark HOFMAG in terms of a designation which does not satisfy the criterion 'of more than mere local significance' within the meaning of Article 8(4) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Failure to take into account the sign 'Hofmag' as a commercial designation (as a relevant sign in terms of Article 8(4) of Regulation (EU) 2017/1001 of the European Parliament and of the Council) in relation to Germany/Austria.

Action brought on 22 July 2022 — Sky v EUIPO — Skyliners (SKYLINERS)

(Case T-454/22)

(2022/C 340/74)

Language in which the application was lodged: English

Parties

Applicant: Sky Ltd (Isleworth, United Kingdom) (represented by: A. Zalewska-Orabona, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Skyliners GmbH (Frankfurt am Main, Germany)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union word mark SKYLINERS — Application for registration No 14 570 915

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 27 April 2022 in Case R 0006/2022-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO and, in case the other party joins the proceedings, the intervener, to bear the costs incurred by the applicant.

Pleas in law

— Infringement of Articles 8(1)(b), 8(5) and 8(4) in conjunction with Article 41(1)(a) and (c) and Article 8(2) of Council Regulation (EC) 207/2009;

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

— Infringement of Article 94(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 21 July 2022 — Laboratorios Ern v EUIPO — Biolark (BIOLARK)

(Case T-459/22)

(2022/C 340/75)

Language in which the application was lodged: English

Parties

Applicant: Laboratorios Ern, SA (Barcelona, Spain) (represented by: S. Correa Rodríguez, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Biolark, Inc. (San Diego, California, United States)

Details of the proceedings before EUIPO

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

Trade mark at issue: International registration designating the European Union in respect of the figurative mark BIOLARK — International registration designating the European Union No 1 453 505

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 22 April 2022 in Case R 1234/2021-5

Form of order sought

The applicant claims that the Court should:

— revoke the contested decision and reject the European designation of the International trademark No 1 453 505 for all goods and services;

— impose the costs to the defendant and, in case BIOLARK INC. decides to intervene in the present proceedings, to BIOLARK INC.

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 20 July 2022 — Millennium BCP Participações and BCP África v Commission

(Case T-462/22)

(2022/C 340/76)

Language of the case: Portuguese

Parties

Applicants: Millennium BCP Participações, SGPS, SU, Lda (Funchal, Portugal) and BCP África (Funchal) (represented by: B. Santiago, L. do Nascimento Ferreira, P. Gouveia e Melo, D. Oda and A. Queiroz Martins, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the General Court should:

— order the European Commission to put before the Court the letter of 28 June 2006, in which the Portuguese authorities notified the Commission of draft measure 'Regime III', in accordance with Article 108(3) TFEU, including any and all documents appended to that letter, for the purposes of Article 88(1) and (2) and Article 89(3)(d) of the Rules of Procedure of the General Court;

— annul Article 1 and Article 4(1) of Commission Decision C(2020) 8550 final of 4 December 2020 on aid scheme SA.21259 (2018/C) (ex 2018/NN) implemented by Portugal for Zona Franca da Madeira (ZFM) — Regime III, in so far as those articles apply to the SGPS [Sociedades Gestoras de Participações Sociais (holding companies; 'SGPS')] — such as the applicants — referred to in Article 36(8) of the Estatuto dos Beneficios Fiscais (Statute governing Tax Benefits);

— Order the defendant institution to bear its own costs relating to the proceedings, and pay those incurred by the applicants.

Pleas in law and main arguments

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

First plea in law, alleging an error of law consisting in the breach of the obligation to state reasons, enshrined in Article 296 TFEU.

Second plea in law, alleging an error of law consisting in the infringement of Article 108(3) TFEU, in that Commission Decision C(2020) 8550 final of 4 December 2020 on aid scheme SA.21259 (2018/C) (ex 2018/NN) implemented by Portugal for Zona Franca da Madeira (ZFM) — Regime III includes SGPS amongst the beneficiaries concerned by the recovery obligation in the event of a failure to satisfy the job creation requirement;

Third plea in law, alleging an error of law consisting in the infringement of the principles of legitimate expectations and legal certainty.

Order of the General Court of 15 July 2022 — FV v Council

(Case T-542/19) ([1])

(2022/C 340/77)

Language of the case: French

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

([1]) OJ C 337, 7.10.2019.

Order of the General Court of 8 July 2022 — Agentur für Globale Gesundheitsverantwortung v EMA

(Case T-713/21) ([1])

(2022/C 340/78)

Language of the case: German

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

([1]) OJ C 73, 14.2.2022.

Order of the General Court of 13 July 2022 — Dado Ceramica and Others v EUIPO — Italcer (Tiles)

(Case T-40/22) ([1])

(2022/C 340/79)

Language of the case: Italian

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

([1]) OJ C 128, 21.3.2022.

Order of the General Court of 14 July 2022 — Dehaen v EUIPO — National Geographic Society (NATIONAL GEOGRAPHIC)

(Case T-157/22) ([1])

(2022/C 340/80)

Language of the case: English

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

([1]) OJ C 207, 23.5.2022.

Order of the General Court of 14 July 2022 — Dehaen v EUIPO — National Geographic Society (NATIONAL GEOGRAPHIC)

(Case T-158/22) ([1])

(2022/C 340/81)

Language of the case: English

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

([1]) OJ C 207, 23.5.2022.

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