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(2023/C 24/01)

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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Grand Chamber) of 22 November 2022 — European Commission v Council of the European Union

(Case C-24/20) [1]

(Action for annulment — Council Decision (EU) 2019/1754 — Accession of the European Union to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications — Article 3(1) TFEU — Exclusive competence of the European Union — Article 207 TFEU — Common commercial policy — Commercial aspects of intellectual property — Article 218(6) TFEU — Right of initiative of the European Commission — Modification by the Council of the European Union of the proposal from the Commission — Article 293(1) TFEU — Applicability — Article 4(3), Article 13(2) and Article 17(2) TEU — Article 2(1) TFEU — Principles of conferral of powers, of institutional balance and of sincere cooperation)

(2023/C 24/02)

Language of the case: English

Parties

Applicant: European Commission (represented by: initially, F. Castillo de la Torre, I. Naglis and J. Norris, and subsequently, F. Castillo de la Torre, M. Konstantinidis and J. Norris, acting as Agents)

Defendant: Council of the European Union (represented by: A. Antoniadis, M. Balta and A.-L. Meyer, acting as Agents)

Interveners in support of the defendant: Kingdom of Belgium (represented by: M. Jacobs, C. Pochet and M. Van Regemorter, acting as Agents), Czech Republic, represented by: K. Najmanová, H. Pešková, M. Smolek and J. Vláčil, acting as Agents), Hellenic Republic (represented by: K. Boskovits and M. Tassopoulou, acting as Agents), French Republic (represented by: G. Bain, J.-L. Carré, A.-L. Desjonquères and T. Stéhelin, acting as Agents), Republic of Croatia (represented by: G. Vidović Mesarek, acting as Agent), Italian Republic (represented by: G. Palmieri, acting as Agent, and P. Gentili, avvocato dello Stato), Hungary (represented by: M.Z. Fehér and K. Szíjjártó, acting as Agents), Kingdom of the Netherlands (represented by: M. K. Bulterman and J. Langer, acting as Agents), Republic of Austria (represented by A. Posch, E. Samoilova, J. Schmoll, acting as Agents, and H. Tichy), Portuguese Republic (represented by: initially, P. Barros da Costa, L. Inez Fernandes, J.P. Palha and R. Solnado Cruz, acting as Agents, and subsequently, P. Barros da Costa, J.P. Palha and R. Solnado Cruz, acting as Agents)

Operative part of the judgment

The Court:

1. Annuls Article 3, and to the extent that it contains references to the Member States, Article 4 of Council Decision (EU) 2019/1754 of 7 October 2019 on the accession of the European Union to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications;

2. Declares that the effects of the parts of Decision 2019/1754 which have been annulled are to be maintained only in so far as they relate to Member States which, on the date of delivery of the present judgment, have already availed themselves of the authorisation under Article 3 of that decision to ratify or accede to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, alongside the European Union, until the entry into force, within a reasonable period which should not exceed six months from that date, of a new decision of the Council of the European Union;

3. Orders the Council of the European Union to pay the costs;

4. Decides that the Kingdom of Belgium, the Czech Republic, the Hellenic Republic, the French Republic, the Republic of Croatia, the Italian Republic, Hungary, the Kingdom of the Netherlands, the Republic of Austria and the Portuguese Republic are to bear their own costs.

(1) OJ C 77, 9.3.2020.

Judgment of the Court (Grand Chamber) of 22 November 2022 (requests for a preliminary ruling from the Tribunal d'arrondissement de Luxembourg — Luxembourg) — WM (C-37/20), Sovim SA (C-601/20) v Luxembourg Business Registers

(Joined Cases C-37/20 and C-601/20) (1)

(Reference for a preliminary ruling — Prevention of the use of the financial system for the purposes of money laundering or terrorist financing — Directive (EU) 2018/843 amending Directive (EU) 2015/849 — Amendment to Article 30(5), first subparagraph, point (c), of Directive 2015/849 — Access for any member of the general public to the information on beneficial ownership — Validity — Articles 7 and 8 of the Charter of Fundamental Rights of the European Union — Respect for private and family life — Protection of personal data)

(2023/C 24/03)

Language of the case: French

Referring court

Tribunal d'arrondissement de Luxembourg

Parties to the main proceedings

Applicants: WM (C-37/20), Sovim SA (C-601/20)

Defendant: Luxembourg Business Registers

Operative part of the judgment

Article 1(15)(c) of Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU, is invalid in so far as it amended point (c) of the first subparagraph of Article 30(5) of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, in such a way that point (c) of the first subparagraph of Article 30(5), as thus amended, provides that Member States must ensure that information on the beneficial ownership of companies and of other legal entities incorporated within their territory is accessible in all cases to any member of the general public.

(1) OJ C 103, 30.3.2020.
OJ C 35, 1.2.2021.

Judgment of the Court (Second Chamber) of 24 November 2022 (request for a preliminary ruling from the Överklagandenämnden för studiestöd — Sweden) — MCM v Centrala studiestödsnämnden

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

(Reference for a preliminary ruling — Freedom of movement for persons — Article 45 TFEU — Equal treatment — Social advantages — Regulation (EU) No 492/2011 — Article 7(2) — Financial aid for higher education studies in another Member State — Residence requirement — Alternative requirement of social integration for non-resident students — Situation of a student who is a national of the State granting the aid, residing since birth in the State of studies)

(2023/C 24/04)

Language of the case: Swedish

Referring court

Överklagandenämnden för studiestöd

Parties to the main proceedings

Applicant: MCM

Defendant: Centrala studiestödsnämnden

Operative part of the judgment

Article 45 TFEU and Article 7(2) of Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union

must be interpreted as meaning that those provisions do not preclude legislation of a Member State by which the grant of financial aid for the pursuit of studies in the host Member State, to the child of a person who has left the host Member State in which that person worked in order to return to live in the first Member State, of which he or she is a national, is made subject to the requirement that the child have a connection with the Member State of origin, in a situation where, first, the child has lived since birth in the host Member State and, second, the Member State of origin makes other nationals not satisfying the residence requirement and who apply for such financial aid to study in another Member State subject to the requirement of the existence of a connection.

([1]) OJ C 53, 15.2.2021.

Judgment of the Court (Grand Chamber) of 22 November 2022 (request for a preliminary ruling from the Rechtbank Den Haag — the Netherlands) — X v Staatssecretaris van Justitie en Veiligheid

(Case C-69/21) ([1])

(Reference for a preliminary ruling — Area of freedom, security and justice — Articles 4, 7 and 19 of the Charter of Fundamental Rights of the European Union — Prohibition of inhuman or degrading treatment — Respect for private and family life — Protection in the event of removal, expulsion or extradition — Right of residence on medical grounds — Common standards and procedures in Member States for returning illegally staying third-country nationals — Directive 2008/115/EC — Third-country national who is suffering from a serious illness — Medical treatment for pain relief — Treatment is not available in the country of origin — Conditions under which removal must be postponed)

(2023/C 24/05)

Language of the case: Dutch

Referring court

Rechtbank Den Haag

Parties to the main proceedings

Applicant: X

Defendant: Staatssecretaris van Justitie en Veiligheid

Operative part of the judgment

1. Article 5 of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, read in conjunction with Articles 1 and 4 of the Charter of Fundamental Rights of the European Union as well as Article 19(2) thereof

must be interpreted as precluding a return decision from being taken or a removal order from being made in respect of a third-country national who is staying illegally on the territory of a Member State and suffering from a serious illness, where there are substantial grounds for believing that the person concerned would be exposed, in the third-country to which he or she would be removed, to a real risk of a significant, permanent and rapid increase in his or her pain, if he or she were returned, on account of the only effective analgesic treatment being prohibited in that country. A Member State may not lay down a strict period within which such an increase must be liable to materialise in order to preclude that return decision or that removal order.

2. Article 5 and Article 9(1)(a) of Directive 2008/115, read in conjunction with Articles 1 and 4 of the Charter of Fundamental Rights as well as Article 19(2) thereof

must be interpreted as precluding the consequences of the removal order in the strict sense on the state of health of a third-country national from being taken into account by the competent national authority solely in order to examine whether he or she is able to travel.

3. Directive 2008/115, read in conjunction with Article 7, as well as Article 1 and 4 of the Charter of Fundamental Rights

must be interpreted as:

— meaning that it does not require the Member State on whose territory a third-country national is staying illegally to grant that national a right of residence where he or she cannot be the subject of a return decision or a removal order because there are substantial grounds for believing that he or she would be exposed, in the receiving country, to a real risk of a rapid, significant and permanent increase in the pain caused by the serious illness from which he or she suffers;

— the state of health of that national and the care he or she receives on that territory, on account of that illness, must be taken into account, together with all the other relevant factors, by the competent national authority when it examines whether the right to respect for the private life of that national precludes him or her being the subject of a return decision or a removal order;

— the adoption of such a decision or measure does not infringe that right on the sole ground that, if he or she were returned to the receiving country, that national would be exposed to the risk that his or her state of health deteriorates, where such a risk does not reach the severity threshold required under Article 4 of the Charter.

(1) OJ C 163, 3.5.2021.

Judgment of the Court (Tenth Chamber) of 24 November 2022 — Vincent Thunus and Others v European Investment Bank (EIB)

(Case C-90/21 P) [1]

(Appeal — Civil service — Staff of the European Investment Bank (EIB) — Remuneration — Annual salary adjustment — Action for annulment and damages)

(2023/C 24/06)

Language of the case: French

Parties

Appellants: Vincent Thunus, Jaime Barragán, Marc D'hooge, Alexandra Felten, Christophe Nègre, Patrick Vanhoudt (represented by: L. Levi, avocate)

Other party to the proceedings: European Investment Bank (EIB) (represented by: A. V. García Sanchez, T. Gilliams, J. Klein and E. Manoukian, acting as Agents, and by P.–E. Partsch, avocat)

Operative part of the judgment

The Court:

1. Dismisses the appeal;

2. Orders Mr Vincent Thunus, Mr Jaime Barragán, Mr Marc D'hooge, Ms Alexandra Felten, Mr Christophe Nègre and Mr Patrick Vanhoudt to pay the costs.

[1] OJ C 228, 14.6.2021.

Judgment of the Court (Tenth Chamber) of 24 November 2022 — Vincent Thunus and Others v European Investment Bank (EIB)

(Case C-91/21 P) [1]

(Appeal — Civil service — Staff of the European Investment Bank (EIB) — Remuneration — Annual salary adjustment — Action for annulment and for damages)

(2023/C 24/07)

Language of the case: French

Parties

Appellants: Vincent Thunus, Jaime Barragán, Marc D'hooge, Alexandra Felten, Christophe Nègre, Patrick Vanhoudt (represented by: L. Levi, avocate)

Other party to the proceedings: European Investment Bank (represented by: A. V. García Sanchez, T. Gilliams, J. Klein and E. Manoukian, acting as Agents, and by P.–E. Partsch, avocat)

Operative part of the judgment

The Court:

1. Dismisses the appeal;

2. Orders Mr Vincent Thunus, Mr Jaime Barragán, Mr Marc D'hooge, Ms Alexandra Felten, Mr Christophe Nègre and Mr Patrick Vanhoudt to pay the costs.

[1] OJ C 228, 14.6.2021.

Judgment of the Court (Seventh Chamber) of 24 November 2022 — European Commission v Republic of Poland

(Case C-166/21) ([1])

(Failure of a Member State to fulfil obligations — Excise duties on alcohol and alcoholic beverages — Directive 92/83/EEC — Exemption from the harmonised excise duty — Ethyl alcohol used for the production of medicines — Article 27(1)(d) — Exemption conditional on placing the alcohol under a duty suspension arrangement — No facility to obtain a refund of the excise duty paid — Principle of proportionality)

(2023/C 24/08)

Language of the case: Polish

Parties

Applicant: European Commission (represented initially by C. Perrin and M. Siekierzyńska, and subsequently by C. Perrin and A. Stobiecka-Kuik, acting as Agents)

Defendant: Republic of Poland (represented by: B. Majczyna and A. Kramarczyk-Szaładzińska, acting as Agents)

Intervener in support of the defendant: Czech Republic (represented by: O. Serdula, M. Smolek and J. Vláčil, acting as Agents)

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders the European Commission to bear its own costs and to pay those incurred by the Republic of Poland;

3. Orders the Czech Republic to bear its own costs.

([1]) OJ C 148, 26.4.2021.

Judgment of the Court (Third Chamber) of 24 November 2022 — European Parliament v Council of the European Union

(Case C-259/21) ([1])

(Action for annulment — Common fisheries policy — Regulation (EU) 2021/92 — Fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters — Conservation of fishery resources and protection of marine ecosystems through technical measures — Articles 15 to 17 and 20 and the second paragraph of Article 59 — Article 43(3) TFEU — Misuse of powers — Principle of sincere cooperation)

(2023/C 24/09)

Language of the case: French

Parties

Applicant: European Parliament (represented by: I. Liukkonen and I. Terwinghe, acting as Agents)

Defendant: Council of the European Union (represented by: S. Falek, F. Naert and A. Nowak-Salles, acting as Agents)

Intervener in support of the defendant: European Commission (represented by: A. Dawes, A. Stobiecka-Kuik and K. Walkerová, acting as Agents)

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders the European Parliament to bear its own costs and to pay the costs incurred by the Council of the European Union;

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

(1) OJ C 217, 7.6.2021.

Judgment of the Court (Fifth Chamber) of 24 November 2022 (request for a preliminary ruling from the Administrativen sad Sofia-grad — Bulgaria) — IG v Varhoven administrativen sad

(Case C-289/21) (1)

(Reference for a preliminary ruling — Article 47 of the Charter of Fundamental Rights of the European Union — Effective judicial protection — National procedural rule providing that an action seeking to dispute the compatibility of a national provision with EU law is devoid of purpose where the provision is repealed in the course of proceedings)

(2023/C 24/10)

Language of the case: Bulgarian

Referring court

Administrativen sad Sofia-grad

Parties to the main proceedings

Applicant: IG

Defendant: Varhoven administrativen sad

Operative part of the judgment

The principle of effectiveness as enshrined in Article 47 of the Charter of Fundamental Rights of the European Union must be interpreted as precluding a procedural rule of a Member State according to which, where a provision of domestic law challenged by an action for annulment on the ground that it is contrary to EU law is repealed and therefore ceases to have any effect for the future, the dispute is deemed to have become devoid of purpose with the result that there is no longer any need to adjudicate on it, without the parties having first been able to assert any interest they may have in the continuation of the proceedings and without any account having been taken of any such interest.

(1) OJ C 289, 19.7.2021.

Judgment of the Court (Third Chamber) of 24 November 2022 (request for a preliminary ruling from the Korkein hallinto-oikeus — Finland) — Proceedings brought by A

(Case C-296/21) (1)

(Reference for a preliminary ruling — Control of the acquisition and possession of weapons — Directive 91/477/EEC — Annex I, Part III — Deactivation standards and techniques — Implementing Regulation (EU) 2015/2403 — Verification and certification of deactivation of firearms — Article 3 — Verifying entity approved by a national authority — Issuance of a deactivation certificate — Entity not included on the list published by the European Commission — Transfer of deactivated firearms within the European Union — Article 7 — Mutual recognition)

(2023/C 24/11)

Language of the case: Finnish

Referring court

Korkein hallinto-oikeus

Parties to the main proceedings

Applicant: A

Intervening parties: Helsingin poliisilaitos, Poliisihallitus

Operative part of the judgment

1. Part III of Annex I to Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons, as amended by Directive 2008/51/EC of the European Parliament and of the Council of 21 May 2008, and Article 3 of Commission Implementing Regulation (EU) 2015/2403 of 15 December 2015 establishing common guidelines on deactivation standards and techniques for ensuring that deactivated firearms are rendered irreversibly inoperable

must be interpreted as not precluding a legal person governed by private law, such as a commercial company, from coming within the concept of 'verifying entity', referred to in paragraph 1 of the latter provision, where that person appears on the list published by the European Commission pursuant to Article 3(3) of that implementing regulation.

2. Part III of Annex I to Directive 91/477, as amended by Directive 2008/51, and Article 7(2) of Implementing Regulation 2015/2403

must be interpreted as meaning that, where a deactivation certificate for a firearm is issued by a 'verifying entity', the Member State to which the deactivated firearm is transferred is required to recognise that certificate, unless the competent authorities of that Member State find, during a summary examination of the weapon in question, that that certificate clearly does not satisfy the requirements laid down in that implementing regulation.

(1) OJ C 289, 19.7.2021.

Judgment of the Court (Fourth Chamber) of 24 November 2022 (request for a preliminary ruling from the Juzgado de Primera Instancia nº 4 de Castelló de la Plana — Spain) — Casilda v Banco Cetelem SA

(Case C-302/21) (1)

(Reference for a preliminary ruling — Dispute in the main proceedings which has become devoid of purpose — No need to adjudicate)

(2023/C 24/12)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia nº 4 de Castelló de la Plana

Parties to the main proceedings

Applicant: Casilda

Defendant: Banco Cetelem SA

Operative part of the judgment

It is not necessary to give a ruling on the request for a preliminary ruling submitted by the Juzgado de Primera Instancia nº 4 de Castelló de la Plana (Court of First Instance, No 4, Castelló de la Plana, Spain) by decision of 7 May 2021.

(1) OJ C 382, 20.9.2021.

Judgment of the Court (Seventh Chamber) of 24 November 2022 (request for a preliminary ruling from the Cour de cassation — Belgium) — Tilman SA v Unilever Supply Chain Company AG

(Case C-358/21) (1)

(Reference for a preliminary ruling — Judicial cooperation in civil matters — Jurisdiction and the enforcement of judgments in civil and commercial matters — Lugano II Convention — Jurisdiction clause — Formal requirements — Clause included in the general terms and conditions — General terms and conditions which may be viewed and printed from a hypertext link mentioned in a contract concluded in writing — Consent of the parties)

(2023/C 24/13)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Appellant: Tilman SA

Respondent: Unilever Supply Chain Company AG

Operative part of the judgment

Article 23(1) and (2) of the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, signed on 30 October 2007, the conclusion of which was approved on behalf of the European Community by Council Decision 2009/430/EC of 27 November 2008,

must be interpreted as meaning that

a jurisdiction clause is validly concluded where it is contained in the general terms and conditions to which the contract concluded in writing refers by the inclusion of a hypertext link to a website, access to which allows those general terms and conditions to be viewed, downloaded and printed prior to that contract being signed, without the party against whom that clause operates having been formally asked to accept those general terms and conditions by ticking a box on that website.

(1) OJ C 338, 23.8.2021.

Judgment of the Court (Eighth Chamber) of 24 November 2022 (request for a preliminary ruling from the Kúria — Hungary) — CIG Pannónia Életbiztosító Nyrt. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

(Case C-458/21) ([1])

(Reference for a preliminary ruling — Taxation — Value added tax (VAT) — Directive 2006/112/EC — Article 132(1)(c) — Exemptions for certain activities in the public interest — Provision of medical care in the exercise of the medical and paramedical professions — Service used by an insurance company to review the accuracy of a diagnosis of serious illness and find and provide the best possible care and treatment abroad)

(2023/C 24/14)

Language of the case: Hungarian

Referring court

Kúria

Parties to the main proceedings

Applicant: CIG Pannónia Életbiztosító Nyrt.

Defendant: Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

Operative part of the judgment

Article 132(1)(c) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax

must be interpreted as meaning that services consisting in verifying the accuracy of an insured person's diagnosis of serious illness, in order to determine the best possible health care with a view to the insured person's recovery and to ensure, where that risk is covered by the insurance contract and where the insured person so requests, that the medical treatment is provided abroad, are not covered by the exemption provided for in that provision.

([1]) OJ C 471, 22.11.2021.

Judgment of the Court (Fifth Chamber) of 24 November 2022 (request for a preliminary ruling from the Finanzgericht Nürnberg — Germany) — A v Finanzamt M

(Case C-596/21) ([1])

(Reference for a preliminary ruling — Taxation — Value added tax (VAT) — Directive 2006/112/EC — Articles 167 and 168 — Right to deduct input VAT — Principle of prohibition of fraud — Chain of supply — Refusal of the right to deduct in the case of fraud — Taxable person — Second purchaser of goods — Fraud affecting part of the VAT due in respect of the first purchase — Scope of the refusal of the right to deduction)

(2023/C 24/15)

Language of the case: German

Referring court

Finanzgericht Nürnberg

Parties to the main proceedings

Applicant: A

Defendant: Finanzamt M

Operative part of the judgment

1. Articles 167 and 168 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2010/45/EU of 13 July 2010, read in the light of the principle of the prohibition of fraud,

must be interpreted as meaning that the second purchaser of goods may be refused the benefit of deducting input value added tax (VAT) on the ground that he or she knew or ought to have been aware of the existence of VAT fraud committed by the original seller at the time of the first sale, even if the first purchaser was also aware of that fraud.

2. Articles 167 and 168 of Directive 2006/112/EC, as amended by Directive 2010/45/EU, read in the light of the principle of the prohibition of fraud,

must be interpreted as meaning that the second purchaser of goods which, at a stage prior to that purchase, were the subject of a fraudulent transaction relating to only part of the value added tax (VAT) which the State is entitled to collect must have the right to deduct the input VAT refused in its entirety where that second purchaser knew or ought to have known that that purchase was linked to fraud.

(1) OJ C 513, 20.12.2021.

Judgment of the Court (Eighth Chamber) of 24 November 2022 (request for a preliminary ruling from the Raad van State — Belgium) — VZW Belgisch-Luxemburgse vereniging van de industrie van plantenbescherming (Belplant), formerly VZW Belgische Vereniging van de Industrie van Plantenbeschermingsmiddelen (PHYTOFAR) v Vlaams Gewest

(Case C-658/21) (1)

(Reference for a preliminary ruling — Procedure for the provision of information in the field of technical regulations and of rules on Information Society services — Directive (EU) 2015/1535 — Concept of 'technical regulation' — Article 1(1) — National legislation prohibiting individuals from using pesticides containing glyphosate on land in private use — Article 5(1) — Obligation on Member States to communicate to the European Commission any draft technical regulation)

(2023/C 24/16)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Applicant: VZW Belgisch-Luxemburgse vereniging van de industrie van plantenbescherming (Belplant), formerly VZW Belgische Vereniging van de Industrie van Plantenbeschermingsmiddelen (PHYTOFAR)

Defendant: Vlaams Gewest

Operative part of the judgment

Article 1(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, read in conjunction with Article 5 thereof

must be interpreted as meaning that national legislation which prohibits persons who do not have a national authorisation intended for professionals from using pesticides containing glyphosate on land in private use is capable of constituting a 'technical regulation', within the meaning of Article 1(1)(d) and (f) of that directive, which must be communicated to the European Commission under Article 5 of that directive, in so far as the application of that national legislation may significantly influence the marketing of the products concerned, which is a matter for the referring court to determine.

(1) OJ C 73, 14.2.2022.

Judgment of the Court (Tenth Chamber) of 24 November 2022 (request for a preliminary ruling from the Cour de cassation — France) — Cafpi SA, Aviva assurances SA v Enedis SA

(Case C-691/21) (1)

(Reference for a preliminary ruling — Directive 85/374/EEC — Article 3 — Liability for defective products — Meaning of 'producer' — Operator of an electricity distribution network changing the electricity voltage level for distribution)

(2023/C 24/17)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicants: Cafpi SA, Aviva assurances SA

Defendant: Enedis SA

Operative part of the judgment

Article 3(1) of Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products, as amended by Directive 1999/34/EC of the European Parliament and of the Council of 10 May 1999,

must be interpreted as meaning that an electricity distribution system operator must be regarded as a 'producer', within the meaning of that provision, where it changes the voltage level of electricity with a view to its distribution to the final customer.

(1) OJ C 64, 7.2.2022.

Order of the Court (Tenth Chamber) of 21 September 2022 (request for a preliminary ruling from the Cour d'appel de Bruxelles — Belgium) — DA v Romanian Air Traffic Services Administration (Romatsa) and Others and FC and Others v Romanian Air Traffic Services Administration (Romatsa) and Others

(Case C-333/19) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — State aid — Articles 107 and 108 TFEU — Bilateral Investment Treaty — Arbitration clause — Romania — Arbitral award granting payment of damages — European Commission decision declaring that payment to be State aid incompatible with the internal market and ordering its recovery — Enforcement of an arbitral award before a court of a Member State other than the Member State to which the decision is addressed — Infringement of EU law — Article 19 TEU — Articles 267 and 344 TFEU — Autonomy of EU law)

(2023/C 24/18)

Language of the case: French

Referring court

Cour d'appel de Bruxelles

Parties to the main proceedings

Appellants: DA and FC, European Food SA, Starmill SRL, Multipack SRL

Defendants: Romanian Air Traffic Services Administration (Romatsa), Romania, European Commission, European Organisation for the Safety of Air Navigation (Eurocontrol), FC, European Food SA, Starmill SRL, Multipack SRL and Romanian Air Traffic Services Administration (Romatsa), Romania, DA, European Commission, European Organisation for the Safety of Air Navigation (Eurocontrol)

Operative part of the order

EU law, in particular Articles 267 and 344 TFEU, must be interpreted as meaning that a court of a Member State ruling on the enforcement of the arbitral award which was the subject of Commission Decision (EU) 2015/1470 of 30 March 2015 on State Aid SA.38517 (2014/C) (ex 2014/NN) implemented by Romania — Arbitral award *Micula* v *Romania* of 11 December 2013, is required to set aside that award and, therefore, may not in any case proceed with its enforcement in order to enable its beneficiaries to obtain the payment of damages which it awarded them.

([1]) OJ C 220, 1.7.2019.

Order of the Court (Eighth Chamber) of 5 October 2022 (request for a preliminary ruling from the Rayonen sad — Pazardzhik — Bulgaria) — SF v Teritorialna direktsia na Natsionalna agentsia za prihodite — Plovdiv

(Case C-49/20) ([1])

(Reference for a preliminary ruling — Articles 53 and 99 of the Rules of Procedure of the Court of Justice — Directive (EU) 2015/849 — Scope — National legislation requiring payments exceeding a certain limit to be made only by bank transfer or by deposit into a payment account)

(2023/C 24/19)

Language of the case: Bulgarian

Referring court

Rayonen sad — Pazardzhik

Parties to the main proceedings

Applicant: SF

Defendant: Teritorialna direktsia na Natsionalna agentsia za prihodite — Plovdiv

Operative part of the order

Legislation of a Member State which provides that payments on the national territory of an amount which is equal to or greater than a fixed threshold are only to be made by bank transfer or deposit into a payment account and which has no interest in the person and in the reason for paying in cash and at the same time covers all payments in cash among natural and legal persons does not fall within the scope of Directive (EU) 2015/89 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC.

([1]) OJ C 137, 27.4.2020.

Order of the Court (Ninth Chamber) of 12 October 2022 (requests for a preliminary ruling from the Sąd Rejonowy dla Warszawy-Woli w Warszawie — Poland) — R1, R2 (C-650/20) v O1, O2 (C-650/20) and C (C-651/20) v T, O (C-651/20)

(Joined Cases C-650/20 and C-651/20) ([1])

(Removal from the register)

(2023/C 24/20)

Language of the case: Polish

Referring court

Sąd Rejonowy dla Warszawy-Woli w Warszawie

Parties to the main proceedings

Applicants: R1, R2 (C-650/20), C (C-651/20)

Defendants: O1, O2 (C-650/20), T, O (C-651/20)

Operative part of the order

Joined Cases C-650/20 and C-651/20 are removed from the register of the Court.

([1]) Date lodged: 30.11.20.

Order of the Court (Eighth Chamber) of 27 September 2022 (request for a preliminary ruling from the Landgericht Kleve — Germany) — AB and Others v Ryanair DAC

(Case C-307/21) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Air transport — Regulation (EC) No 261/2004 — Common rules on compensation and assistance to passengers in the event of cancellation or long delay of flights — Article 5(1)(c) — Right to compensation if flight is cancelled — Contract for carriage concluded through an online travel agent — Information on the cancellation of the flight communicated by means of an email address automatically generated by the travel agent — Failure to ensure that the passenger was properly informed)

(2023/C 24/21)

Language of the case: German

Referring court

Landgericht Kleve

Parties to the main proceedings

Applicants: AB and Others

Defendant: Ryanair DAC

Operative part of the order

Article 5(1)(c) and Article 7 of Regulation (EC) No 261/2004 of the European Parliament and the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91

must be interpreted as meaning that the operating air carrier must pay the compensation provided for by those provisions in the event of a flight cancellation of which the passenger was not informed at least two weeks prior to the scheduled time of departure where that carrier sent the information in good time to the only email address communicated to it in the course of the booking, without, however, being aware that that address could be used only to contact the travel agent, through which the reservation had been made, and not the passenger directly and that that travel agent did not send the information to the passenger in good time.

([1]) OJ C 310, 2.8.2021.

Order of the Court (Ninth Chamber) of 20 October 2022 (request for a preliminary ruling from the Supremo Tribunal Administrativo — Portugal) — Instituto de Financiamento da Agricultura e Pescas IP (IFAP) v AB, CD and EF

(Case C-374/21) ([1])

(Reference for a preliminary ruling — Article 53(2) and Article 99 of the Rules of Procedure of the Court of Justice — Regulation (EC, Euratom) No 2988/95 — Own resources of the European Union — Protection of the European Union's financial interests — Proceedings relating to irregularities — Article 4 — Adoption of administrative measures — Article 3(1) — Limitation period for proceedings — Expiry — Whether it may be relied on in the context of the enforced recovery procedure — Article 3(2) — Period for implementation — Applicability — Starting point of the limitation period — Interruption and suspension)

(2023/C 24/22)

Language of the case: Portuguese

Referring court

Supremo Tribunal Administrativo

Parties to the main proceedings

Appellant: Instituto de Financiamento da Agricultura e Pescas IP (IFAP)

Respondents: AB, CD and EF

Operative part of the order

1. Article 3(1) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests

must be interpreted as not precluding, subject to the principles of equivalence and effectiveness, national legislation under which, for the purpose of challenging a decision to recover amounts wrongly paid, adopted after the expiry of the limitation period for proceedings referred to in that provision, the addressee of that decision is required to plead the irregularity thereof within a certain period before the competent administrative court, failing which the challenge will be time-barred, and the addressee is no longer able to object to the enforcement of that decision by relying on that irregularity in the context of the judicial proceedings for enforced recovery brought against that addressee.

2. The first subparagraph of Article 3(2) of Regulation No 2988/95

must be interpreted as meaning that the secondarily liable parties from the debtor entity which is the addressee of a decision to recover amounts wrongly received, to whom tax enforcement proceedings have been extended, must be able to rely on the expiry of the period for implementation laid down in the first subparagraph of Article 3(2) of that regulation or, as the case may be, of an extended period for implementation pursuant to Article 3(3) of that regulation, in order to oppose the enforced recovery of those amounts.

3. The first subparagraph of Article 3(2) of Regulation No 2988/95

must be interpreted as meaning that, as regards the implementation of a decision requiring the repayment of amounts wrongly received, the period for implementation established by that provision starts to run from the day on which that decision becomes final, that is to say, from the day on which the periods for bringing proceedings have expired or all rights of appeal have been exhausted.

(1) OJ C 357, 6.9.2021.

Order of the Court (Eighth Chamber) of 19 October 2022 (request for a preliminary ruling from the Tribunale di Napoli — Italy) — VB v Comune di Portici

(Case C-777/21) (1)

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Article 49 TFEU — Freedom of establishment — Article 56 TFEU — Freedom to provide services — Road traffic — Registration and taxation of motor vehicles — Vehicle registered in a Member State — Driver residing in the Member State where the vehicle is registered and in another Member State — Legislation of a Member State prohibiting persons who have resided in that Member State for more than 60 days from driving in that Member State a vehicle registered in another country)

(2023/C 24/23)

Language of the case: Italian

Referring court

Tribunale di Napoli

Parties to the main proceedings

Appellant: VB

Respondent: Comune di Portici

Operative part of the order

Article 49 TFEU must be interpreted as precluding national legislation which prohibits a self-employed worker who has resided in that Member State for more than 60 days from driving in that Member State a vehicle registered in another Member State where the vehicle is neither intended to be used essentially in the first Member State on a permanent basis nor is, in fact, used in that manner.

(1) OJ C 148, 4.4.2022.

Request for a preliminary ruling from the Audiencia Nacional (Spain) lodged on 5 April 2022 — Criminal proceedings against Abel

(Case C-235/22)

(2023/C 24/24)

Language of the case: Spanish

Referring court

Audiencia Nacional

Parties to the main proceedings

Applicant: Abel

Other party: Ministerio Fiscal

Questions referred

1. Must Articles 126 and 127 *of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community [the Withdrawal Agreement]* (1) *and Articles 18(1) and 21 (1) of the Treaty on the Functioning of the European Union* be interpreted as applying to a request made after the conclusion of the transition period provided for in the Withdrawal Agreement by a third State for the extradition of a citizen of the United Kingdom who was resident in a Member State both during and after the end of the Withdrawal Agreement in connection with acts committed before and during the period of application of the Withdrawal Agreement?

   If the answer is in the negative,

2. Must *Articles 10, 12, 13, 14, 15, 126 and 127 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community [the Withdrawal Agreement] and Article 21 of the Treaty on the Functioning of the European Union be interpreted as meaning that the doctrine established by the judgments of the Court of Justice of the European Union in Cases C-182/15 (Petruhhin),* (2) *Pisciotti (C-191/16)* (3) *and C-897/19 PPU (I.N.)* (4) *applies* to an extradition request from a third country in respect of a British national who was a citizen of the European Union at the time of the acts which give rise to the extradition request and who has resided continuously in the territory of another Member State before and during the period of application of the Withdrawal Agreement?

   If the answer is in the negative,

3. In the light of the mechanism for judicial cooperation in criminal matters established in Articles 62 to 65 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community and in Title VII of Part Three of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, does the doctrine established by the *judgments of the Court of Justice of the European Union in Cases C-182/15 (Petruhhin), Pisciotti (C-191/16) and C-897/19 PPU (I.N.)* apply to an extradition request from a third country in respect of a British national who was a citizen of the European Union at the time of the acts which give rise to the extradition request and who has resided continuously in the territory of another Member State before and during the period of application of the Withdrawal Agreement?

([1]) OJ 2020 L 29, p. 7.
([2]) Judgment of 6 September 2016, EU:C:2016:630.
([3]) Judgment of 10 April 2018, EU:C:2018:222.
([4]) Judgment of 2 April 2020, EU:C:2020:262.

Appeal brought on 4 May 2022 by Luis Miguel Novais against the order of the General Court (Sixth Chamber) delivered on 4 March 2022 in Case T-66/22, Novais v Portugal

(Case C-295/22 P)

(2023/C 24/25)

Language of the case: Portuguese

Parties

Appellant: Luis Miguel Novais (represented by: Á. Oliveira and C. Almeida Lopes, advogados)

Other party to the proceedings: Portuguese Republic

By order of 24 November 2022, the Court (Sixth Chamber) dismissed the appeal as manifestly unfounded.

Appeal brought on 9 May 2022 by Union nationale des indépendants solidaires (UNIS) against the order of the General Court (Tenth Chamber) delivered on 8 March 2022 in Case T-431/21 UNIS v Commission

(Case C-324/22 P)

(2023/C 24/26)

Language of the case: French

Parties

Appellant: Union nationale des indépendants solidaires (UNIS) (represented by: F. Ortega, avocat)

Other party to the proceedings: European Commission

By order of 1 December 2022, the Court (Sixth Chamber) dismissed the appeal as manifestly unfounded and ordered the appellant to bear its own costs.

Appeal brought on 25 August 2022 by Unite the Union against the judgment of the General Court (Third Chamber) delivered on 22 June 2022 in Case T-739/20, Unite the Union v EUIPO — WWRD Ireland (WATERFORD)

(Case C-571/22 P)

(2023/C 24/27)

Language of the case: English

Parties

Appellant: Unite the Union (represented by: B. O'Connor, avocat, M. Hommé, avocat)

Other parties to the proceedings: European Union Intellectual Property Office (EUIPO), WWRD Ireland IPCO LLC

By order of 05 December 2022, the Court of Justice (Chamber determining whether appeals may proceed) held that the appeal was not allowed to proceed and that Unite the Union should bear its own costs.

Appeal brought on 31 August 2022 by Munich, SL against the judgment of the General Court (Ninth Chamber) delivered on 22 June 2022 in Case T-502/20, Munich v EUIPO — Tone Watch (MUNICH10A.T.M.)

(Case C-577/22 P)

(2023/C 24/28)

Language of the case: Spanish

Parties

Appellant: Munich, SL (represented by: J. Güell Serra, M. del Mar Guix Vilanova, abogados)

Other parties to the proceedings: European Union Intellectual Property Office (EUIPO), Tone Watch, SL

By order of 29 November 2022, the Court of Justice (Chamber determining whether appeals may proceed) decided that the appeal should not be allowed to proceed and ordered Munich SL to bear its own costs.

Appeal brought on 16 September 2022 by the European Commission against the judgment of the General Court (Second Chamber) delivered on 6 July 2022 in Case T-408/21, HB v European Commission

(Case C-597/22 P)

(2023/C 24/29)

Language of the case: French

Parties

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

Other party to the proceedings: HB (represented by: L. Levi, avocate)

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court of the European Union of 6 July 2022 in Case T-408/21 *HB* v *Commission*, in so far as it annuls Commission Decisions C(2021) 3339 final of 5 May 2021 and C(2021) 3340 final of 5 May 2021;

— refer the case back to the General Court for a decision on the substance in relation to the application for annulment;

— order HB to pay the costs.

Pleas in law and main arguments

In support of its appeal, the Commission relies on a single plea in law, alleging an error of law.

According to the Commission, the General Court erred in considering that Decisions C(2019) 7318 final and C(2019) 7319 were contractual.

Consequently, the incorrect characterisation of those two claims as contractual includes, in accordance with the case-law *ADR* (C-584/17), the wrongful annulment of Commission Decisions C(2021) 3339 final of 5 May 2021 and C(2021) 3340 final of 5 May 2021, which are the subject of the present case.

Request for a preliminary ruling from the Sąd Rejonowy w Słupsku (Poland) lodged on 19 September 2022 — Criminal proceedings against M.S., J.W., M.P.

(Case C-603/22)

(2023/C 24/30)

Language of the case: Polish

Referring court

Sąd Rejonowy w Słupsku

Parties to the main proceedings

M.S., J.W., M.P., Prokurator Rejonowy w Słupsku, D.G.- administrator appointed to act for M.B. and B.B.

Questions referred

1. Must Article 6(1), (2), (3)(a) and (7) and Article 18, in conjunction with recitals 25, 26 and 27, of Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings [1] be interpreted as meaning that, as soon as a suspect below the age of 18 years is charged, the authorities conducting the proceedings are obliged to ensure that the child has the right to be assisted by a public defence counsel if he or she does not have a defence counsel of his or her choice (because the child or the holder of parental responsibility has not arranged such assistance) and to ensure that a defence counsel participates in the actions of the pre-trial proceedings, such as the questioning of the minor as a suspect, and that they preclude a minor from being questioned without the participation of a defence counsel?

2. Must Article 6(6) and (8), in conjunction with recitals 16, 30, 31 and 32, of Directive (EU) 2016/800 of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings be interpreted as meaning that the provision of the assistance of a defence counsel without undue delay may not be derogated from in any event in cases concerning offences punishable by a restriction of liberty and that application of the right to assistance of a defence counsel within the meaning of Article 6(8) of the directive may be temporarily derogated from only in pre-trial proceedings and only in the circumstances listed exhaustively in Article 6(8)(a) and (b), which must be expressly stated in the decision, which is in principle open to challenge, to proceed to questioning in the absence of a lawyer?

3. If the answer to at least one of the first two questions is in the affirmative, are the abovementioned provisions of Directive (EU) 2016/800 therefore to be interpreted as precluding provisions of national law such as:

   (a) the second sentence of Article 301 of the Code of Criminal Procedure, under which a suspect is to be questioned with the participation of the appointed defence counsel only at his or her request and the failure of the defence counsel to appear for the questioning of the suspect is not to block questioning;

   (b) Article 79(3) of the Code of Criminal Procedure, under which, in the case of a person below the age of 18 years (Article 79(1)(1) of the Code of Criminal Procedure), the participation of a defence counsel is mandatory only at the trial and at those hearings in which the participation of the accused person is mandatory, that is to say at the trial stage?

4. Must the provisions referred to in Questions 1 and 2, and also the principle of primacy and the principle of direct effect of directives, be interpreted as empowering (or obliging) a national court hearing a case in criminal proceedings coming within the scope of Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, and any State authorities, to disregard provisions of national law which are incompatible with the directive, such as those listed in Question 3, and consequently — on account of the expiry of the implementation period — to replace the abovementioned national rule with the directly effective rules of the directive?

5. Must Article 6(1), (2), (3) and (7) and Article 18, in conjunction with Article 2(1) and [(3)] and recitals 11, 25 and 26, of Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, in conjunction with Article 13 and recital 50 of Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty, ([2]) be interpreted as meaning that a Member State must grant legal aid to suspects or accused persons in criminal proceedings who were children at the time of the beginning of the proceedings but have subsequently reached the age of 18 years and that such assistance is mandatory until the final conclusion of the proceedings?

6. If the answer to Question 5 is in the affirmative, must the abovementioned provisions of the directive therefore be interpreted as precluding provisions of national law, such as Article 79(1)(1) of the Code of Criminal Procedure, under which, in criminal proceedings, the accused person must have a defence counsel only until he or she reaches the age of 18 years?

7. Must the provisions referred to in Question 5, and also the principle of primacy and the principle of direct effect of directives, be interpreted as empowering (or obliging) a national court hearing a case in criminal proceedings coming within the scope of Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, and any State authorities, to disregard provisions of national law which are incompatible with the directive, such as those listed in Question [6], and to apply provisions of national law, such as Article 79(2) of the Code of Criminal Procedure, interpreted in conformity with the directive, that is to say, to maintain the appointment of a public defence counsel for an accused person who was under the age of 18 years at the time of the charge but subsequently, in the course of the proceedings, reached the age of 18 years and in respect of whom the criminal proceedings remain pending, until the final conclusion of the proceedings, on the assumption that this is necessary in view of circumstances impeding the defence, or — on account of the expiry of the implementation period — to replace the abovementioned national rule with the directly effective rules of the directive?

8. Must Article 4(1) to (3), in conjunction with recitals 18, 19 and 22, of Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, in conjunction with Article 3(2), in conjunction with recitals 19 and 26 of Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings, ([3]) be interpreted as meaning that the competent authorities (public prosecutor's office, police) must, at the latest before the initial official questioning of a suspect by the police or another competent authority, promptly inform both the suspect and, at the same time, the holder of parental responsibility, of the rights which are essential for safeguarding the fairness of the proceedings and of the procedural steps in the proceedings, including, more

specifically, the obligation to appoint a defence counsel for a minor suspect and the consequences of not appointing a defence counsel of choice for the accused minor (appointment of a public defence counsel), and, as regards child suspects, that information must be given in simple and accessible language appropriate to the age of the minor?

9. Must Article 7(1) and (2), in conjunction with recital 31, of Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings, in conjunction with Article 3(1)(e) and (2) of Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings, ([4]) be interpreted as meaning that the authorities of a Member State conducting criminal proceedings involving a suspect/accused person who is a child are obliged to instruct a child suspect as to the right to remain silent and the right not to incriminate himself/herself, in a manner which is intelligible and appropriate to the age of the suspect?

10. Must Article 4(1) to (3), in conjunction with recitals 18, 19 and 22, of Directive 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings and Article 3(2), in conjunction with recitals 19 and 26, of Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings, be interpreted as meaning that the requirements laid down in the abovementioned provisions are not satisfied by the service of general instructions shortly before the questioning of a minor suspect, without regard to the specific rights arising from the scope of Directive 2016/800, and by the service of such instruction only on a suspect acting without a defence counsel, without the involvement of the holder of parental responsibility, and in a situation in which such instructions are formulated in language inappropriate to the age of the suspect?

11. Must Articles 18 and 19, in conjunction with recital 26, of Directive 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings and Article 12(2), in conjunction with recital 50, of Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty, combined with Article 7(1) and (2), in conjunction with Article 10(2) and recital 44 of Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings and the principle of a fair trial, be interpreted — in relation to statements made by a suspect during police questioning conducted without access to a lawyer and without the suspect being fairly informed of his or her rights, without the holder of parental responsibility being informed of the rights and general aspects of the conduct of the proceedings that the child is entitled to pursuant to Article 4 of the directive — as obliging (or empowering) a national court hearing a case in criminal proceedings coming within the scope of the abovementioned directives, and any State authorities, to ensure that suspects/accused persons are placed in the same position as that in which they would have been had the infringements in question not occurred, and therefore to disregard such evidence, in particular where the incriminating information obtained in such questioning was to be used to convict the person concerned?

12. Must the provisions referred to in Question 11, and also the principle of primacy and the principle of direct effect, therefore be interpreted as requiring a national court hearing a case in criminal proceedings coming within the scope of the abovementioned directives, and any other State authorities, to disregard provisions of national law which are incompatible with those directives, such as abovementioned Article 168a of the Code of Criminal Procedure, under which evidence may not be declared inadmissible solely on the ground that it was obtained in breach of the rules of procedure or by means of an offence referred to in Article 1(1) of the Criminal Code, unless the evidence was obtained in connection with the performance of official duties by a public official, as a result of: murder, intentional bodily injury or deprivation of liberty?

13. Must Article 2(1) of Directive 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, in conjunction with the second subparagraph of Article 19(1) TEU, and the principle of effectiveness in European Union law, be interpreted as meaning that a public prosecutor, as an authority participating in the administration of justice, upholding the rule of law and in that regard the host of the pre-trial proceedings, has a duty to ensure, at the pre-trial stage, effective legal protection coming within the scope of the abovementioned directive and that, in the effective application of European Union law, he or she must guarantee his or her independence and impartiality?

14. If the answer to any of Questions 1 to 4, 5 to 8, and 9 to 12, and especially the answer to Question 13, is in the affirmative, must the second subparagraph of Article 19(1) TEU (principle of effective legal protection), in conjunction with Article 2 TEU, in particular in conjunction with the principle of respect for the rule of law, as interpreted in the case-law of the Court of Justice (judgment of 21 December 2021 in Joined Cases C-357/19, C-379/19, C-547/19, C-811/19 and C-840/19, [*Euro Box Promotion and Others*], EU:C:2021:1034), and the principle of judicial independence established in the second subparagraph of Article 19(1) TEU and in Article 47 of the Charter of Fundamental Rights, as interpreted in the case-law of the Court of Justice (judgment of 27 February 2018, *Associação Sindical dos Juízes Portugueses*, C-64/16, EU:C:2018:117), be interpreted as meaning that those principles, in view of the possibility of pressure being exerted indirectly on judges and the possibility of the Public Prosecutor General issuing binding instructions in this regard to lower-ranking public prosecutors, preclude national legislation stating that the prosecutor's office is to be dependent on an executive authority, such as the Minister for Justice, and also preclude the existence of national rules which limit the independence of the courts and the independence of the public prosecutor in the application of European Union law, in particular:

(a) Article 130(1) of the Ustawa z dnia 27 lipca 2001 roku o ustroju sądów powszechnych (Law of 27 July 2001 on the system of the ordinary courts), which permits the Minister for Justice — in connection with the public prosecutor's obligation to report a situation in which a court gives judgment applying European Union law — to order the immediate suspension of a judge's service activities pending a decision by the disciplinary court, for no longer than one month, when, on account of the nature of the offence committed by the judge and given effect in the direct application of European Union law, the Minister for Justice considers that the authority of the court and the essential interests of the service so require;

(b) Articles 1(2), 3(1)(1) and (3), 7(1) to (6) and (8), and 13(1) and (2) of the Ustawa z dnia 28 stycznia 2016 roku Prawo o prokuraturze (Law of 28 January 2016 on the Public Prosecutor's Office), the content of which, considered in conjunction with one another, indicates that the Minister for Justice, who is also the Public Prosecutor General and the highest authority of the public prosecutor's office, may issue instructions which are binding on lower-ranking public prosecutors also to the extent that they restrict or impede the direct application of European Union law?

([1]) OJ 2016 L 132, p. 1.
([2]) OJ 2013 L 294, p. 1.
([3]) OJ 2012 L 142, p. 1.
([4]) OJ 2016 L 65, p. 1.

Appeal brought on 23 September 2022 by Tigercat International Inc. against the judgment of the General Court (Second Chamber) delivered on 13 July 2022 in Case T-251/21, Tigercat International Inc. v EUIPO

(Case C-612/22 P)

(2023/C 24/31)

Language of the case: English

Parties

Appellant: Tigercat International Inc. (represented by: B. Führmeyer, Rechtsanwalt, E. B. Matthes, Rechtsanwalt)

Other parties to the proceedings: European Union Intellectual Property Office (EUIPO), Caterpillar Inc.

By order of 05 December 2022, the Court of Justice (Chamber determining whether appeals may proceed) held that the appeal was not allowed to proceed and that Tigercat International Inc. should bear its own costs.

Request for a preliminary ruling from the Tribunal Superior de Justicia de las Islas Baleares (Spain) lodged on 7 October 2022 — J. M. A. R v C.N.N., SA

(Case C-631/22)

(2023/C 24/32)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de las Islas Baleares

Parties to the main proceedings

Appellant: J. M. A. R

Respondent: C.N.N., SA

Questions referred

1. Must Article 5 of Directive 2000/78/EC [of 27 November 2000] establishing a general framework for equal treatment in employment and occupation ([1]) be interpreted, having regard to recitals 16, 17, 20 and 21 of the directive, Articles 21 and 26 of the Charter of Fundamental Rights of the European Union, and Articles 2 and 27 of the United Nations Convention on the Rights of Persons with Disabilities (approved by Council Decision 2010/48/EC of 26 November 2009), ([2]) as precluding the application of a national rule of law which establishes that a worker's disability (where the worker has been declared to be totally and permanently unable to perform his or her normal occupation, with no prospect of improvement) is automatic grounds for termination of the employment contract, with no prior requirement for the employer to comply with the obligation to make 'reasonable accommodation' as required by Article 5 of the directive in order to enable the individual to remain in employment (or to show that the requirement would impose a disproportionate burden)?

2. Must Article 2(2) and Article 4(1) of Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation be interpreted, having regard to recitals 16, 17, 20 and 21 of the directive, Articles 21 and 26 of the Charter of Fundamental Rights of the European Union, and Articles 2 and 27 of the United Nations Convention on the Rights of Persons with Disabilities (approved by Council Decision 2010/48/EC of 26 November 2009), as meaning that the automatic termination on grounds of disability of the employment contract of a worker (who has been declared to be totally and permanently unable to perform his or her normal occupation), with no prior requirement for the employer to comply with the obligation to make 'reasonable accommodation' as required by Article 5 of the directive in order to enable the individual to remain in employment (or to show that the requirement would impose a disproportionate burden), constitutes direct discrimination, even though a rule of domestic law provides for termination of the contract?

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

([2]) Council Decision of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities (OJ 2010, L 23, p. 35).

Request for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 10 October 2022 — AB Volvo v Transsaqui S.L.

(Case C-632/22)

(2023/C 24/33)

Language of the case: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Appellant: AB Volvo

Respondent: Transsaqui S.L.

Questions referred

1.- In the circumstances surrounding the litigation relating to the trucks cartel, described in this order, is it possible to interpret Article 47 of the Charter of Fundamental Rights of the European Union, in conjunction with Article 101 of the Treaty on the Functioning of the European Union, in such a way that service of process on a parent company against which an action for damages for the harm caused by a restrictive trade practice has been brought is considered to have been properly effected when such service was effected (or attempted) at the place of business of the subsidiary company established in the State in which the legal proceedings were brought, while the parent company, which is established in another Member State, has not entered an appearance in the proceedings and has remained in default?

2.- If the previous question is answered in the affirmative, is that interpretation of Article 47 of the Charter compatible with Article 53 of the Charter, in the light of the case-law of the Spanish Tribunal Constitucional (Constitutional Court) on the service of process on parent companies established in another Member State in disputes relating to the trucks cartel?

Request for a preliminary ruling from the Cour de cassation (France) lodged on 11 October 2022 — Real Madrid Club de Fútbol, AE v EE, Société Éditrice du Monde SA

(Case C-633/22)

(2023/C 24/34)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Appellants: Real Madrid Club de Fútbol, AE

Respondents: EE, Société Éditrice du Monde SA

Questions referred

1. Must Articles 34 and 36 of the Brussels I regulation ([1]) and Article 11 of the Charter of Fundamental Rights of the European Union be interpreted as meaning that a financial penalty imposed for harm caused to the reputation of a sports club by the publication of a story in a newspaper can manifestly infringe freedom of expression and therefore constitute a ground for refusing to recognise and enforce a judgment?

2. In the event of an affirmative answer, must those provisions be interpreted as meaning that the court in which enforcement is sought may find that the penalty is disproportionate only where the damages have been categorised as punitive either by the court of origin or by the court in which enforcement is sought and not where they have been awarded as compensation for non-material damage?

3. Must those provisions be interpreted as meaning that the court in which enforcement is sought may take account only of the deterrent effect of the penalty in the light of the resources of the person on whom the penalty is imposed, or may it have regard to other factors such as the seriousness of the wrong or the extent of the harm?

4. Can the deterrent effect in the light of the resources of the newspaper in itself form a ground for refusing to recognise and enforce a judgment due to a manifest infringement of the fundamental principle of freedom of the press?

5. Must the deterrent effect be understood as meaning that the financial stability of the newspaper is threatened or may it simply refer to an intimidating effect?

6. Must the deterrent effect on the newspaper publishing house and on a journalist as an individual be assessed in the same way?

7. Is the general economic situation of the print media a relevant factor when assessing whether, beyond the newspaper in question, the penalty is likely to have an intimidating effect on the media overall?

(1) Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1).

Request for a preliminary ruling from the Sofiyski gradski sad (Bulgaria) lodged on 10 October 2022 — Criminal proceedings against OT, PG, CR, VT, MD

(Case C-634/22)

(2023/C 24/35)

Language of the case: Bulgarian

Referring court

Sofiyski gradski sad

Defendants in the criminal proceedings

OT, PG, CR, VT, MD

Questions referred

1. Must Article 2, Article 6(1) and (3) and the second subparagraph of Article 19(1) TEU, in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union, be interpreted as meaning that, where a court has been abolished by the adopted amendment to the Zakon za sadebnata vlast (Law on the judiciary) (DV No 32/26 April 2022, with effect from 27 July 2022), but the judges are to continue up to and after that date to deal with those cases before that court in which preliminary hearings have been held, the independence of that court is impaired, given that the abolition of the court is justified on the ground that the constitutional principle of the independence of the judiciary and the protection of the constitutional rights of citizens are thereby safeguarded, and the facts leading to the conclusion that those principles have been infringed are not duly set out[?]

2. Must the abovementioned provisions of EU law be interpreted as precluding national provisions such as those of the Law amending and supplementing the Law on the judiciary (DV No 32/26 April 2022), which result in the complete abolition of an autonomous judicial body in Bulgaria (the Specialised Criminal Court) on the ground referred to above and in the transfer of judges (including the judge of the panel hearing the criminal case at hand) from that court to various other courts, but which require those judges to continue to deal with those cases which are pending before the abolished court and which they have already commenced?

3. If so, what procedural acts should be undertaken — also in the light of the primacy of EU law — by the members of the national legal service attached to the recently abolished courts in the cases of the abolished court (which, by law, they must complete), having regard also to their obligation to examine closely whether they must recuse themselves from those cases? What consequences would that have for the procedural decisions of the recently abolished court in the cases which must be completed and for the legal acts terminating the proceedings in those cases?

Request for a preliminary ruling from the Curtea de Apel Timişoara (Romania) lodged on 11 October 2022 — SC Assofrutti Rom SRL v Agenția pentru Finanțarea Investițiilor Rurale and Centrul Regional pentru Finanțarea Investițiilor Rurale 5 Vest Timişoara

(Case C-635/22)

(2023/C 24/36)

Language of the case: Romanian

Referring court

Curtea de Apel Timişoara

Parties to the main proceedings

Appellant and applicant at first instance: SC Assofrutti Rom SRL

Respondents and defendants at first instance: Agenția pentru Finanțarea Investițiilor Rurale and Centrul Regional pentru Finanțarea Investițiilor Rurale 5 Vest Timişoara

Questions referred

1. Can the provisions of Article 17 of Council Directive 2008/90/EC of 29 September 2008 on the marketing of fruit plant propagating material and fruit plants intended for fruit production ([1]) be interpreted as prohibiting Member States from requiring the public procurement procedure to be conducted prior to the marketing of [*Conformitas Agraria Communitatis* (CAC)] material?

2. In a situation such as that in the present case, can Article 4(10) of Regulation No 1303/2013, ([2]) read in conjunction with Article 39(1)(a) and (b) of the Treaty on the Functioning of the European Union, be interpreted as precluding the requirement for the public procurement procedure to be conducted as provided for in [Romania's National Rural Development Programme] 2014-2020 (fifth version)?

([1]) OJ 2008 L 267, p. 8.

([2]) Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ 2013 L 347, p. 320).

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 13 October 2022 — Compass Banca SpA v Autorità Garante della Concorrenza e del Mercato

(Case C-646/22)

(2023/C 24/37)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellant: Compass Banca SpA

Respondent: Autorità Garante della Concorrenza e del Mercato

Questions referred

1. Should the concept of 'average consumer' referred to in Directive 2005/29/EC, ([1]) understood as a consumer who is reasonably well informed and reasonably observant and circumspect — given that it is vague and flexible — be worded according to the best science and experience and thus refer not only to the classic concept of *homo economicus*, but also to the findings of the latest theories on bounded rationality, which have shown how people often act by limiting the information they need through decisions which appear 'irrational' when compared with those that would be taken by a hypothetically observant and circumspect person; findings that impose a need for greater consumer protection where — as is increasingly the case in modern market dynamics — there is a risk of cognitive influence?

2. Can a commercial practice in which, due to the framing of the information, a choice may appear obligatory and with no alternatives be considered inherently aggressive, taking account of Article 6(1) of [that directive], which regards as misleading a commercial practice that in any way, 'including overall presentation', deceives or is likely to deceive the average consumer?

3. Does [Directive 2005/29/EC] justify the power of [the Autorità Garante della Concorrenza e del Mercato (AGCM)] (once the risk of psychological influence has been identified in relation to (i) the fact that a loan applicant is normally in need, (ii) the complexity of the contracts presented for signature by the consumer, (iii) the concurrent nature of the combined offer and (iv) the short period granted to take up the offer) to allow a derogation from the principle of the possibility of cross-selling insurance products and unrelated financial products by requiring a seven-day period between the signing of the two contracts?

4. In view of the repressive power of aggressive commercial practices, does Directive (EU) 2016/97, ([2]) and in particular Article 24(3) thereof, preclude [the AGCM] from adopting a decision on the basis of Article 2(d) and (j) of Directive 2005/29/EC, Articles 4, 8 and 9 thereof and the national implementing legislation after a loan application is rejected following the refusal of an investment services company, in the case of the cross-selling of a financial product and an unrelated insurance product (and where there is a risk of the consumer being influenced owing to the actual circumstances of the case, which can also be inferred from the complexity of the documents to be examined), to grant the consumer a seven-day cooling-off period between the combined offer being made and the insurance contract being signed?

5. Could the characterisation of the mere combining of two products — one financial product and one insurance product — as an aggressive practice result in an unlawful regulatory measure, and would this place on the trader (rather than on the AGCM, as it should be) the burden — a difficult one to discharge — of demonstrating that that combining of two products is not an aggressive practice in breach of Directive 2005/29/EC (especially as, under that directive, Member States may not adopt stricter rules than those provided for therein, even in order to achieve a higher level of consumer protection), or, on the contrary, does such a reversal of the burden of proof not exist, provided that, on the basis of objective evidence, there is deemed to be a real risk that the consumer in need of a loan will be influenced by a complex combined offer?

([1]) Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ 2005 L 149, p. 22).

([2]) Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (OJ 2016 L 26, p. 19).

Request for a preliminary ruling from the Corte suprema di cassazione (Italy) lodged on 20 October 2022 — Ente Cambiano Società cooperativa per azioni v Agenzia delle Entrate

(Case C-660/22)

(2023/C 24/38)

Language of the case: Italian

Referring court

Corte suprema di cassazione

Parties to the main proceedings

Appellant: Ente Cambiano Società cooperativa per azioni

Respondent: Agenzia delle Entrate

Question referred

Do Articles 63 et seq., 101, 102, 120 and 173 TFEU preclude national legislation which, like Article 2(3-*ter*) and (3-*quater*) of Decree-Law No 18 of 14 February 2016, converted, with amendments, by Law No 49 of 8 April 2016, in the version applicable *ratione temporis*, makes the payment of a sum equal to 20 % net assets as at 31 December 2015 a condition for the possibility for cooperative credit banks having net assets of over EUR 200 million as at 31 December 2015, instead of joining a group, transferring their banking business to a public limited company, including a newly established one, authorised to perform banking activities, by amending their articles of association so as to exclude the performance of banking activities and at the same time maintaining the mutuality clauses set out in Article 2514 of the Italian Civil Code, and providing the shareholders with services which serve to maintain the relationship with the transferee public limited company relating to training and information on savings issues and the promotion of assistance programmes?

Request for a preliminary ruling from the Verwaltungsgericht Düsseldorf (Germany) lodged on 8 November 2022 — S.Ö. v Stadt Duisburg

(Case C-684/22)

(2023/C 24/39)

Language of the case: German

Referring court

Verwaltungsgericht Düsseldorf

Parties to the main proceedings

Applicant: S.Ö.

Defendant: Stadt Duisburg

Questions referred

1. Does Article 20 TFEU preclude a provision under which, in the case of voluntary acquisition of (non-privileged) nationality of a third country, nationality of the Member State and thus citizenship of the Union are lost *ex lege* where an individual examination of the consequences of the loss is conducted only if the foreign national concerned previously made an application for a retention permit and that application was approved prior to acquisition of the foreign nationality?

2. If the first question is to be answered in the negative: Is Article 20 TFEU to be interpreted as meaning that, in the procedure for the grant of the retention permit, no conditions may be laid down as a result of which an individual assessment of the situation of the person concerned and that of his or her family with regard to the consequences of the loss of citizenship of the Union does not take place or is superseded by other requirements?

Request for a preliminary ruling from the Verwaltungsgericht Düsseldorf (Germany) lodged on 8 November 2022 — N.Ö. and M.Ö. v Stadt Wuppertal

(Case C-685/22)

(2023/C 24/40)

Language of the case: German

Referring court

Verwaltungsgericht Düsseldorf

Parties to the main proceedings

Applicants: N.Ö., M.Ö.

Defendant: Stadt Wuppertal

Questions referred

1. Does Article 20 TFEU preclude a provision under which, in the case of voluntary acquisition of (non-privileged) nationality of a third country, nationality of the Member State and thus citizenship of the Union are lost *ex lege* where an individual examination of the consequences of the loss is conducted only if the foreign national concerned previously made an application for a retention permit and that application was approved prior to acquisition of the foreign nationality?

2. If the first question is to be answered in the negative: Is Article 20 TFEU to be interpreted as meaning that, in the procedure for the grant of the retention permit, no conditions may be laid down as a result of which an individual assessment of the situation of the person concerned and that of his or her family with regard to the consequences of the loss of citizenship of the Union does not take place or is superseded by other requirements?

Request for a preliminary ruling from the Verwaltungsgericht Düsseldorf (Germany) lodged on 8 November 2022 — M.S. and S.S. v Stadt Krefeld

(Case C-686/22)

(2023/C 24/41)

Language of the case: German

Referring court

Verwaltungsgericht Düsseldorf

Parties to the main proceedings

Applicants: M.S., S.S.

Defendant: Stadt Krefeld

Questions referred

1. Does Article 20 TFEU preclude a provision under which, in the case of voluntary acquisition of (non-privileged) nationality of a third country, nationality of the Member State and thus citizenship of the Union are lost *ex lege* where an individual examination of the consequences of the loss is conducted only if the foreign national concerned previously made an application for a retention permit and that application was approved prior to acquisition of the foreign nationality?

2. If the first question is to be answered in the negative: Is Article 20 TFEU to be interpreted as meaning that, in the procedure for the grant of the retention permit, no conditions may be laid down as a result of which an individual assessment of the situation of the person concerned and that of his or her family with regard to the consequences of the loss of citizenship of the Union does not take place or is superseded by other requirements?

Order of the President of the Tenth Chamber of the Court of 5 October 2022 (request for a preliminary ruling from the Sąd Okręgowy w Warszawie — Poland) — J.K., B.K. v Przedsiębiorstwo Państwowe X

(Case C-452/21) [1]

(2023/C 24/42)

Language of the case: Polish

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

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[1] OJ C 24, 17.1.2022.

Order of the President of the Ninth of the Court of 6 October 2022 — Ryanair DAC, Laudamotion GmbH v European Commission

(Case C-581/21 P) ([1])

(2023/C 24/43)

Language of the case: English

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

([1]) OJ C 462, 15.11.2021.

Order of the President of the Second Chamber of the Court of 16 September 2022 (request for a preliminary ruling from the Cour de cassation — France) — PB v Geos SAS, Geos International Consulting Limited

(Case C-639/21) ([1])

(2023/C 24/44)

Language of the case: French

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

([1]) OJ C 2, 3.1.2022.

Order of the President of the Court of 13 October 2022 (request for a preliminary ruling from the Pesti Központi Kerületi Bíróság — Hungary) — PannonHitel Pénzügyi Zrt. v WizzAir Hungary Légiközlekedési Zrt. (Wizz Air Hungary Zrt.)

(Case C-51/22) ([1])

(2023/C 24/45)

Language of the case: Hungarian

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

([1]) OJ C 165, 19.4.2022.

GENERAL COURT

Judgment of the General Court of 16 November 2022 — Sciessent v Commission

(Cases T-122/20 and T-123/20) ([1])

(Biocidal products — Active substances — Silver zeolite and silver copper zeolite — Refusal of approval for product-types 2 and 7 — Article 4 and Article 19(1)(b) of Regulation (EU) No 528/2012 — Efficacy — Active substances for use in treated articles — Assessment of the efficacy of the treated articles themselves — Competence of the Commission — Principle of non-discrimination — Legal certainty — Legitimate expectations)

(2023/C 24/46)

Language of the case: English

Parties

Applicant: Sciessent LLC (Beverly, Massachusetts, United States) (represented by: K. Van Maldegem and P. Sellar, lawyers, and V. McElwee, Solicitor)

Defendant: European Commission (represented by: A. Dawes and R. Lindenthal, acting as Agents)

Interveners in support of the defendant: Kingdom of Sweden (represented by: R. Shahsavan Eriksson, C. Meyer-Seitz, A. Runeskjöld, M. Salborn Hodgson, H. Shev, H. Eklinder and O. Simonsson, acting as Agents), European Chemicals Agency (represented by: M. Heikkilä, C. Buchanan and T. Zbihlej, acting as Agents)

Re:

By its actions pursuant to Article 263 TFEU, the applicant seeks the annulment of Commission Implementing Decision (EU) 2019/1960 of 26 November 2019 not approving silver zeolite as an existing active substance for use in biocidal products of product-types 2 and 7 (OJ 2019 L 306, p. 42) and Commission Implementing Decision (EU) 2019/1973 of 27 November 2019 not approving silver copper zeolite as an existing active substance for use in biocidal products of product-types 2 and 7 (OJ 2019 L 307, p. 58).

Operative part of the judgment

The Court:

1. Joins Cases T-122/20 and T-123/20 for the purposes of the present judgment;

2. Dismisses the actions;

3. Orders Sciessent LLC to bear its own costs and to pay those incurred by the European Commission;

4. Orders the Kingdom of Sweden and the European Chemicals Agency (ECHA) to each bear their own costs.

([1]) OJ C 129, 20.4.2020.

Judgment of the General Court of 23 November 2022 — CWS Powder Coatings and Others v Commission

(Joined Cases T-279/20 and T-288/20 and Case T-283/20) [1]

(Environment and protection of human health — Regulation (EC) No 1272/2008 — Classification, labelling and packaging of substances and mixtures — Delegated Regulation (EU) 2020/217 — Classification of titanium dioxide in powder form containing 1 % or more of particles of a diameter equal to or below 10 μm — Criteria for classification of a substance as carcinogenic — Reliability and acceptability of studies — Substance that has the intrinsic property to cause cancer — Calculation of lung overload in particles — Manifest errors of assessment)

(2023/C 24/47)

Languages of the cases: German and English

Parties

Applicant in Case T-279/20: CWS Powder Coatings GmbH (Düren, Germany) (represented by: R. van der Hout, C. Wagner and V. Lemonnier, lawyers)

Applicants in Case T-283/20: Billions Europe Ltd (Stockton-on-Tees, United Kingdom) and the seven other applicants whose names are listed in the annex to the judgment (represented by: J.-P. Montfort, T. Delille and P. Chopova-Leprêtre, lawyers)

Applicants in Case T-288/20: Brillux GmbH & Co. KG (Münster, Germany), Daw SE (Ober-Ramstadt, Germany) (represented by: R. van der Hout, C. Wagner and V. Lemonnier, lawyers)

Defendant: European Commission (represented in Joined Cases T-279/20 and T-288/20 by: S. Delaude, R. Lindenthal and M. Noll-Ehlers and, in Case T-283/20, by: A. Dawes, S. Delaude and R. Lindenthal, acting as Agents)

Interveners in support of the applicant in Case T-279/20: Billions Europe Ltd (Stockton-on-Tees) and the seven other interveners whose names are listed in the annex to the judgment (represented by: J.-P. Montfort, T. Delille and P. Chopova-Leprêtre, lawyers), Ettengruber GmbH Abbruch und Tiefbau (Dachau, Germany), Ettengruber GmbH Recycling und Verwertung (Dachau) (represented by: R. van der Hout, C. Wagner and V. Lemonnier, lawyers), TIGER Coatings GmbH & Co. KG (Wels, Austria) (represented by: R. van der Hout, C. Wagner and V. Lemonnier, lawyers)

Interveners in support of the applicants in Case T-283/20: Conseil européen de l'industrie chimique — European Chemical Industry Council (Cefic) (Brussels, Belgium) (represented by: D. Abrahams, Z. Romata and H. Widemann, lawyers), Conseil européen de l'industrie des peintures, des encres d'imprimerie et des couleurs d'art (CEPE) (Brussels), British Coatings Federation Ltd (BCF) (Coventry, United Kingdom), American Coatings Association, Inc. (ACA) (Washington, DC, United States) (represented by: D. Waelbroeck and I. Antypas, lawyers), Mytilineos SA (Maroussi, Greece), Delfi-Distomon Anonymos Metalleftiki Etaireia (Maroussi) (represented by: J.-P. Montfort, T. Delille and P. Chopova-Leprêtre, lawyers)

Interveners in support of the applicants in Case T-288/20: Billions Europe Ltd (Stockton-on-Tees) and the seven other interveners whose names are listed in the annex to the judgment (represented by: J.-P. Montfort, T. Delille and P. Chopova-Leprêtre, lawyers), Sto SE & Co. KGaA (Stühlingen, Germany) (represented by: R. van der Hout, C. Wagner and V. Lemonnier, lawyers), Rembrandtin Coatings GmbH (Vienna, Austria) (represented by: R. van der Hout, C. Wagner and V. Lemonnier, lawyers)

Interveners in support of the defendant in Joined Cases T-279/20 and T-288/20 and in Case T-283/20: Kingdom of Denmark (represented by: M. Søndahl Wolff, acting as Agent), French Republic (represented in Joined Cases T-279/20 and T-288/20 by: T. Stéhelin, W. Zemamta, G. Bain and J.-L. Carré and, in Case T-283/20, by: E. de Moustier and W. Zemamta, acting as Agents), Kingdom of the Netherlands (represented in Case T-279/20 by: M. Bulterman and C. Schillemans, in Case T-283/20 by: M. Bulterman and J. Langer, and in Case T-288/20 by: M. Bulterman, J. Langer and C. Schillemans, acting as Agents), Kingdom of Sweden (represented in Joined Cases T-279/20 and T-288/20 by: C. Meyer-Seitz and, in Case T-283/20, by: O. Simonsson, C. Meyer-Seitz, A. Runeskjöld, M. Salborn Hodgson, H. Shev, H. Eklinder and R. Shahsavan Eriksson, acting as Agents), European Chemicals Agency (ECHA) (represented by: A. Hautamäki and J.-P. Trnka, acting as Agents)

Intervener in support of the defendant in Case T-283/20: Republic of Slovenia (represented by: V. Klemenc, acting as Agent)

Interveners in support of the defendant in Joined Cases T-279/20 and T-288/20: European Parliament (represented by: C. Ionescu Dima, W. Kuzmienko and B. Schäfer, acting as Agents), Council of the European Union (represented by A.-L. Meyer and T. Haas, acting as Agents)

Re:

By their actions based on Article 263 TFEU, the applicants seek annulment of Commission Delegated Regulation (EU) 2020/217 of 4 October 2019 amending, for the purposes of its adaptation to technical and scientific progress, Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures and correcting that Regulation (OJ 2020 L 44, p. 1), as regards the harmonised classification and labelling of titanium dioxide in powder form containing 1 % or more of particles of a diameter equal to or below 10 μm.

Operative part of the judgment

The Court:

1. Joins Joined Cases T-279/20 and T-288/20 and Case T-283/20 for the purposes of the judgment;

2. Annuls Commission Delegated Regulation (EU) 2020/217 of 4 October 2019 amending, for the purposes of its adaptation to technical and scientific progress, Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures and correcting that Regulation, as regards the harmonised classification and labelling of titanium dioxide in powder form containing 1 % or more of particles with a diameter equal to or below 10 μm;

3. Orders the European Commission to bear its own costs and to pay the costs incurred, in Case T-279/20, by CWS Powder Coatings GmbH, Billions Europe Ltd and the other interveners whose names are listed in the annex, Ettengruber GmbH Abbruch und Tiefbau, Ettengruber GmbH Recycling und Verwertung and TIGER Coatings GmbH & Co. KG, in Case T-283/20, by Billions Europe and the other applicants whose names are listed in the annex, the Conseil européen de l'industrie chimique — European Chemical Industry Council (Cefic), the Conseil européen de l'industrie des peintures, des encres d'imprimerie et des couleurs d'art (CEPE), British Coatings Federation Ltd (BCF), American Coatings Association, Inc. (ACA), Mytilineos SA and Delfi-Distomon Anonymos Metalleftiki Etaireia and, in Case T-288/20, by Brillux GmbH & Co. KG, Daw SE, Billions Europe and the other interveners whose names are listed in the annex, Sto SE & Co. KGaA and by Rembrandtin Coatings GmbH;

4. Orders the Kingdom of Denmark, the French Republic, the Kingdom of the Netherlands, the Kingdom of Sweden, the Republic of Slovenia, the European Parliament, the Council of the European Union and the European Chemicals Agency (ECHA) each to bear their own costs.

(1) OJ C 222, 6.7.2020.

Judgment of the General Court of 16 November 2022 — Netherlands v Commission

(Case T-469/20) (1)

(State aid — Netherlands law prohibiting the use of coal for the production of electricity — Anticipated closure of a coal-powered power plant — Grant of compensation — Decision not to raise objections — Decision declaring the compensation compatible with the internal market — No express classification as 'State aid' — Action for annulment — Act open to challenge — Admissibility — Article 4(3) of Regulation (EU) 2015/1589 — Legal certainty)

(2023/C 24/48)

Language of the case: Dutch

Parties

Applicant: Kingdom of the Netherlands (represented by: M. Bulterman, M. de Ree and J. Langer, acting as Agents)

Defendant: European Commission (represented by: H. van Vliet, B. Stromsky and D. Recchia, acting as Agents)

Re:

By its action based on Article 263 TFEU, the Kingdom of the Netherlands seeks annulment of Commission Decision C(2020) 2998 final of 12 May 2020 on State aid SA.54537 (2020/NN) — Netherlands, Prohibition of coal for the production of electricity in the Netherlands.

Operative part of the judgment

The Court:

1. Annuls Commission Decision C(2020) 2998 final of 12 May 2020 on State aid SA.54537 (2020/NN) — Netherlands, Prohibition of coal for the production of electricity in the Netherlands;

2. Orders the European Commission to pay the costs.

(1) OJ C 348, 19.10.2020.

Judgment of the General Court of 23 November 2022 — Bowden and Young v Europol

(Case T-72/21) (1)

(Civil service — Members of the temporary staff — Europol staff — Withdrawal of the United Kingdom from the European Union — Loss of nationality of a Member State — Termination of contract — Article 47(b)(iii) of the CEOS — Request for an exception from the condition of employment provided for in Article 12(2)(a) of the CEOS — Refusal to grant an exception — Obligation to state reasons — Right to be heard — Length of the administrative procedure — Reasonable time — Legitimate expectations — Equal treatment — Interest of the service — Duty of care — Manifest error of assessment)

(2023/C 24/49)

Language of the case: French

Parties

Applicants: Ian James Bowden (The Hague, the Netherlands), Janey Young (The Hague) (represented by: N. de Montigny, lawyer)

Defendant: European Union Agency for Law Enforcement Cooperation (represented by: A. Nunzi, O. Sajin and C. Falmagne, acting as Agents, and D. Waelbroeck and A. Duron, lawyers)

Re:

By their action based on Article 270 TFEU, the applicants seek the annulment of the decisions of the European Union Agency for Law Enforcement Cooperation (Europol) of 30 March 2020, by which it refused to grant them an exception from the condition of nationality laid down in Article 12(2)(a) of the Conditions of Employment of Other Servants of the European Union ('CEOS') and consequently terminated their respective contracts on the basis of Article 47(b)(iii) of the CEOS.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Ian James Bowden and Mrs Janey Young to pay the costs.

(1) OJ C 98, 22.3.2021.

Judgment of the General Court of 16 November 2022 — Epsilon Data Management v EUIPO — Epsilon Technologies (EPSILON TECHNOLOGIES)

(Case T-512/21) ([1])

(EU trade mark — Revocation proceedings — EU figurative mark EPSILON TECHNOLOGIES — Genuine use of the mark — Article 18(1), second subparagraph, point (a), and Article 58(1)(a) of Regulation (EU) 2017/1001 — Nature of the use — Form differing in elements which do not alter the distinctive character — Use in connection with the services in respect of which the mark was registered)

(2023/C 24/50)

Language of the case: English

Parties

Applicant: Epsilon Data Management LLC (Plano, Texas, United States) (represented by: J. Bussé and C. De Preter, lawyers)

Defendant: European Union Intellectual Property Office (represented by: I. Harrington, 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: Epsilon Technologies, SL (Madrid, Spain) (represented by: J. Carbonell Callicó and E. Felip Corrius, lawyers)

Re:

By its action under Article 263 TFEU, the applicant seeks the annulment of the decision of the Fifth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 1 June 2021 (Joined Cases R 1611/2020-5 and R 1839/2020-5).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Epsilon Data Management LLC to bear its own costs and to pay those incurred by the European Union Intellectual Property Office (EUIPO) and by Epsilon Technologies, SL.

([1]) OJ C 412, 11.10.2021.

Judgment of the General Court of 16 November 2022 — Grupo Eig Multimedia v EUIPO — Globalización de Valores CFC & GCI (FORO16)

(Case T-796/21) ([1])

(EU trade mark — Opposition proceedings — Application for EU figurative mark FORO16 — Earlier EU figurative and word marks Cambio16, Energia16, Cambio16 radio — Earlier national figurative and word marks Camb16, DEFENSA Y SEGURIDAD 16, CAMBIO16 DIGITAL, EVENTOS 16, Salón16 — Relative ground for refusal — Family of marks — No evidence — No likelihood of confusion — Article 8 (1)(b) of Regulation (EU) 2017/1001)

(2023/C 24/51)

Language of the case: Spanish

Parties

Applicant: Grupo Eig Multimedia, SL (Madrid, Spain) (represented by: D. Solana Giménez, lawyer)

Defendant: European Union Intellectual Property Office (represented by: S. Palmero Cabezas and R. Raponi, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Globalización de Valores CFC & GCI, SA (Mairena del Aljarafe, Spain) (represented by: I. Sánchez Iglesias, lawyer)

Re:

By its action based on Article 263 TFEU, the applicant seeks in particular the annulment of the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 20 October 2021 (Case R 1785/2020-2).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Grupo Eig Multimedia, SL to pay the costs.

([1]) OJ C 84, 21.2.2022.

Judgment of the General Court of 23 November 2022 — uwe JetStream v EUIPO (JET STREAM)

(Case T-14/22) ([1])

(EU trade mark — International registration designating the European Union — Word mark JET STREAM — Absolute grounds for refusal — Lack of distinctive character — Descriptive character — Article 7(1)(b) and (c) of Regulation (EU) 2017/1001)

(2023/C 24/52)

Language of the case: French

Parties

Applicant: uwe JetStream GmbH (Schwäbisch Gmünd, Germany) (represented by: J. Schneider and C. Nemec, lawyers)

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

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 9 November 2021 (Case R 1092/2021-4).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders uwe JetStream GmbH to pay the costs.

([1]) OJ C 119, 14.3.2022.

Order of the General Court of 8 November 2022 — Grupa 'Lew' v EUIPO — Lechwerke (GRUPALEW.)

(Case T-672/21) ([1])

(EU trade mark — Opposition proceedings — International registration designating the European Union — Figurative mark GRUPALEW. — Earlier national figurative mark LEW — Relative grounds 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) — Proof of genuine use — Article 10(1) of Delegated Regulation (EU) 2018/625 — Article 71(1) of Delegated Regulation 2018/625 — Action manifestly lacking any foundation in law)

(2023/C 24/53)

Language of the case: German

Parties

Applicant: Grupa 'LEW' S.A. (Częstochowa, Poland) (represented by: A. Korbela, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Lechwerke AG (Augsburg, Germany) (represented by: N. Gerling, 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 17 August 2021 (Case R 2763/2019-4).

Operative part of the order

1. The action is dismissed.

2. Grupa 'LEW' S.A. shall bear its own costs and pay those incurred by the European Union Intellectual Property Office (EUIPO).

3. Lechwerke AG shall bear its own costs.

([1]) OJ C 502, 13.12.2021.

Order of the General Court of 7 November 2022 — Ortega Montero v Parliament

(Case T-161/22) ([1])

(Civil service — Staff representation — Amendment to the Rules of Procedure of the Staff Committee of Parliament — Appointment of staff representatives to bodies established under the Staff Regulations and to administrative bodies — Article 90(2) of the Staff Regulations — Failure to take a measure required by the Staff Regulations — Prior complaint to the appointing authority — Time limits for instituting proceedings — Out of time — Inadmissibility)

(2023/C 24/54)

Language of the case: French

Parties

Applicant: Maria Del Carmen Ortega Montero (Brussels, Belgium) (represented by: N. de Montigny, lawyer)

Defendant: European Parliament (represented by: K. Zejdová and M. Windisch, acting as Agents)

Re:

By her action on the basis of Article 270 TFEU, the applicant seeks annulment, (i), of the decision of the Secretary General of the European Parliament of 20 May 2021 by which the Secretary General rejected her complaint of 19 January 2021, (ii), of the decision of 21 December 2021 by which the Secretary General of Parliament rejected her second complaint of 18 August 2021, (iii), of the amendment to Article 22 of the Rules of Procedure of the Staff Committee of Parliament adopted on 10 November 2020 and,(iv), of the Staff Committee vote of 10 November 2020 on the replacement of a representative of that committee nominated to a selection board and of all the acts and decisions taken under the amended Article 22 of the Rules of Procedure of that committee, including the results of the vote, also of 10 November 2020, on the appointment of its representatives to various committees and delegations.

Operative part of the order

1. The action is dismissed as inadmissible.

2. Ms Maria Del Carmen Ortega Montero shall bear her own costs and pay those incurred by the European Parliament.

(1) OJ C 198, 16.5.2022.

Order of the General Court of 8 November 2022 — Growth Finance Plus v EUIPO (doglover)

(Case T-231/22) (1)

(EU trade mark — Application for EU word mark doglover — Absolute ground for refusal — No distinctive character — Article 7(1)(b) of Regulation (EU) 2017/1001 — Action manifestly lacking any foundation in law)

(2023/C 24/55)

Language of the case: German

Parties

Applicant: Growth Finance Plus AG (Gommiswald, Switzerland) (represented by: H. Twelmeier, lawyer)

Defendant: European Union Intellectual Property Office (represented by: A. Ringelhann and T. Klee, acting as Agents)

Re:

By its action under Article 263 TFEU, the applicant seeks the annulment of the decision of the Fifth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 14 February 2022 (Case R 720/2020-5).

Operative part of the order

1. The action is dismissed.

2. Growth Finance Plus AG shall pay the costs.

(1) OJ C 237, 20.6.2022.

Order of the General Court of 8 November 2022 — Growth Finance Plus v EUIPO (catlover)

(Case T-232/22) ([1])

(EU trade mark — Application for the EU word mark catlover — Absolute ground for refusal — No distinctive character — Article 7(1)(b) of Regulation (EU) 2017/1001 — Action manifestly lacking any foundation in law)

(2023/C 24/56)

Language of the case: German

Parties

Applicant: Growth Finance Plus AG (Gommiswald, Switzerland) (represented by: H. Twelmeier, lawyer)

Defendant: European Union Intellectual Property Office (represented by: A. Ringelhann and T. Klee, acting as Agents)

Re:

By its action under 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 7 February 2022 (Case R 717/2020-5).

Operative part of the order

1. The action is dismissed.

2. Growth Finance Plus AG shall pay the costs.

([1]) OJ C 237, 2.6.2022.

Order of the President of the General Court of 11 November 2022 — Belaruskali v Council

(Case T-528/22 R)

(Interim relief — Common foreign and security policy — Restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine — Application for suspension of operation of a measure — No urgency)

(2023/C 24/57)

Language of the case: English

Parties

Applicant: Belaruskali AAT (Soligorsk, Belarus) (represented by: V. Ostrovskis, lawyer)

Defendant: Council of the European Union (represented by: J. Rurarz, B. Driessen and A. Boggio-Tomasaz, acting as Agents)

Re:

By its application under Articles 278 and 279 TFEU, the applicant seeks suspension of the operation of Council Implementing Decision (CFSP) 2022/881 of 3 June 2022 implementing Decision 2012/642/CFSP concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine (OJ 2022 L 153, p. 77), in so far as that decision concerns the applicant, and of Council Implementing Regulation (EU) 2022/876 of 3 June 2022 implementing Article 8a(1) of Regulation (EC) No 765/2006 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine (OJ 2022 L 153, p. 1), in so far as that regulation concerns the applicant.

Operative part of the order

1. The application for interim measures is dismissed.

2. The costs are reserved.

Action brought on 7 October 2022 — SD v EMA

(Case T-623/22)

(2023/C 24/58)

Language of the case: German

Parties

Applicant: SD (represented by: A. Steindl, lawyer)

Defendant: European Medicines Agency (EMA)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the EMA of 21 July 2022 (EMA/254928/2022) by which the applicant's appeal of 4 May 2022 against the decision of the EMA of 8 April 2022 (EMA/191392/2022) was dismissed;

— If the applicant is successful, order the EMA to pay the costs and expenses incurred or yet to be incurred by the applicant and, if the applicant is unsuccessful, order the EMA to bear its own costs on the equitable grounds under Article 135(1) of the Rules of Procedure of the General Court.

Pleas in law and main arguments

The action is directed against the decision of the EMA of 21 July 2022 (EMA/254928/2022), by which the applicant was denied full access to three documents. It is alleged that those documents concern 'specific obligation No. 1(a)' ('SO1a') as part of the obligations relating to Comirnaty specifically provided for in Commission Implementing Decision C(2020) 9598 final of 21 December 2020. ([1]) In support of the action, the applicant relies on the following pleas in law.

1. First plea in law, alleging that the contested decision infringes, either entirely or at least in part, the first indent of Article 4(2) of Regulation No 1049/2001 ([2]) as regards the protection of commercial interests

   The redactions infringe additional, parallel legal provisions of the EMA, which were to be taken into consideration for the purposes of interpretation and were disregarded in the contested decision. Further, the decision contains an error in law in so far as it sets out from the premiss that the documents contained commercially confidential information, and there is no comprehensible evidence that harm would be caused to Biontech through the publication of the SO1a documents, which was required to publish them as a condition of authorisation. Accordingly, the EMA is also required, as part of its official function, to grant the applicant complete access to the data without making an error in law.

2. Second plea in law, alleging that the contested decision infringes, either entirely or at least in part, the last sentence of Article 4(2) of Regulation No 1049/2001 as regards the existence of an overriding public interest in disclosure

The decision contains an error in law because the EMA finds that SO1a is not of public interest, despite the fact that the applicant has established to the requisite degree the relationship between the legal nature of SO1a and access to documents under Regulation (EC) No 1049/2001.

(1) Commission Implementing Decision C(2020) 9598 of 21 December 2020 granting a conditional marketing authorisation under Regulation (EC) No 726/2004 of the European Parliament and of the Council for 'Comirnaty — COVID-19 mRNA Vaccine (nucleoside modified)', a medicinal product for human use.

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

Action brought on 7 October 2022 — Austria v Commission

(Case T-625/22)

(2023/C 24/59)

Language of the case: German

Parties

Applicant: Republic of Austria (represented by: A. Posch, M. Klamert, F. Koppensteiner, S. Lünenbürger, K. Reiter and M. Kottmannn, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Delegated Regulation (EU) 2022/1214 of 9 March 2022 amending Delegated Regulation (EU) 2021/2139 as regards economic activities in certain energy sectors and Delegated Regulation (EU) 2021/2178 as regards specific disclosure requirements for those economic activities, published in the Official Journal of the European Union of 15 July 2022, L 188, p. 1-45;

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

Pleas in law and main arguments

The applicant relies on 16 pleas in law. The first eight pleas in law relate to nuclear energy, the other eight to fossil gas.

Pleas in law relating to nuclear energy:

1. First plea in law, alleging that, in adopting the contested regulation, the Commission infringed the principles and procedural rules deriving from Regulation (EU) 2020/852 (1) and the Interinstitutional Agreement on better law-making. The impact assessment and public consultation were wrongly omitted. The expert group of the Member States and the Platform were insufficiently involved. Moreover, the assessment of the compatibility of the contested regulation with the objectives of the European Climate Change Act, as required by Article 6(4) of that Act, was lacking.

2. Second plea in law, alleging that the contested regulation infringes Article 10(2) of Regulation (EU) 2020/852, stating that the provision applies from the outset only to CO2-intensive transitional activities and therefore does not cover low-CO2 nuclear energy. In any event, nuclear energy does not meet the specific requirements of Article 10(2) of Regulation (EU) 2020/852. At the very least, the contested regulation is vitiated by an investigation deficit and a lack of reasoning in this respect. In that regard, it also infringes Article 19(1)(f) and (g) of Regulation (EU) 2020/852 and the precautionary principle under primary law.

3. Third plea in law, alleging that the classification of nuclear energy as environmentally sustainable infringes the DNSH criterion in Article 17 and Article 19(1)(f) and (g) of Regulation (EU) 2020/852 and the precautionary principle under primary law. The Commission falls short of the level of protection required by Regulation (EU) 2020/852 and the

requirements of proof. It fails to recognise the risks of a significant impairment of several of the protected environmental objectives due to severe reactor accidents and high-level radioactive waste. A significant impairment of the environmental objective of adaptation to climate change is also not ruled out with sufficient certainty. In addition, the requirement of a life cycle analysis is violated. At the very least, the contested regulation suffers from deficiencies in the investigation and in the statement of reasons with regard to the aforementioned points.

4. Fourth plea in law, alleging that the technical assessment criteria laid down in the contested regulation are not capable of excluding significant adverse effects on the environmental objectives. The technical assessment criteria infringe the DNSH criterion in Article 17 and Article 19(1)(f) of Regulation (EU) 2020/852 and the precautionary principle under primary law. In this respect, too, the level of protection and the verification requirements are misunderstood, not only with regard to severe reactor accidents and high-level radioactive waste, but also with regard to normal operation. A significant impairment of the environmental objective of adaptation to climate change is not ruled out with sufficient certainty. Moreover, the technical assessment criteria provided for in Annex II of the contested regulation fall short of those in Annex I, without there being any justification for this. With regard to the technical assessment criteria, the contested regulation is, at the very least, vitiated by deficiencies in the examination and justification.

5. Fifth plea in law, alleging that, in so far as the contested regulation classifies nuclear energy as an essential contribution to adaptation to climate change, it infringes Article 11 and Article 19(1)(f) of Regulation (EU) 2020/852 and the precautionary principle.

6. Sixth plea in law, alleging that the contested regulation infringes Article 19(1)(k) of Regulation (EU) 2020/852 and that the technical assessment criteria do not meet the requirement of simple applicability and reviewability.

7. Seventh plea in law, alleging that the contested regulation infringes the telos of Regulation (EU) 2020/852 and the requirement to preserve its practical effectiveness due to the market fragmentation inherent in the classification of nuclear energy as environmentally sustainable.

8. Eighth plea in law, alleging that the interpretation of Regulation (EU) 2020/852 on which the contested regulation is based, to the effect that the Union legislature left the question open and left it to the Commission, infringes the requirement of materiality under Article 290 TFEU. This required that the Union legislature itself take a decision on the inclusion of nuclear energy in the taxonomy. The Union legislature complied with this and excluded the classification of nuclear energy as environmentally sustainable.

Pleas in law relating to fossil gas:

9. First plea in law, alleging that, with regard to economic activities concerning fossil gas, the Commission, when adopting the contested regulation, infringed the principles and procedural rules deriving from Regulation (EU) 2020/852 and the Interinstitutional Agreement on better law-making. The comments on nuclear energy apply mutatis mutandis.

10. Second plea in law, alleging that the contested regulation infringes Article 10(2) and Article 19(1)(f) and (g) of Regulation (EU) 2020/852 and the precautionary principle under primary law, at least in so far as it provides for threshold values of 270 g CO2 eq per kWh and 550 kg CO2 eq per kW per year averaged over 20 years for activities relating to fossil gas. The contested regulation is based on an unlawful softening of the condition that there should be no technologically and economically feasible alternative to transitional activities within the meaning of Article 10(2) of Regulation (EU) 2020/852. Furthermore, the thresholds would not be in line with the 1,5 °C target of the Paris Climate Agreement and the Union's climate objectives. As the threshold values are only linked to direct GHG emissions, the life cycle analysis requirement is also violated. The thresholds also fall short of the best performance of the sector or industry, hinder the development of low-carbon alternatives and lead to impermissible lock-in effects. At the very least, the contested regulation is vitiated in this respect by deficiencies in the investigation and in the statement of reasons.

11. Third plea in law, alleging that the inclusion of the 270 g and 550 kg limits in the contested regulation infringes the requirement of technological neutrality laid down in Article 19(1)(a) and (j) of Regulation (EU) 2020/852 and the principle of non-discrimination.

12. Fourth plea in law, alleging that the contested regulation infringes the DNSH criterion in Article 17 and Article 19(1)(f) and (g) of Regulation (EU) 2020/852 and the precautionary principle under primary law. Due to the 270 g and 550 kg limit values, there is not only a lack of a significant contribution to climate protection, but this is also significantly impaired.

13. Fifth plea in law, alleging that, in so far as the contested regulation classifies fossil gas as an essential contribution to adaptation to climate change, it infringes Articles 11 and 19(1)(f) of Regulation (EU) 2020/852 and the precautionary principle.

14. Sixth plea in law, alleging that the contested regulation infringes Article 19(1)(i) of Regulation (EU) 2020/852. In view of the increasing economic pressure on fossil gas as an energy source, its inclusion in the taxonomy entails at least a significant risk of creating worthless assets.

15. Seventh plea in law, alleging that the contested regulation infringes Article 19(1)(k) of Regulation (EU) 2020/852. The technical assessment criteria do not meet the requirement of simple applicability and verifiability with regard to fossil gas.

16. Eighth plea in law, alleging that the contested regulation infringes the telos of Regulation (EU) 2020/852 and the requirement to preserve its practical effectiveness due to the market fragmentation that accompanies the classification of fossil gas as environmentally sustainable.

([1]) Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ 2020 L 198, p. 13).

Action brought on 10 October 2022 — Repasi v Commission

(Case T-628/22)

(2023/C 24/60)

Language of the case: German

Parties

Applicant: René Repasi (Karlsruhe, Germany) (represented by: H.-G. Kamann and D. Fouquet, lawyers, and Prof. F. Kainer and Prof. M. Nettesheim)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Delegated Regulation (EU) 2022/1214 of 9 March 2022 amending Delegated Regulation (EU) 2021/2139 as regards economic activities in certain energy sectors and Delegated Regulation (EU) 2021/2178 as regards specific public disclosures for those economic activities, published in the Official Journal of the European Union of 15 July 2022 L 188, p. 1;

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

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law.

The applicant alleges that the contested Delegated Regulation (EU) 2022/1214 infringes the second subparagraph of Article 290(1) TFEU, read in conjunction with Articles 2, 10(1), 13(1) and 14(1) TEU, which are given specific expression by the applicant's parliamentary participation rights under secondary law, in particular under the first sentence of Article 6(1) of the Elections Act, Article 2 et seq. of the Statute for Members and Rules 177 and 218(1) of the Rules of Procedure of the European Parliament.

The applicant claims that he has an individual right to participate in a properly administered legislative procedure, on account of his status as a member of the European Parliament, pursuant to Articles 2, 10(1), 13(1) and 14(1) TEU, which are given specific expression by the applicant's parliamentary participation rights under secondary law, in particular under the first sentence of Article 6(1) of the Elections Act, Article 2 et seq. of the Statute for Members and Rules 177 and 218(1) of the Rules of Procedure of the European Parliament. He claims that, by adopting the contested delegated regulation on the basis of Article 290 TFEU instead of initiating the ordinary legislative procedure — which was, in actual fact, appropriate — pursuant to Article 289 TFEU by means of a corresponding proposal, the European Commission infringed not only the institutional legislative power of the European Parliament, pursuant to Article 14(1) TEU and Articles 289 and 294 TFEU, and the principle of institutional balance pursuant to the first sentence of Article 13(2) TEU, but also the applicant's individual right to participate in a properly administered legislative procedure directly and individually. A member of the European Parliament may bring an action for annulment under the fourth paragraph of Article 263 TFEU against breach of the rules governing allocation of powers, essential procedural requirements or a misuse of powers by other EU bodies, in so far as his or her right to participate in a properly administered legislative procedure is affected, in order to obtain a referral to the European Parliament.

The applicant alleges that the classification of energy production by fossil natural gas and nuclear power as environmentally sustainable economic activities within the meaning of the Taxonomy Regulation (EU) 2020/852 of 18 June 2020 constitutes — irrespective of the political position — a highly political and thus essential aspect of facilitating sustainable investment, which, pursuant to the second sentence of Article 290(1) TFEU, is reserved for a legislative act pursuant to Article 289 TFEU. The applicant submits that, by adopting the contested delegated regulation, irrespective of its substantive legality, the Commission exceeded its powers in breach of the principle of institutional balance under the first sentence of Article 13(2) TEU. This also constitutes infringement of the European Parliament's legislative power and of the applicant's democratic and parliamentary right to participate in a properly administered legislative procedure.

Action brought on 10 October 2022 — ZR v EUIPO

(Case T-634/22)

(2023/C 24/61)

Language of the case: English

Parties

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

Defendant: European Union Intellectual Property Office

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Appointing Authority of the EUIPO dated 14 December 2021 and notified on the same date, informing the applicant of the payment in its favour of the amount of EUR 5 000 in order to implement the judgment delivered by the General Court on 13 January 2021 in case T-610/18 ZR v EUIPO;

— in as far as necessary, annul the decision of the Chairperson of the Management Board of EUIPO, dated 28 June 2022, notified on the same date, rejecting the complaint filed under Article 90(2) of the EU Staff Regulations against the decision of 14 December 2021;

— award compensation of its material and moral prejudices; and

— order the reimbursement of all the costs incurred for the present appeal.

Pleas in law and main arguments

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

1. First plea in law, alleging a breach of Article 266 TFEU and of the principle of equal treatment, as enshrined in Article 20 of the Charter of Fundamental Rights of the European Union, concerning the applicant in relation to other candidates who participated in the selection procedure.

   The amount of EUR 5 000 cannot be considered as putting the applicant in the same situation as other candidates who, as a result of the breach of this principle, were included in the reserve list or obtained a more advantageous compensation.

2. Second plea in law, alleging a breach of the right of defence/right to judge, as enshrined in Article 47 of the Charter of Fundamental Rights of the European Union, and of the principles of good administration, duty of care and duty to state reasons, as enshrined in Article 41 of the Charter of Fundamental Rights of the European Union.

   As regards the breach of the right of defence/right to judge, the only reason for refusal by the defendant of giving any consideration to the option of a transfer is based on the fact that the applicant exercised its right of appeal. The mere fact that the applicant lodged an appeal cannot be presented as a valid justification for the administration to deny a fair implementation of the judgment in case T-610/18 ZR v EUIPO;

   As regards the breach of the principles of good administration, duty of care and duty to state reasons:

   — first, the defendant did not take into consideration all the factors capable of affecting its decision since legally tenable options were rejected and the alternative option was ignored;

   — second, the exchanges with the defendant based on one option envisaged by the administration can hardly qualify as a comprehensive dialogue aiming at finding a just solution.

Action brought on 8 November 2022 — van der Linde v EDPS

(Case T-678/22)

(2023/C 24/62)

Language of the case: English

Parties

Applicant: Frank van der Linde (Netherlands) (represented by: C. Forget, lawyer)

Defendant: European Data Protection Supervisor

Form of order sought

The applicant claims that the Court should:

— confirm the contested decision ([1]) insofar as the EDPS orders Europol to give the applicant access to all data concerning him in accordance with Article 36(2) of Regulation 2022/991 ([2]);

— for the rest, annul the decision of the EDPS insofar as it does not offer the applicant sufficient guarantees since it does not provide for any time limit within which it must be executed, no penalty payment, and does not provide for any sufficient sanction with regard to Europol, thereby de facto depriving the applicant of the right of access and of the right to effective judicial protection within the meaning of Articles 8 and 47 of the Charter;

— in the alternative, award the applicant a provisional euro for non-material damage;

— in any event, order EDPS to pay the costs in the amount detailed by the applicant.

Pleas in law and main arguments

In support of the action, the applicant relies on one plea in law alleging a breach of Articles 8 and 47 of the EU Charter of Fundamental Rights.

(1) Decision of the European Data Protection Supervisor in complaint case 2020 — 0908 against the European Union Agency for Law Enforcement Cooperation (Europol) of 8 September 2022.

(2) Regulation (EU) 2022/991 of the European Parliament and of the Council of 8 June 2022 amending Regulation (EU) 2016/794 as regards Europol's cooperation with private parties, the processing of personal data by Europol in support of criminal investigations and Europol's role in research and innovation (OJ 2022 L 169, p. 1).

Action brought on 14 November 2022 — Spain v Commission

(Case T-681/22)

(2023/C 24/63)

Language of the case: Spanish

Parties

Applicant: Kingdom of Spain (represented by: A. Gavela Llopis and M.J. Ruiz Sánchez, acting as Agents)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Implementing Regulation (EU) 2022/1614 (1) of 15 September 2022 determining the existing deep-sea fishing areas and establishing a list of areas where vulnerable marine ecosystems are known to occur or are likely to occur, as regards the establishment of a list of areas where vulnerable marine ecosystems are known to occur or are likely to occur, set out in Article 2 and in Annex II.

— in addition, declare Article 9(6) and (9) of Regulation 2016/2336 (2) to be invalid, in accordance with Article 277 TFEU.

— order the European Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that Implementing Regulation 2022/1614, in so far as it establishes areas where vulnerable marine ecosystems are known to occur or are likely to occur, infringes the basic Regulation and the principle of proportionality:

   — In that regard, the applicant submits that:

      (i) the failure to analyse the impact of passive deep-sea fishing gears infringes the basic Regulation and the principle of proportionality;

      (ii) the determination of the areas where vulnerable marine ecosystems are known to occur or are likely to occur infringes the basic Regulation and the principle of proportionality.

2. Second plea in law, alleging that paragraphs 6 and 9 of Article 9 of Regulation 2016/2336 are unlawful:

   — In that regard, the applicant submits that:

      (i) the reference to an implementing act to supplement essential elements of Regulation 2016/2336 infringes Article 291 TFEU;

(ii) the indiscriminate prohibition on fishing with bottom gear in all areas where vulnerable marine ecosystems are known to occur or are likely to occur infringes the Common Fisheries Policy rules and the principle of proportionality.

(1) Commission Implementing Regulation (EU) 2022/1614 of 15 September 2022 determining the existing deep-sea fishing areas and establishing a list of areas where vulnerable marine ecosystems are known to occur or are likely to occur (OJ 2022 L 242, p. 1).

(2) Regulation (EU) 2016/2336 of the European Parliament and of the Council of 14 December 2016 establishing specific conditions for fishing for deep-sea stocks in the north-east Atlantic and provisions for fishing in international waters of the north-east Atlantic and repealing Council Regulation (EC) No 2347/2002 (OJ 2016 L 354, p. 1).

Action brought on 11 November 2022 — Newalliance v Commission

(Case T-683/22)

(2023/C 24/64)

Language of the case: Portuguese

Parties

Applicant: Newalliance Comércio Internacional, Lda (Zona Franca da Madeira) (Funchal, Portugal) (represented by: S. Gemas Donário and S. Soares, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul 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;

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of its action, the applicant relies on five pleas in law that are essentially identical or similar to those relied on in Case T-553/22, *Thorn Investments* v *Commission*.

Action brought on 11 November 2022 — Norwood v Commission

(Case T-684/22)

(2023/C 24/65)

Language of the case: Portuguese

Parties

Applicant: Norwood — Trading e Serviços, Lda (Zona Franca da Madeira) (Funchal, Portugal) (represented by: S. Gemas Donário and S. Soares, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul 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;

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law that are, essentially, identical or similar to those relied on in Case T-553/22, *Thorn Investments* v *Commission*.

Action brought on 11 November 2022 — Lycatelcom v Commission

(Case T-685/22)

(2023/C 24/66)

Language of the case: Portuguese

Parties

Applicant: Lycatelcom, Lda (Zona Franca da Madeira) (Funchal, Portugal) (represented by: S. Gemas Donário and S. Soares, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul 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;

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law which are essentially identical or similar to those relied on in Case T-553/22, *Thorn Investments* v *Commission*.

Action brought on 11 November 2022 — Kingbird v Commission

(Case T-686/22)

(2023/C 24/67)

Language of the case: Portuguese

Parties

Applicant: Kingbird — Consultores e Serviços, Lda (Zona Franca da Madeira) (Funchal, Portugal) (represented by: S. Gemas Donário and S. Soares, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul 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;

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law that are, essentially, identical or similar to those relied on in Case T-553/22, *Thorn Investments* v *Commission*.

Action brought on 11 November 2022 — Standbycom v Commission

(Case T-687/22)

(2023/C 24/68)

Language of the case: Portuguese

Parties

Applicant: Standbycom, Unipessoal, Lda (Zona Franca Da Madeira) (Funchal, Portugal) (represented by: S. Gemas Donário and S. Soares, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul 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;

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law that are, essentially, identical or similar to those relied on in Case T-553/22, *Thorn Investments* v *Commission*.

Action brought on 11 November 2022 — Kiana v Commission

(Case T-690/22)

(2023/C 24/69)

Language of the case: Portuguese

Parties

Applicant: Kiana, Lda (Funchal, Portugal) (represented by: S. Gemas Donário and S. Soares, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul 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;

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law that are, essentially, identical or similar to those relied on in Case T-553/22, *Thorn Investments* v *Commission*.

Action brought on 12 November 2022 — Dabrezco Internacional v Commission

(Case T-692/22)

(2023/C 24/70)

Language of the case: Portuguese

Parties

Applicant: Dabrezco Internacional, Lda (Zona Franca da Madeira) (Funchal, Portugal) (represented by: S. Gemas Donário and S. Soares, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul 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;

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law that are, essentially, identical or similar to those relied on in Case T-553/22, *Thorn Investments* v *Commission*.

Action brought on 12 November 2022 — Hilza v Commission

(Case T-693/22)

(2023/C 24/71)

Language of the case: Portuguese

Parties

Applicant: Hilza — Pharmaceuticals, Sociedade Unipessoal, Lda (Zona Franca da Madeira) (Funchal, Portugal) (represented by: S. Gemas Donário and S. Soares, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul 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;

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of its action, the applicant relies on five pleas in law that are essentially identical or similar to those relied on in Case T-553/22, *Thorn Investments* v *Commission*.

Action brought on 12 November 2022 — Khayamedia v Commission

(Case T-695/22)

(2023/C 24/72)

Language of the case: Portuguese

Parties

Applicant: Khayamedia Comércio Internacional de Eventos Desportivos, Lda (Zona Franca da Madeira) (Funchal, Portugal) (represented by: S. Gemas Donário and S. Soares, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul 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;

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law that are, essentially, identical or similar to those relied on in Case T-553/22, *Thorn Investments* v *Commission*.

Action brought on 12 November 2022 — Fratelli Cosulich v Commission

(Case T-696/22)

(2023/C 24/73)

Language of the case: Portuguese

Parties

Applicant: Fratelli Cosulich, Unipessoal, SA (Zona Franca da Madeira) (Funchal, Portugal) (represented by: S. Gemas Donário and S. Soares, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul 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;

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law that are, essentially, identical or similar to those relied on in Case T-553/22, *Thorn Investments* v *Commission*.

Action brought on 12 November 2022 — Ommiacrest v Commission

(Case T-697/22)

(2023/C 24/74)

Language of the case: Portuguese

Parties

Applicant: Ommiacrest Trading, Lda (Zona Franca da Madeira) (Funchal, Portugal) (represented by: S. Gemas Donário and S. Soares, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul 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;

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law that are, essentially, identical or similar to those relied on in Case T-553/22, *Thorn Investments* v *Commission*.

Action brought on 12 November 2022 — Swan Lake v Commission

(Case T-698/22)

(2023/C 24/75)

Language of the case: Portuguese

Parties

Applicant: Swan Lake Serviços e Consultores, Sociedade Unipessoal, Lda (Zona Franca da Madeira) (Funchal, Portugal) (represented by: S. Gemas Donário and S. Soares, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul 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;

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law that are, essentially, identical or similar to those relied on in Case T-553/22, *Thorn Investments* v *Commission*.

Action brought on 12 November 2022 — Seamist v Commission

(Case T-699/22)

(2023/C 24/76)

Language of the case: Portuguese

Parties

Applicant: Seamist, Lda (Zona Franca da Madeira) (Funchal, Portugal) (represented by: S. Gemas Donário and S. Soares, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul 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;

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law that are, essentially, identical or similar to those relied on in Case T-553/22, *Thorn Investments* v *Commission*.

Action brought on 12 November 2022 — Pamastock Investments v Commission

(Case T-701/22)

(2023/C 24/77)

Language of the case: Portuguese

Parties

Applicant: Pamastock Investments, SA (Zona Franca da Madeira) (Funchal, Portugal) (represented by: S. Gemas Donário and S. Soares, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul 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;

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of its action, the applicant relies on five pleas in law that are essentially identical or similar to those relied on in Case T-553/22, *Thorn Investments* v *Commission*.

Action brought on 12 November 2022 — TA v Commission

(Case T-702/22)

(2023/C 24/78)

Language of the case: Portuguese

Parties

Applicant: TA (represented by: A. Ferreira Correia and R. da Palma Borges, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul the contested decision in respect of Articles 1 and 4, on the grounds of failure to state reasons, or in so far as those articles apply to beneficiaries on account of the fact that they have employees who are non-resident in the outermost region, or that those beneficiaries obtain earnings from transactions outside the outermost region;

— order the defendant institution to pay the costs.

Pleas in law and main arguments

In support of the action brought against Commission Decision (EU) 2022/1414 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 (notified under document C(2020) 8550) (OJ 2022 L 217, p. 49), the applicant relies on five pleas in law.

First plea in law, alleging failure to state reasons in the contested decision.

Second plea in law, alleging error of assessment of fact and of law in the contested decision, in that benefits conferred on undertakings that were established regionally, but had relationships with the exterior, were found not to be compatible with the internal market within the meaning of Article 107(3) TFEU.

Third plea in law, alleging error of assessment of fact and of law in the contested decision, in benefits conferred on undertakings that were established regionally, but maintained employment relationships with employees, who were not in the outermost region on a permanent basis, were found not to be compatible with the internal market within the meaning of Article 107(3) TFEU.

Fourth plea in law, alleging error of assessment of fact and of law in the contested decision, in that benefits conferred on undertakings that do not exceed the quantitative limits laid down in the Regional State Aid Guidelines 2007 and in the General Block Exemption Regulation 2014, were found not to be compatible with the internal market within the meaning of Article 107(3) TFEU.

Fifth plea in law, alleging infringement of general principles of EU law: legal certainty, legitimate expectations and legality.

Action brought on 12 November 2022 — Everblacks Towage v Commission

(Case T-703/22)

(2023/C 24/79)

Language of the case: Portuguese

Parties

Applicant: Everblacks Towage — Serviços Marítimos, Sociedade Unipessoal, Lda (Zona Franca da Madeira) (Funchal, Portugal) (represented by: A. Ferreira Correia and R. da Palma Borges, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul the contested decision in respect of Articles 1 and 4;

— order the defendant institution to pay the costs.

Pleas in law and main arguments

In support of the action brought against Commission Decision (EU) 2022/1414 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 (notified under document C(2020) 8550) (OJ 2022 L 217, p. 49), the applicant relies on six pleas in law that are, essentially, identical or similar to those relied on in Case T-702/22, *TA* v *Commission*.

Action brought on 12 November 2022 — Poppysle v Commission

(Case T-704/22)

(2023/C 24/80)

Language of the case: Portuguese

Parties

Applicant: Poppysle — Comércio Internacional e Serviços, Sociedade Unipessoal, Lda (Zona Franca da Madeira) (Funchal, Portugal) (represented by: A. Ferreira Correia and R. da Palma Borges, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul the contested decision in respect of Articles 1 and 4;

— order the defendant institution to pay the costs.

Pleas in law and main arguments

In support of the action brought against Commission Decision (EU) 2022/1414 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 (notified under document C(2020) 8550) (OJ 2022 L 217, p. 49), the applicant relies on six pleas in law that are, essentially, identical or similar to those relied on in Case T-702/22, *TA* v *Commission*.

Action brought on 17 November 2022 — Illumina v Commission

(Case T-709/22)

(2023/C 24/81)

Language of the case: English

Parties

Applicant: Illumina, Inc. (Wilmington, Delaware, United States) (represented by: D. Beard, B. Cullen and J. Holmes, Barristers and F. González Díaz, M. Siragusa, G. Rizza, N. Latronico and L. Bitsakou, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Decision C(2022) 6454 final of 6 September 2022 declaring a concentration to be incompatible with the internal market and the functioning of the EEA agreement (Case M.10188 — ILLUMINA / GRAIL);

— order the Commission to bear its costs and pay the applicant's costs for the present proceeding.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission erred in law in failing to consider whether the transaction falls within the territorial scope of the EU Merger Regulation and in asserting jurisdiction to review and prohibit the transaction without analysing whether the latter had the necessary nexus to, and would foreseeably produce immediate and substantial effects in, the EEA.

2. Second plea in law, alleging that the Commission infringed the applicant's rights of defence by failing to issue a supplementary Statement of Objections. The Commission substantially supplemented the objection that the applicant would have the ability and the incentive to foreclose GRAIL's putative rivals by introducing, in particular, a quantitative analysis in the first Letter of Fact.

3. Third plea in law, alleging that the Commission failed to discharge its burden of proof under either the strong probability or the balance of probabilities standard.

4. Fourth plea in law, alleging that the Commission erred in law, and committed errors of fact and assessment, in adopting a definition of the relevant markets that (a) creates an artificial distinction between the development and commercialization stages for NGS-based early cancer detection (ECD) tests, (b) finds substitutability among different NGS-based ECD, DAC, and MRD tests at the putative development stage, and (c) finds innovation substitutability between NGS-based multi-cancer (GRAIL's Galleri test) and single-cancer early detection tests.

5. Fifth plea in law, alleging that the Commission erred in law, and committed errors of fact and assessment, in failing to treat the Open Offer as part of the factual situation arising from the transaction in assessing the applicant's alleged ability or incentive to engage in input foreclosure strategies, as well as the transaction's efficiencies and effects on effective competition.

6. Sixth plea in law, alleging that the Commission erred in law, and committed errors of fact and assessment, in claiming that the transaction would result in Illumina's ability to foreclose.

7. Seventh plea in law, alleging that the Commission erred in law, and committed errors of fact and assessment, in claiming that Illumina would have an incentive to foreclose.

8. Eighth plea in law, alleging that the Commission erred in law, and committed errors of fact and assessment, in claiming that the transaction would have a direct and adverse effect on effective competition in the six referring countries or the EEA.

9. Ninth plea in law, alleging that the Commission erred in law, and committed errors of fact and assessment, in dismissing the parties' claims that the transaction would accelerate Galleri's launch in the EEA by at least five years and save thousands of lives, and that internalizing Illumina's margins when selling NGS systems to GRAIL would eliminate double marginalization and lead to substantial savings for the Member States' national health systems and taxpayers by reducing cancer treatment costs. Contrary to the Commission's allegations, the transaction's efficiencies would all be merger-specific, verifiable, and would have benefitted consumers.

10. Tenth plea in law, alleging that the Commission erred in law, and committed errors of fact and assessment, in rejecting Illumina's comprehensive remedy package, which not only included the Open Offer, but also licensing, waiver, and no-enforcement commitments that would have facilitated upstream entry and expansion by Illumina's rivals.

Action brought on 14 November 2022 — Nutmark v Commission

(Case T-714/22)

(2023/C 24/82)

Language of the case: Portuguese

Parties

Applicant: Nutmark Lda (Zona Franca da Madeira) (Funchal, Portugal) (represented by: P. Vidal Matos and F. Lança Martins, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that Court should

— annul the contested decision in its entirety;

— order the European Commission to pay all the costs.

Pleas in law and main arguments

In support of the action against Commission Decision (EU) 2022/1414 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, (notified under document C(2020) 8550) (JO 2022, L 217, p. 49), the applicant relies on five pleas in law.

First plea in law, alleging an error of law due to the incorrect identification of the reference system, in breach of Article 4(2) TEU and Articles 107(1) and 263 TFEU.

Second plea in law, alleging an error of law due to the failure to demonstrate that Regime III of the Zona Franca da Madeira (Madeira Free-Trade Zone) amounts to a derogation from the reference tax system which establishes differences between economic operators that are in a comparable factual and legal situation, in breach of Article 107(1) TFEU.

Third plea in law, alleging an error of law in the assessment relating to the fulfilment of the requirements for the correct implementation of Regime III of the Zona Franca da Madeira, in that the Portuguese Republic adopted, for that purpose, criteria in accordance with Article 107(1) TFEU.

Fourth plea in law, alleging an error of law consisting in an infringement of the principles of legal certainty and security laid down in Article 16(1) of Council Regulation No 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 TFEU.

Fifth plea in law, alleging an error of law consisting in the infringement of the right to private property laid down in Article 1 of the Additional Protocol to the European Convention on Human Rights.

Action brought on 14 November 2022 — Piamark v Commission

(Case T-715/22)

(2023/C 24/83)

Language of the case: Portuguese

Parties

Applicant: Piamark, Lda (Zona Franca da Madeira) (Funchal, Portugal) (represented by: P. Vidal Matos and F. Lança Martins, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that Court should

— annul the contested decision in its entirety;

— order the European Commission to pay all the costs.

Pleas in law and main arguments

In support of the action against Commission Decision (EU) 2022/1414 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, (notified under document C(2020) 8550) (JO 2022, L 217, p. 49), the applicant relies on five pleas in law.

First plea in law, alleging an error of law due to the incorrect identification of the reference system, ignoring the sovereignty of the Portuguese Republic to establish criteria for gaining access to Regime III of the Zona Franca da Madeira (Madeira Free-Trade Zone) and the criteria for verifying compliance with those requirements, in breach of Article 4(2) TEU and Articles 107(1) and 263 TFEU.

Second plea in law, alleging an error of law in the assessment relating to the fulfilment of the requirements for the correct implementation of Regime III of the Zona Franca da Madeira, in that the Portuguese Republic adopted, for that purpose, criteria in accordance with Article 107(1) TFEU.

Third plea in law, alleging an error of law consisting in an infringement of the duty to give reasons for the contested decision, due to a failure to demonstrate that Regime III of the Zona Franca da Madeira has the potential to affect trade between Member States and distort competition, in breach of Articles 107(1), 263 and 296, second paragraph, TFEU.

Fourth plea in law, alleging an error of law consisting in an infringement of the principles of legal certainty and security laid down in Article 16(1) of Council Regulation No 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 TFEU.

Fifth plea in law, alleging an error of law consisting in the infringement of the right to private property laid down in Article 1 of the Additional Protocol to the European Convention on Human Rights.

Action brought on 14 November 2022 — Eutelsat Madeira v Commission

(Case T-718/22)

(2023/C 24/84)

Language of the case: Portuguese

Parties

Applicant: Eutelsat Madeira, Unipessoal Lda (Zona Franca da Madeira) (Caniçal, Portugal) (represented by: R. Bordalo Junqueiro, J.P. Lampreia, R.F. Costa and P.G. Marques, advogados)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— recognise that the applicant has a legitimate interest in bringing the present action for annulment for the purposes of Article 263 TFEU;

— consider its action for annulment to have been brought in due form and to be admissible, in accordance with Article 263 TFEU;

— annul the contested decision in accordance with Article 264 TFEU;

— order the Commission to pay the costs of the proceedings and the costs incurred by the applicant.

Pleas in law and main arguments

In support of its action for annulment of Commission Decision (EU) 2022/1414 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 (notified under document C(2020) 8550) (OJ 2022 L 217, p. 49), the applicant relies on four pleas in law.

First plea in law, alleging infringement of the duty to state reasons.

Second plea in law, alleging infringement of the principle of the protection of legitimate expectations and the principle of legal certainty, in so far as the contested decision alters the terms of an aid scheme authorised and consistently implemented for several decades.

Third plea in law, alleging infringement of the principles of non-discrimination and of equal treatment in so far as the contested decision treats equally the beneficiaries that contributed towards the attainment of the objectives of Regime III and those that did not.

Fourth plea in law, alleging an error of law in the assessment of the compatibility of Regime III of the Zona Franca de Madeira (Madeira Free Zone) with Commission Decision C(2007) 3037 final and the Guidelines on national regional aid for 2007-2013.

Action brought on 15 November 2022 — AFG v Commission

(Case T-722/22)

(2023/C 24/85)

Language of the case: Portuguese

Parties

Applicant: AFG SA (Funchal, Portugal) (represented by: S. Estima Martins, F. Castro Guedes and L. Seifert Guincho, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul Articles 1, 4, 5 and 6 of Commission Decision C(2020) 8550 final of 4 December 2020 on aid scheme SA.21259 (2018/C) (ex 2018/NN) implemented by Portugal in favour of the Madeira Free Zone (MFZ) — Regime III, published in the Official Journal of the European Union, L 217 of 22 August 2022, page 49;

— order the Commission to pay the costs in their entirety.

Pleas in law and main arguments

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

First plea in law, alleging error of law in that the measure at issue does not constitute State aid, in so far as the Commission wrongly considered that that scheme constitutes a selective measure, and breach of the obligation to state reasons, enshrined in Article 296 TFEU, in respect of the analysis of the condition relating to selectivity.

Second plea in law, alleging that the Zona Franca da Madeira — Regime III aid scheme has been implemented in accordance with the Commission Decisions of 2007 and 2017 and with the rules laid down in Articles 107 and 108 TFEU.

Third plea in law, alleging infringement of the general principles of EU law, specifically the principles of legal certainty, protection of legitimate expectations, and proportionality.

Action brought on 15 November 2022 — Sonasurf Internacional and Others v Commission

(Case T-723/22)

(2023/C 24/86)

Language of the case: Portuguese

Parties

Applicants: Sonasurf Internacional — Shipping Lda (Zona Franca da Madeira) (Funchal, Portugal), Mastshipping — Shipping, Sociedade Unipessoal Lda (Zona Franca da Madeira) (Funchal), Latin Quarter — Serviços Marítimos Internacionais Lda (Zona Franca da Madeira) (Funchal) (represented by: R. Bordalo Junqueiro, S. Fernandes de Almeida, R. F. Costa and P. G. Marques, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the General Court should:

— recognise the applicants' legitimate interest in bringing the present action for annulment under Article 263 TFEU;

— declare that the present action for annulment has been brought in due form and is admissible under Article 263 TFEU;

— annul the contested decision pursuant to Article 264 TFEU;

— order the Commission to pay the costs of the proceedings together with the expenses incurred by the applicants.

Pleas in law and main arguments

In support of their action against Commission Decision (EU) 2022/1414 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 (notified under document C(2020) 8550) (OJ 2022 L 217, p. 49), the applicants rely on four pleas in law which are essentially identical or similar to those relied on in Case T-718/22, *Eutelsat Madeira* v *Commission*.

Action brought on 21 November 2022 — Odeon Cinemas Holdings v EUIPO — Academy of Motion Picture Arts and Sciences (OSCAR)

(Case T-727/22)

(2023/C 24/87)

Language in which the application was lodged: English

Parties

Applicant: Odeon Cinemas Holdings Ltd (London, United Kingdom) (represented by: L. Axel Karnøe Søndergaard, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Academy of Motion Picture Arts and Sciences (Beverly Hills, California, United States)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union word mark OSCAR — European Union trade mark No 2 931 038

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 6 September 2022 in Case R 1841/2021-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

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

Action brought on 22 November 2022 — Industrias Lácteas Asturianas v EUIPO — Qingdao United Dairy (NAMLAC)

(Case T-728/22)

(2023/C 24/88)

Language in which the application was lodged: Spanish

Parties

Applicant: Industrias Lácteas Asturianas, SA (Madrid, Spain) (represented by: J.C. Riera Blanco, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Qingdao United Dairy Co. Ltd (Qingdao, China)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for the EU word mark NAMLAC — Application for registration No 18 126 515

Proceedings before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 6 September 2022 in Case R 1563/2021-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision.

Plea in law

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

Action brought on 22 November 2022 — Complejo Agrícola Las Lomas v Commission

(Case T-729/22)

(2023/C 24/89)

Language of the case: Spanish

Parties

Applicant: Complejo Agrícola Las Lomas SL (Madrid, Spain) (represented by: J. Sedano Lorenzo, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare null and without legal effect section 4.1.8 of Spain's CAP 2023-2027 strategic plan approved by Commission Implementing Decision of 31 August 2022 approving the 2023-2027 CAP Strategic Plan of Spain for Union support financed by the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development, which imposes a cap of EUR 200 000 on the basic income support received by each farmer ('the measure').

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Article 17 of Regulation (EU) 2021/2115 ([1]) establishing rules on support for national strategic plans for the CAP and repealing Regulations (EU) 1305/2013 and (EU) 1307/2013.

   — The applicant claims that Regulation (EU) 2021/2115 allows Member States to determine which interventions among those listed in Chapters II, III and IV of Title II best suit their specific needs and how to structure them. However, the contested decision includes an intervention other than those provided for in that article, with the result that the Commission acted ultra vires and went beyond the mandate of Regulation (EU) 2021/2115.

2. Second plea in law, alleging a complete lack of analysis and assessment of the effects of the cap of EUR 200 000, accepted without reservations, applied to the basic income support provided for by the CAP.

   — The applicant claims that no assessment of the effects of the measure was carried out at Spanish or at EU level during the drafting of the contested decision. If even a preliminary review had taken place, it would have shown that the measure is contrary to the objectives of the CAP as set out in Articles 5 and 6 of Regulation (EU) 2021/2115.

3. Third plea in law, alleging distortion of the single market and competition detrimental to Spanish farmers.

   — The applicant claims that the contested decision results in a serious and unjustified distortion of the internal market, as well as fragmentation of the CAP in one of its key mechanisms. The measure places Spanish farmers in a worse position than their European counterparts.

4. Fourth plea in law, alleging breach of the principle of proportionality.

   — The applicant claims that the measure is in breach of the principle of proportionality in so far as it is not appropriate or necessary for the purposes of achieving the aim pursued and results in an excessive and unjustified sacrifice for farm owners and their workers, which is in no way offset by achieving an overriding public interest.

([1]) Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021 establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulations (EU) No 1305/2013 and (EU) No 1307/2013 (OJ 2021 L 435, p. 1).

Action brought on 24 November 2022 — Kozitsyn v Council

(Case T-731/22)

(2023/C 24/90)

Language of the case: French

Parties

Applicant: Andrey Anatolyevich Kozitsyn (Verkhnyaya Pyshma, Russia) (represented by: J. Grand d'Esnon, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) No 2022/1530 of 14 September 2022, ([1]) in so far as it concerns Mr Kozitsyn, and Council Implementing Regulation (EU) No 2022/1529 of 14 September 2022, ([2]) in so far as it concerns Mr Kozitsyn;

and thereby

— declare Article 2(1)(g) of Council Decision No 2014/145/CFSP and Article 3(1)(g) of Council Regulation (EU) 269/2014 to be unlawful and

— disapply those provisions by way of a plea of illegality or, at the very least, declare that those provisions were illegally applied to Mr Kozitsyn;

in any event,

— order the Council of the European Union to pay the costs pursuant to Article 140(b) of the Rules of Procedure of the General Court.

Pleas in law and main arguments

In support of the action, the applicant relies on eight pleas in law, which are, in essence, identical or similar to those raised in Case T-234/22, *Ismailova* v *Council*.

(1) Council Decision (CFSP) 2022/1530 of 14 September 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 149).

(2) Council Implementing Regulation (EU) 2022/1529 of 14 September 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 1).

Action brought on 24 November 2022 — Deripaska v Council

(Case T-732/22)

(2023/C 24/91)

Language of the case: French

Parties

Applicant: Oleg Vladimirovich Deripaska (Khutor Sokolsky, Russia) (represented by: T. Bontinck, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2022/1530 of 14 September 2022, (1) in so far as it makes Council Decision 2014/145/CFSP of 17 March 2014, as amended by Council Decision (CFSP) 2022/582 of 8 April 2022, which included the applicant's name in the annex to Decision 2014/145, applicable until 15 March 2023;

— annul Council Implementing Regulation (EU) 2022/1529 of 14 September 2022, (2) in so far as it maintains the applicant's name in the list set out in Annex I to Regulation (EU) 269/2014 of 17 March 2014;

— order the Council to make a provisional payment of EUR 1 000 000 in respect of the non-material damage suffered by the applicant;

— order the Council to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the right to effective judicial protection and of the duty to state reasons.

2. Second plea in law, alleging a manifest error of assessment regarding the reasons advanced by the Council.

3. Third plea in law, alleging infringement of the principle of proportionality and of fundamental rights.

(1) Council Decision (CFSP) 2022/1530 of 14 September 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 149).

(2) Council Implementing Regulation (EU) 2022/1529 of 14 September 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 1).

Action brought on 24 November 2022 — Khudaynatov v Council

(Case T-733/22)

(2023/C 24/92)

Language of the case: French

Parties

Applicant: Eduard Yurevich Khudaynatov (Moscow, Russia) (represented by: T. Bontinck, D. Rovetta and M. Moretto, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2022/1530 of 14 September 2022, ([1]) in so far as it makes Council Decision 2014/145/CFSP of 17 March 2014, as amended by Council Decision (CFSP) 2022/582 of 8 April 2022 including the applicant's name in the annex to Council Decision 2014/145/CFSP applicable until 15 March 2023;

— annul Council Implementing Regulation (EU) 2022/1529 of 14 September 2022, ([2]) in so far as it maintains the applicant's name in the list set out in Annex I to Regulation (EU) 269/2014 of 17 March 2014 and

— order the Council to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law, which are, in essence, identical or similar to those raised in Case T-732/22, *Deripaska* v *Council*.

([1]) Council Decision (CFSP) 2022/1530 of 14 September 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 149).

([2]) Council Implementing Regulation (EU) 2022/1529 of 14 September 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 1).

Action brought on 25 November 2022 — Pumpyanskiy v Council

(Case T-734/22)

(2023/C 24/93)

Language of the case: French

Parties

Applicant: Alexander Dmitrievich Pumpyanskiy (Geneva, Switzerland) (represented by: T. Bontinck, A. Guillerme and L. Burguin, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2022/1530 of 14 September 2022, ([1]) in so far as it maintains the applicant's name as entry No 719 in the annex to that decision;

— annul Council Implementing Regulation (EU) 2022/1529 of 14 September 2022, [2] in so far as it maintains the applicant's name as entry No 719 in Annex I to that regulation;

— order the Council to make a provisional payment amounting to EUR 100 000 in compensation of the non-material damage suffered by the applicant, and

— order the Council to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the right to effective judicial protection and of the duty to state reasons.

2. Second plea in law, alleging a manifest error of assessment regarding the reasons advanced by the Council.

3. Third plea in law, alleging infringement of the principle of proportionality and of fundamental rights.

4. Fourth plea in law, alleging infringement of the principles of legal certainty and of equal treatment.

5. Fifth plea in law, alleging infringement of the right to be heard.

([1]) Council Decision (CFSP) 2022/1530 of 14 September 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 149).

([2]) Council Implementing Regulation (EU) 2022/1529 of 14 September 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 1).

Action brought on 25 November 2022 — Falqui v Parliament

(Case T-735/22)

(2023/C 24/94)

Language of the case: Italian

Parties

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

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul Note D310275 of 26 September 2022 of the Directorate-General for Finance — Directorate for Member's Financial and Social Entitlements — Members' Salaries and Social Entitlements Unit — Head of Unit;

— annul Note No D307559 of 4 July of the Directorate-General for Finance of the European Parliament — Directorate for Member's Financial and Social Entitlements — Members' Salaries and Social Entitlements Unit;

— take all necessary measures to protect the applicant's rights;

— order the European Parliament to pay the amounts unduly withheld pending the outcome of the dispute.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the decision of the Bureau of the European Parliament of 19 May and 9 July 'concerning implementing measures for the Statute for Members of the European Parliament'.

— The applicant claims in this regard that since, under Article 75(2) of the decision of 19 May and 9 July 'concerning implementing measures for the Statute for Members of the European Parliament', the old-age pension rights acquired prior to the date of entry into force of the Statute 'shall be maintained', the previously in force reference to national legislation, provided for by the so-called PEAM, must be understood as a cross-reference (to the rules in force at that time), in as much as the pension rights of former members of the European Parliament acquired before the entry into force of the Statute cannot be affected by subsequent regulations.

2. Second plea in law, alleging that the European Parliament unlawfully applied national legislation that is contrary to the fundamental principles of the EU legal system and, in particular, to the principle of the protection of legitimate expectations. Infringement of the principle of the primacy of EU law.

— The applicant claims in this regard that the European Parliament, by automatically applying to former members of the Parliament elected in Italy before the entry into force of the Statute any change to the life annuity approved by the Italian Chamber of Deputies *ex post*, exposes them to a situation of ongoing uncertainty as regards their pension benefits, contrary to the fundamental principles of the EU and, in particular, to the principles of proportionality and the protection of legitimate interests.

Action brought on 25 November 2022 — Campofrio Food Group v EUIPO — Cerioti Holding (SNACK MI)

(Case T-736/22)

(2023/C 24/95)

Language in which the application was lodged: English

Parties

Applicant: Campofrio Food Group, SA (Madrid, Spain) (represented by: J. Erdozain López and M. Del Río Aragó, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Cerioti Holding SA (Luxembourg, Luxembourg)

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 figurative mark SNACK MI — Application for registration No 18 201 028

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 10 August 2022 in Case R 59/2022-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO and Cerioti Holding SA, if it intervenes in this case, to bear the costs of the proceedings.

Pleas in law

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

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

Action brought on 24 November 2022 — Pumpyanskaya v Council

(Case T-737/22)

(2023/C 24/96)

Language of the case: English

Parties

Applicant: Galina Evgenyevna Pumpyanskaya (Ekaterinburg, Russia) (represented by: G. Lansky, P. Goeth, A. Egger, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— pursuant to Article 263, 275(2) and 277 TFEU, declare the inapplicability of Article 2(1), final paragraph, of Council Decision No 2014/145/CFSP, as amended by Council Decision No 2022/329/CFSP, and of Article 3(1), final paragraph, of Council Regulation (EU) 269/2014, as amended by Council Regulation (EU) 2022/330 (the 'Contested Listing Criteria');

— pursuant to Article 263 TFEU, annul Council Decision (CFSP) 2022/1530 of 14 September 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine ([1]), as well as Council Implementing Regulation (EU) 2022/1529 of 14 September 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine ([2]) (the 'Contested Acts'), in so far as those acts concern the applicant (Listing Entry No. 724).

— order the Council to pay the costs pursuant to Article 134 of the Rules of Procedure

Pleas in law and main arguments

in support of the action under Article 263 TFEU:

1. Plea under Article 277 TFEU, alleging that the Contested Listing Criteria are in irresolvable conflict with the principle of foreseeability, with the values contained and with the rule of law.

2. First plea in law, alleging a violation of the applicant's rights of defence.

3. Second plea in law, alleging an error of assessment by the Council in including the applicant's name in the annexes to the Contested Acts.

4. Third plea in law, alleging an infringement of the obligation to state reasons as laid down in the second paragraph of Article 296 TFEU.

5. Fourth plea in law, alleging an unlawful infringement of the applicant's fundamental rights, including the right to private and family life, home and communications, as well as property.

([1]) OJ 2022, L 239, p. 149.
([2]) OJ 2022, L 239, p. 1.

Action brought on 25 November 2022 — Rotenberg v Council

(Case T-738/22)

(2023/C 24/97)

Language of the case: English

Parties

Applicant: Igor Rotenberg (Moscow, Russia) (represented by: D. Rovetta, M. Campa, M. Moretto and V. Villante, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2022/1530 ([1]) of 14 September 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine;

— annul Council Implementing Regulation (EU) 2022/1529 ([2]) of 14 September 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine;

— annul the Decision to maintain the applicant on the list of persons and entities subject to restrictive measures under Council Decision 2014/145/CFSP ([3]), as amended by the Council Decision (CFSP) 2022/1530, and Council Regulation (EU) No 269/2014 ([4]), as implemented by Council Implementing Regulation (EU) No 2022/1529, concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine adopted by the Council of the European Union by letter dated 16 September 2022;

in so far as these acts include the applicant in the list of persons and entities made subject to the restrictive measures;

— order the Council of the European Union to bear the costs of the present proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the obligation to state reasons, of Article 296 of the TFEU and of Article 41 (2) (c) of the Charter of Fundamental Rights; breach of the right to effective judicial protection and of Article 47 of the Charter of Fundamental Rights.

2. Second plea in law, alleging manifest error of assessment, failure to discharge the burden of proof, breach of the listing criteria set forth in Articles 1 (1) (b), (d) and 2 (1)(d) and (f) of Council Decision 2014/145/CFSP of 17 March 2014 and in Article 3 (1)(d) and (f) of Council Regulation (EU) No 269/2014 of 17 March 2014, both concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

3. Third plea in law, alleging breach of the principle of proportionality and of the applicant's fundamental rights, breach of the applicant's fundamental rights to property and freedom to conduct business and breach of Articles 16 and 17 of the Charter of Fundamental Rights.

([1]) Council Decision (CFSP) 2022/1530 of 14 September 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 149).

([2]) Council Implementing Regulation (EU) 2022/1529 of 14 September 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 1).

([3]) Council Decision 2014/145/CFSP of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2014 L 78, p. 16).

([4]) Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2014 L 78, p. 6).

Action brought on 25 November 2022 — Rashevsky v Conseil

(Case T-739/22)

(2023/C 24/98)

Language of the case: English

Parties

Applicant: Vladimir Rashevsky (Moscow, Russia) (represented by: G. Lansky, P. Goeth and A. Egger, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— set aside, pursuant to Articles 263, 275(2) and 277 TFEU, Article 2(1)(f) and (g) of Council Decision No 2014/145/CFSP ([1]), as amended by Council Decision (CFSP) 2022/329 ([2]), and of Article 3 paragraph 1 (f) and (g) of Council Regulation (EU) No 269/2014 ([3]) as amended by Council Regulation (EU) 2022/330 ([4]) — in so far as those acts concern the applicant;

— annul Council Decision (CFSP) 2022/1530 ([5]) of 14 September 2022, amending Council Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, in so far as it concerns the applicant;

— annul Council Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, as amended by Council Regulation (EU) No 2022/1529 ([6]), in so far as it concerns the applicant, and

— order the Council to pay the costs pursuant to Article 134 of the Rules of Procedure of the General Court.

Pleas in law and main arguments

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

1. First plea in law, alleging that the constitutional principles do not allow the listing of persons like the applicant.

2. Second plea in law, alleging that the Council has acted unlawfully when prolonging the contested decision, in that the Council has committed an error of assessment in respect of the applicant.

3. Third plea in law, alleging that the continued listing of the applicant after his withdrawal from his functions is a retaliation for acts that were not punishable at the time they were committed.

4. Fourth plea in law, alleging lack of adequate reasoning.

5. Fifth plea in law, alleging that the measures imposed are inapt to achieve or even support the reaching of the goals aspired by the Union.

([1]) Council Decision 2014/145/CFSP of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2014 L 78, p. 16).

([2]) Council Decision (CFSP) 2022/329 of 25 February 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 50, p. 1).

([3]) Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2014 L 78, p. 6).

([4]) Council Regulation (EU) 2022/330 of 25 February 2022 amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 51, p. 1).

([5]) Council Decision (CFSP) 2022/1530 of 14 September 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 149).

([6]) Council Implementing Regulation (EU) 2022/1529 of 14 September 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 1).

Action brought on 24 November 2022 — Pumpyanskiy v Council

(Case T-740/22)

(2023/C 24/99)

Language of the case: English

Parties

Applicant: Dmitry Alexandrovich Pumpyanskiy (Ekaterinburg, Russia) (represented by: G. Lansky, P. Goeth, A. Egger, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— pursuant to Article 263, 275(2) and 277 TFEU, declare the inapplicability of Article 2(1)(f) and (g) of Council Decision No 2014/145/CFSP ([1]), as amended by Council Decision No 2022/329/CFSP ([2]), and of Article 3(1)(f) and (g) of Council Regulation (EU) 269/2014 ([3]) as amended by Council Regulation (EU) 2022/330 ([4]) (the 'Contested Listing Criteria');

— pursuant to Article 263 TFEU, annul Council Decision (CFSP) 2022/1530 ([5]) of 14 September 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine as well as Council Implementing Regulation (EU) 2022/1529 ([6]) of 14 September 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, in so far as those acts concern the applicant (listing entry No. 724);

— order the Council to pay the costs pursuant to Article 134 of the Rules of Procedure.

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 a violation of the Applicant's rights of defence.

2. Second plea in law, alleging an error of assessment by the Council in including the applicant's name in the annexes to the Contested Acts.

3. Third plea in law, alleging an infringement of the obligation to state reasons as laid down in the second paragraph of Article 296 TFEU.

4. Fourth plea in law, alleging an unlawful infringement of the applicant's fundamental rights, including the right to private and family life, home and communications, as well as property.

Moreover, the applicant raises a plea under Article 277 TFEU, alleging that the Contested Listing Criteria are in irresolvable conflict with the principle of foreseeability, with the values contained and with the rule of law.

([1]) Council Decision 2014/145/CFSP of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2014 L 78, p. 16).

([2]) Council Decision (CFSP) 2022/329 of 25 February 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 50, p. 1).

([3]) Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2014 L 78, p. 6).

([4]) Council Regulation (EU) 2022/330 of 25 February 2022 amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 51, p. 1).

([5]) Council Decision (CFSP) 2022/1530 of 14 September 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 149).

([6]) Council Implementing Regulation (EU) 2022/1529 of 14 September 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 1).

Action brought on 24 November 2022 — Ezubov v Council

(Case T-741/22)

(2023/C 24/100)

Language of the case: English

Parties

Applicant: Pavel Ezubov (Moscow, Russia) (represented by: D. Rovetta, M. Campa and V. Villante, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claim that the Court should:

— annul Council Decision (CFSP) 2022/1530 ([1]) of 14 September 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine insofar as it maintains the name of the applicant in the list in Annex I of Decision 2014/145/CFSP;

— annul Council Implementing Regulation (EU) 2022/1529 ([2]) of 14 September 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine insofar as it maintains the name of the applicant in the list in Annex I of Regulation (EU) 269/2014;

— annul the Decision to maintain the applicant on the list of persons and entities subject to restrictive measures under Council Decision 2014/145/CFSP ([3]), as amended by the Council Decision (CFSP) 2022/1530, and Council Regulation (EU) No 269/2014 ([4]), as implemented by Council Implementing Regulation (EU) No 2022/1529, concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine adopted by the Council of the European Union by letter dated 15 September 2022;

insofar as these acts include the applicant in the list of persons and entities made subject to the restrictive measures;

— order the Council to bear the costs of the present proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the obligation to state reasons, of Article 296 of the TFEU and of Article 41 (2)(c) of the EU Charter of Fundamental Rights, breach of the right to effective judicial protection and of Article 47 of the EU Charter of Fundamental Rights.

2. Second plea in law, alleging manifest error of assessment, failure to discharge the burden of proof, breach of the listing criteria set forth in Articles 1 (1)(b), (d) and 2 (1)(d) and (f) of Council Decision 2014/145/CFSP of 17 March 2014 and in Article 3 (1)(d) and (f) of Council Regulation (EU) No 269/2014 of 17 March 2014, both concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, and breach of the principle of good and sound administration.

3. Third plea in law, alleging breach of the principle of proportionality and of the applicant's fundamental rights, breach of the applicant's fundamental rights to property and freedom to conduct business and breach of Articles 16 and 17 of the EU Charter of Fundamental Rights.

(1) Council Decision (CFSP) 2022/1530 of 14 September 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 149).
(2) Council Implementing Regulation (EU) 2022/1529 of 14 September 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 1).
(3) Council Decision 2014/145/CFSP of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2014 L 78, p. 16).
(4) Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2014 L 78, p. 6).

Action brought on 25 November 2022 — Mazepin v Council

(Case T-742/22)

(2023/C 24/101)

Language of the case: English

Parties

Applicant: Dmitry Arkadievich Mazepin (Moscow, Russia) (represented by: D. Rovetta, M. Campa, M. Moretto, V. Villante, T. Marembert and A. Bass, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2022/1530 of 14 September 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (1);

— annul Council Implementing Regulation (EU) 2022/1529 of 14 September 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (2);

— annul the decision to maintain the applicant on the list of persons and entities subject to restrictive measures under Council Decision 2014/145/CFSP (3), as amended by the Council Decision (CFSP) 2022/1530, and under Council Regulation (EU) No 269/2014, as implemented by Council Implementing Regulation (EU) No 2022/1529, concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine,

collectively referred to as the 'Contested Acts', in so far as the Contested Acts include the applicant in the list of persons and entities made subject to the restrictive measures.

Pleas in law and main arguments

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

1. First plea in law, alleging breach of the principle of sound administration and manifest error of assessment by the council in reviewing the applicant's delisting administrative application lodged on 31 May 2022.

2. Second plea in law, alleging infringement of the obligation to state reasons; of Article 296 of the TFEU and of Article 41 (2) (c) of the Charter of Fundamental Rights; breach of the right to effective judicial protection and of Article 47 of the Charter of Fundamental Rights.

3. Third plea in law, alleging manifest error of assessment; failure to discharge the burden of proof; breach of the listing criteria set forth in Articles 1 (1) (a) and 2 (1)(a) of Council Decision 2014/145/CFSP of 17 March 2014 and in Article 3 (1) (a) of Council Regulation (EU) No 269/2014 of 17 March 2014, both concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

4. Fourth plea in law, alleging exception of illegality; violation of the principle of proportionality by the listing criteria set forth in Article 1 (1) (g) and 2 (1) (g) of Council Decision 2014/145/CFSP of 17 March 2014 and in Article 3 (1) (g) of Council Regulation (EU) No 269/2014 of 17 March 2014.

5. Fifth plea in law, alleging exception of illegality; violation of the principle of legal certainty by the listing criteria set forth in Article 1 (1) (g) and 2 (1) (g) of Council Decision 2014/145/CFSP of 17 March 2014 and in Article 3 (1) (g) of Council Regulation (EU) No 269/2014 of 17 March 2014.

6. Sixth plea in law, alleging manifest error of assessment; failure to discharge the burden of proof; breach of the listing criteria set forth in Article 1 (1) (g) and 2 (1) (g) of Council Decision 2014/145/CFSP of 17 March 2014 and in Article 3 (1) (d), (g) of Council Regulation (EU) No 269/2014 of 17 March 2014, both concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

7. Seventh plea in law, alleging breach of the principle of proportionality and of the applicant's fundamental rights; breach of the applicant's fundamental rights to property and freedom to conduct business and breach of Articles 16 and 17 of the Charter of Fundamental Rights.

([1]) OJ 2022, L 239, p. 149.
([2]) OJ 2022, L 239, p. 1.
([3]) OJ 2014, L 78, p. 16.

Action brought on 25 November 2022 — Tokareva v Council

(Case T-744/22)

(2023/C 24/102)

Language of the case: French

Parties

Applicant: Maya Tokareva (Moscow, Russia) (represented by: T. Bontinck, A. Guillerme and L. Burguin, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2022/1530 of 14 September 2022, ([1]) published in the Official Journal on 15 September 2022, in so far as it makes Council Decision 2014/145/CFSP of 17 March 2014 (as amended by Council Decision (CFSP) 2022/1272 of 21 July 2022, which included the applicant's name as entry No 1201 in the annex to Council Decision 2014/145) applicable until 15 March 2023;

— annul Council Implementing Regulation (EU) 2022/1529 of 14 September 2022, ([2]) in so far as it maintains the applicant's name as entry No 1201 in Annex I to Regulation (EU) 2014/269;

— order the Council to make a provisional payment of EUR 1 000 000 in respect of the non-material damage suffered by the applicant;

— order the Council to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law, which are, in essence, identical or similar to those raised in Case T-734/22, *Pumpyanskiy* v *Council*.

(1) Council Decision (CFSP) 2022/1530 of 14 September 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 149).

(2) Council Implementing Regulation (EU) 2022/1529 of 14 September 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 1).

Action brought on 28 November 2022 — DGNB v EUIPO (representation of a curved white line in a dark square)

(Case T-745/22)

(2023/C 24/103)

Language of the case: German

Parties

Applicant: Deutsche Gesellschaft für Nachhaltiges Bauen — DGNB eV (Stuttgart, Germany) (represented by: P. Kohl, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for EU figurative mark (representation of a curved white line in a dark square) — Application No 18 510 732

Contested decision: Decision of the Second Board of Appeal of EUIPO of 21 September 2022 in Case R 338/2022-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

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

Plea(s) in law

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

Action brought on 29 November 2022 — BIW Invest v EUIPO — New Yorker Marketing & Media International (COMPTON)

(Case T-746/22)

(2023/C 24/104)

Language in which the application was lodged: German

Parties

Applicant: BIW Invest AG (Appenzell, Switzerland) (represented by: E. Mielke, U. Stelzenmüller and J. Weiser, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: New Yorker Marketing & Media International GmbH (Brunswick, Germany)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: EU word mark COMPTON — EU word mark No 14 539 092

Proceedings before EUIPO: Cancellation proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 16 September 2022 in Case R 1915/2021-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO and, as the case may be, the other party to bear the costs of the present proceedings and of the proceedings before the Board of Appeal of EUIPO.

Pleas in law

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

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

— Infringement of Article 59(1)(a) in conjunction with Article 7(1)(c) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 59(1)(a) in conjunction with Article 7(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

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

Action brought on 29 November 2022 — BIW Invest v EUIPO — New Yorker Marketing & Media International (Compton)

(Case T-747/22)

(2023/C 24/105)

Language in which the application was lodged: German

Parties

Applicant: BIW Invest AG (Appenzell, Switzerland) (represented by: E. Mielke, U. Stelzenmüller and J. Weiser, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: New Yorker Marketing & Media International GmbH (Brunswick, Germany)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: EU word mark Compton — EU word mark No 15 578 776

Proceedings before EUIPO: Cancellation proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 16 September 2022 in Case R 1913/2021-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO and, as the case may be, the other party to bear the costs of the present proceedings and of the proceedings before the Board of Appeal of EUIPO.

Pleas in law

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

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

— Infringement of Article 59(1)(a) in conjunction with Article 7(1)(c) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 59(1)(a) in conjunction with Article 7(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

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

Action brought on 25 November 2022 — Kantor v Council

(Case T-748/22)

(2023/C 24/106)

Language of the case: French

Parties

Applicant: Viatcheslav Moshe Kantor (Herzliya, Israel) (represented by: T. Bontinck, A. Guillerme and M. Brésart, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2022/1530 of 14 September 2022, ([1]) in so far as it extends the applicant's listing as entry No 896 in the annex to Decision 2014/145/CFSP, as amended by Decision (CFSP) 2022/582 of 8 April 2022, for the same reasons as those stated in the latter;

— annul Council Implementing Regulation (EU) 2022/1529 of 14 September 2022, ([2]) in so far as it extends the applicant's listing as entry No 896 in Annex I to Regulation (EU) 2014/269, as amended by Regulation (EU) 2022/581 of 8 April 2022, by reason of identity of grounds with the latter;

— order the Council to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law, which are, in essence, identical or similar to those raised in Case T-734/22, *Pumpyanskiy* v *Council*.

([1]) Council Decision (CFSP) 2022/1530 of 14 September 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 149).

([2]) Council Implementing Regulation (EU) 2022/1529 of 14 September 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 239, p. 1).

Action brought on 29 November 2022 — Parliament v Union Technique du Bâtiment and Argest

(Case T-749/22)

(2023/C 24/107)

Language of the case: French

Parties

Applicant: European Parliament (represented by: M. Kazek and K. Wójcik, acting as Agents, and by N. Charrel, T. Gaspar and M. Jolly, lawyers)

Defendants: Union Technique du Bâtiment SA (Romainville, France) and Argest SA (Luxembourg, Luxembourg)

Form of order sought

The applicant claims that the Court should:

— order the companies Union Technique du Bâtiment SA and Argest SA jointly and severally to pay it a total sum of EUR 161 200, together with statutory interest accruing from the date on which the present application was filed, capitalised to produce interest itself;

— order the defendants to pay the costs.

Pleas in law and main arguments

In support of its action, the applicant relies on a single plea in law alleging that it has a right to compensation under the ten-year warranty provided by the companies Union Technique du Bâtiment SA and Argest SA for defects discovered to be affecting the thatched roof of Maison Jean Monnet in Bazoches-sur-Guyonne.

Action brought on 2 December 2022 — Nieß v EUIPO — Thema Products (Gartenlux)

(Case T-753/22)

(2023/C 24/108)

Language in which the application was lodged: German

Parties

Applicant: Andrea Nieß (Kempen, Germany) (represented by: A. Erlenhardt, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Thema Products BV (Venlo, Netherlands)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for EU word mark Gartenlux — Application No 18 391 572

Proceedings before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 13 September 2022 in Case R 608/2022-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and the decision of the Opposition Division of 11 February 2022;

— order the intervener to pay the costs, including those incurred in the proceedings before the Board of Appeal.

Pleas in law

— Infringement of the second sentence of Article 94(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council in conjunction with Article 27 of Commission Delegated Regulation (EU) 2017/1430;

— Infringement of Article 109 of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 2 December 2022 — Nieß v EUIPO — Terrasoverkapping-inkoop.nl (GARTENLÜX)

(Case T-754/22)

(2023/C 24/109)

Language in which the application was lodged: German

Parties

Applicant: Andrea Nieß (Kempen, Germany) (represented by: A. Erlenhardt, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Terrasoverkapping-inkoop.nl BV (Venlo, Netherlands)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for EU word mark GARTENLÜX — Application No 18 347 602

Proceedings before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 16 September 2022 in Case R 607/2022-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and the decision of the Opposition Division of 9 February 2022;

— order the intervener to pay the costs, including those incurred in the proceedings before the Board of Appeal.

Pleas in law

— Infringement of the second sentence of Article 94(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council in conjunction with Article 27 of Commission Delegated Regulation (EU) 2017/1430;

— Infringement of Article 109 of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 5 December 2022 — TG v Commission

(Case T-755/22)

(2023/C 24/110)

Language of the case: French

Parties

Applicant: TG (represented by: A. Tymen, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare the present action admissible and well founded;

consequently:

— annul the decision of 11 March 2022 refusing to recognise the applicant's illness as a serious illness for the purposes of Article 72(1) of the Staff Regulations of Officials of the European Union;

— annul the decision of 25 August 2022 rejecting the applicant's complaint of 29 April 2022;

— order the defendant to pay damages, assessed *ex aequo et bono*, in the amount of EUR 5 000 in compensation for the non-pecuniary harm suffered by the applicant;

— order the defendant to pay all the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law alleging infringement of Article 72(1) of the Staff Regulations of Officials of the European Union and of the general implementing provisions for the reimbursement of medical expenses adopted by Commission Decision C(2007) 3195 of 2 July 2007, as amended by the decision of 12 May 2020.

Action brought on 5 December 2022 — Roethig López v EUIPO — William Grant & Sons Irish Brands (AMAZONIAN GIN COMPANY)

(Case T-756/22)

(2023/C 24/111)

Language in which the application was lodged: English

Parties

Applicant: Eric Roethig López (Lluchmajor, Spain) (represented by: J. Carbonell Callicó, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: William Grant & Sons Irish Brands Ltd (Dublin, Ireland)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union word mark AMAZONIAN GIN COMPANY — European Union trade mark No 17 952 939

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 23 September 2022 in Case R 1978/2021-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

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

Plea in law

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

Order of the General Court of 24 November 2022 — Ultra Electronics Holdings and Others v Commission

(Case T-763/19) ([1])

(2023/C 24/112)

Language of the case: English

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

([1]) OJ C 45, 10.2.2020.

Order of the General Court of 24 November 2022 — Keller Holdings v Commission

(Case T-764/19) ([1])

(2023/C 24/113)

Language of the case: English

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

([1]) OJ C 45, 10.2.2020.

Order of the General Court of 22 November 2022 — Narzieva v Council

(Case T-238/22) ([1])

(2023/C 24/114)

Language of the case: French

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

([1]) OJ C 257, 4.7.2022.

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