Official Journal of the European Union

C 223

English edition

Information and Notices

Volume 66

26 June 2023

Contents

EN

General Court

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COURT OF JUSTICE OF THE EUROPEAN UNION

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

(2023/C 223/01)

Last publication

OJ C 216, 19.6.2023

Past publications

OJ C 205, 12.6.2023

OJ C 189, 30.5.2023

OJ C 173, 15.5.2023

OJ C 164, 8.5.2023

OJ C 155, 2.5.2023

OJ C 134, 17.4.2023

These texts are available on:

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

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Seventh Chamber) of 11 May 2023 (request for a preliminary ruling from the Varhoven administrativen sad — Bulgaria) — MOMTRADE RUSE OOD v Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' Varna pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite

(Case C-620/21, [1] **MOMTRADE RUSE)**

(Reference for a preliminary ruling — Common system of value added tax (VAT) — Directive 2006/112/EC — Article 132(1)(g) — Exemption for the supply of services closely linked to welfare and social security work, by bodies recognised by the Member State concerned as being devoted to social wellbeing — Supply of services provided to a non-taxable person in a Member State other than that in which the supplier is established — Assessment of the nature of the services and the condition of being a body recognised as being devoted to social wellbeing — Determination of the relevant national law — Concept of 'Member State concerned')

(2023/C 223/02)

Language of the case: Bulgarian

Referring court

Varhoven administrativen sad

Parties to the main proceedings

Applicant: MOMTRADE RUSE OOD

Defendant: Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' Varna pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite

Operative part of the judgment

1. Article 132(1)(g) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2008/8/EC of 12 February 2008, must be interpreted as meaning that:

   first, the supply of social services provided to natural persons residing in a Member State other than that where the service provider has established its business is capable of being exempted under that provision and, secondly, it is irrelevant in that regard whether the supplier has had recourse to a company established in that other Member State to contact its clients.

2. Article 132(1)(g) of Directive 2006/112, as amended by Directive 2008/8, must be interpreted as meaning that:

where a company provides the supply of social services to natural persons residing in a Member State other than that where that company established its business, the nature of those supplies and the characteristics of that company for the purpose of determining whether the supplies fall within the concept of 'services … closely linked to welfare and social security work … by … [a body recognised] as being devoted to social wellbeing by the Member State concerned', within the meaning of that provision, must be examined in accordance with the law, transposing Directive 2006/112, as amended, of the Member State where that company established its business.

3. Article 132(1)(g) of Directive 2006/112, as amended by Directive 2008/8, must be interpreted as meaning that:

the fact that a company making the supply of social services is registered at a public body of the Member State of taxation as a supplier of social services in accordance with the legislation of that Member State suffices for considering that that company falls within the concept of a '[body recognised] as being devoted to social wellbeing by the Member State concerned', within the meaning of that provision, only where such a registration is subject to the prior determination by the competent national authorities of the social wellbeing of that company for the purposes of that provision.

(1) OJ C 24, 17.1.2022.

Judgment of the Court (First Chamber) of 11 May 2023 (request for a preliminary ruling from the Curtea de Apel Bucureşti — Romania) — R.I. v Inspecția Judiciară, N.L.

(Case C-817/21, (1) **Inspecția Judiciară)**

(Reference for a preliminary ruling — Rule of law — Judicial independence — Second subparagraph of Article 19(1) TEU — Decision 2006/928/EC — Independence of the judiciary — Disciplinary proceedings — Judicial Inspectorate — Chief Inspector with powers of regulation, selection, assessment, appointment and disciplinary investigation)

(2023/C 223/03)

Language of the case: Romanian

Referring court

Curtea de Apel Bucureşti

Parties to the main proceedings

Applicant: R.I.

Defendant: Inspecția Judiciară, N.L.

Operative part of the judgment

Article 2 TEU and the second subparagraph of Article 19(1) TEU, read in conjunction with Commission Decision 2006/928/EC of 13 December 2006 establishing a mechanism for cooperation and verification of progress in Romania to address specific benchmarks in the areas of judicial reform and the fight against corruption,

must be interpreted as precluding national legislation:

— which confers on the director of a body competent to conduct investigations and bring disciplinary proceedings against judges and prosecutors the power to adopt acts of a normative and individual nature relating, inter alia, to the organisation of that body, the selection of its staff members, their assessment, the conduct of their activities and the appointment of a deputy director,

— where, first of all, those members of staff and the deputy director alone are competent to conduct a disciplinary investigation against that director, next, their careers depend, to a large extent, on the decisions of that director and, finally, the term of office of the deputy director will end at the same time as that of the director,

when that legislation is not designed in such a way that there can be no reasonable doubt, in the minds of individuals, that the powers and functions of that body will not be used as an instrument to exert pressure on, or political control over, the activity of those judges and prosecutors.

([1]) OJ C 165, 19.4.2022.

Judgment of the Court (Eighth Chamber) of 11 May 2023 — European Commission v Sopra Steria Benelux, Unisys Belgium

(Case C-101/22 P) ([1])

(Appeal — Rules of Procedure of the Court of Justice — Article 169 — Appeal against the operative part of the decision of the General Court — Public service contracts — Tendering procedure — Regulation (EU, Euratom) 2018/1046 — Article 170(3) — Paragraph 23 of Annex I — Unsuccessful tenderer bringing to the European Commission's attention evidence of the abnormally low nature of the successful tender — Scope of the contracting authority's obligation to state reasons)

(2023/C 223/04)

Language of the case: French

Parties

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

Other parties to the proceedings: Sopra Steria Benelux, Unisys Belgium (represented by: L. Masson and G. Tilman, avocats)

Operative part of the judgment

The Court:

1. Dismisses the appeal;

2. Orders the European Commission to pay the costs.

([1]) OJ C 207, 23.5.2022.

Judgment of the Court (Second Chamber) of 11 May 2023 (request for a preliminary ruling from the Landesverwaltungsgericht Niederösterreich — Austria) — RE v Bezirkshauptmannschaft Lilienfeld

(Case C-155/22, ([1]) **Bezirkshauptmannschaft Lilienfeld)**

(Reference for a preliminary ruling — Road transport — Common rules concerning the conditions to be complied with to pursue the occupation of road transport operator — Regulation (EC) No 1071/2009 — Articles 6 and 22 — National legislation permitting the transfer of criminal responsibility for serious infringements regarding the driving time and rest periods of drivers — Failure to take into account the penalties imposed for infringements when assessing the good repute of a road transport undertaking)

(2023/C 223/05)

Language of the case: German

Referring court

Landesverwaltungsgericht Niederösterreich

Parties to the main proceedings

Applicant: RE

Defendant: Bezirkshauptmannschaft Lilienfeld

intervening party: Arbeitsinspektorat NÖ Wald- und Mostviertel

Operative part of the judgment

Article 22 of Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC, as amended by Council Regulation (EU) No 517/2013 of 13 May 2013, read in conjunction with Article 6(1) of Regulation No 1071/2009, as amended,

must be interpreted as precluding a national law pursuant to which a person that incurs criminal responsibility for infringements committed within a road transport undertaking and whose conduct is taken into account for the purpose of assessing the good repute of that undertaking may designate a person as an agent responsible for compliance with the provisions of EU law concerning the driving time and rest periods of drivers, thereby transferring to that person criminal responsibility for infringements of those provisions of EU law, where the national law does not permit the infringements imputed to that agent to be taken into account for the purpose of assessing whether that undertaking meets the requirement of good repute.

(1) OJ C 222, 7.6.2022.

Judgment of the Court (Third Chamber) of 11 May 2023 (requests for a preliminary ruling from the Landgericht Stuttgart — Germany) — TAP Portugal v flightright GmbH (C-156/22), Myflyright GmbH (C-157/22 and C-158/22)

(Joined Cases C-156/22 to C-158/22, (1) **TAP Portugal (Death of the co-pilot) and Others)**

(References for a preliminary ruling — Air transport — Regulation (EC) No 261/2004 — Compensation to air passengers in the event of cancellation of flights — Article 5(3) — Exemption from the obligation to pay compensation — Concept of 'extraordinary circumstances' — Unexpected absence, due to illness or death, of a crew member whose presence is essential to the operation of the flight)

(2023/C 223/06)

Language of the case: German

Referring court

Landgericht Stuttgart

Parties to the main proceedings

Applicant: TAP Portugal

Defendants: flightright GmbH (C-156/22), Myflyright GmbH (C-157/22 and C-158/22)

Operative part of the judgment

Article 5(3) of Regulation (EC) No 261/2004 of the European Parliament and of 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 unexpected absence — due to illness or death of a crew member whose presence is essential to the operation of a flight — which occurred shortly before the scheduled departure of that flight, does not fall within the concept of 'extraordinary circumstances' within the meaning of that provision.

(1) OJ C 222, 7.6.2022.

Judgment of the Court (First Chamber) of 11 May 2023 (requests for a preliminary ruling from the Conseil d'État — France) — Ministre de l'Économie, des Finances et de la Relance v Manitou BF SA (C-407/22), Bricolage Investissement France SA (C-408/22)

(Joined Cases C-407/22 and C-408/22, [1] Manitou BF and Others)

(References for a preliminary ruling — Taxation — Article 49 TFEU — Freedom of establishment — Corporation tax — Group taxation (French 'intégration fiscale') — Tax exemption for dividends paid by subsidiaries belonging to the tax-integrated group — Resident parent company — Capital links with resident and non-resident companies without forming a tax-integrated group — Tax exemption of dividends paid by non-resident subsidiaries — Non-deductible costs and expenses relating to the holding — Lack of neutralisation as regards the add-back of those costs and expenses)

(2023/C 223/07)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

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

Defendants: Manitou BF SA (C-407/22), Bricolage Investissement France SA (C-408/22)

Operative part of the judgment

Article 49 TFEU must be interpreted as precluding legislation of a Member State relating to a tax integration scheme under which

— a resident parent company that has opted for tax integration with resident companies is entitled to neutralisation as regards the add-back of a proportion of costs and expenses, fixed at 5 % of the net amount of the dividends received by it from its subsidiaries located in other Member States who, had they been resident, would have been eligible in practice, if they so elected,

— whereas a resident parent company that has not opted for such tax integration despite the existence of capital links with other resident companies permitting it is refused such neutralisation.

[1] OJ C 340, 5.9.2022.

Order of the Court (Sixth Chamber) of 27 April 2023 (request for a preliminary ruling from the Consiglio di Stato — Italy) — GO and Others v Regione Lazio

(Case C-482/22, [1] Associazione Raggio Verde)

(Reference for a preliminary ruling — Articles 53 and 99 of the Rules of Procedure of the Court — Article 267 TFEU — Scope of the obligation on national courts or tribunals of last instance to make a reference for a preliminary ruling — Exceptions to that obligation — Criteria — Situations in which the correct interpretation of EU law is so obvious as to leave no scope for any reasonable doubt — Condition related to the national court or tribunal of last instance being convinced that the matter would be equally obvious to the other courts or tribunals of last instance of the Member States and to the Court of Justice)

(2023/C 223/08)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicants: GO, UL, KC, PE, HY, EM, Associazione Raggio Verde

Defendant: Regione Lazio

Operative part of the order

Article 267 TFEU must be interpreted as meaning that a national court or tribunal against whose decisions there is no judicial remedy under national law may refrain from referring to the Court a question concerning the interpretation of EU law and take upon itself the responsibility for resolving it where the correct interpretation of EU law is so obvious as to leave no scope for any reasonable doubt. Whether such a possibility exists must be assessed in the light of the specific characteristics of EU law, the particular difficulties to which its interpretation gives rise and the risk of divergences in judicial decisions within the European Union.

That national court or tribunal is not required to establish in detail that the other courts or tribunals of last instance of the Member States and the Court would give the same interpretation, but must have obtained the conviction, according to an assessment which takes account of those factors, that the matter would be equally obvious to those other national courts or tribunals and to the Court.

([1]) Date lodged: 14.7.2022.

Order of the Court (Sixth Chamber) of 27 April 2023 (request for a preliminary ruling from the Consiglio di Stato — Italy) — Ministero della Giustizia v SP

(Case C-495/22, ([1]) Ministero della Giustizia (Competition for notarial posts))

(Reference for a preliminary ruling — Articles 53 and 99 of the Rules of Procedure of the Court of Justice — Article 267 TFEU — Scope of the obligation on national courts or tribunals of last instance to make a reference for a preliminary ruling — Exceptions to that obligation — Criteria — Situations in which the correct interpretation of EU law is so obvious as to leave no scope for any reasonable doubt — Condition related to the national court or tribunal of last instance being convinced that the matter would be equally obvious to the other courts or tribunals of last instance of the Member States and to the Court of Justice)

(2023/C 223/09)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicant: Ministero della Giustizia

Defendant: SP

Operative part of the order

Article 267 TFEU must be interpreted as meaning that a national court or tribunal against whose decisions there is no judicial remedy under national law may refrain from referring to the Court a question concerning the interpretation of EU law and take upon itself the responsibility for resolving it where the correct interpretation of EU law is so obvious as to leave no scope for any reasonable doubt. The question whether such a possibility exists must be assessed on the basis of the characteristic features of EU law, the particular difficulties to which its interpretation gives rise and the risk of divergences in judicial decisions within the European Union.

That national court or tribunal is not required to establish in detail that the other courts or tribunals of last instance of the Member States and the Court would give the same interpretation, but must have obtained the conviction, according to an assessment which takes account of those factors, that the matter would be equally obvious to those other national courts or tribunals and to the Court.

(1) Date of filing: 22.7.2022.

Order of the Court (Seventh Chamber) of 28 February 2023 (request for a preliminary ruling from the Verwaltungsgericht Minden — Germany) — Mr J. O. v Kreis Gütersloh

(Case C-596/22, (1) **Kreis Gütersloh)**

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Environment — Assessment of the effects of certain public and private projects on the environment — Directive 2011/92/EU — Obligation to carry out an environmental impact assessment or a case-by-case examination — Cumulative effects of projects — Construction of a building for the rearing of broilers adjacent to similar buildings)

(2023/C 223/10)

Language of the case: Germany

Referring court

Verwaltungsgericht Minden

Parties to the main proceedings

Applicant: Mr J. O.

Defendant: Kreis Gütersloh

Intervener: W. D.

Operative part of the order

1. Article 4(3) of Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014, read in conjunction with point 1(b) and point 3(g) of Annex III to Directive 2011/92, as amended,

   must be interpreted as precluding legislation of a Member State under which the obligation to examine a project's potential impact jointly with other projects is limited to situations in which the planned installation and those other projects are linked by joint facilities.

2. Directive 2011/92, as amended by Directive 2014/52,

   must be interpreted as not precluding legislation of a Member State which provides only for a case-by-case examination within the meaning of Article 4(2)(a) of Directive 2011/92, as amended, with regard to a project which, individually, falls below the threshold provided for in point 17(a) of Annex I to Directive 2011/92, as amended, but meets that threshold where it is considered jointly with other projects. In the context of that case-by-case examination, the fact that such a project meets that threshold where it is taken together with other projects may nevertheless be an indication that that project is likely to have significant effects on the environment, within the meaning of Article 2(1) of Directive 2011/92, as amended.

(1) OJ C 463, 5.12.2022.

Appeal brought on 18 November 2022 by WT against the judgment of the General Court (Fourth Chamber) delivered on 07 September 2022 in Case T-91/20, WT v Commission

(Case C-712/22 P)

(2023/C 223/11)

Language of the case: English

Parties

Appellant: WT (represented by: D. Birkenmaier, Rechtsanwalt; D. Rovetta, et V. Villante, avvocati)

Other party to the proceedings: European Commission

By order of 04 May 2023, the Court of Justice (Sixth Chamber) held that the appeal is dismissed as being in part manifestly inadmissible and in part manifestly unfounded and that WT should bear her own costs.

Appeal brought on 20 December 2022 by Studio Legale Ughi e Nunziante against the order of the General Court (Third Chamber) delivered on 10 October 2022 in Case T-389/22, Studio Legale Ughi e Nunziante v European Union Intellectual Property Office (EUIPO)

(Case C-776/22 P)

(2023/C 223/12)

Language of the case: Italian

Parties

Appellant: Studio Legale Ughi e Nunziante (represented by: A. Clemente, L. Cascone, A. Marega, F. de Filippis, avvocati)

Other party to the proceedings: European Union Intellectual Property Office (EUIPO)

Form of order sought

The appellant claims that the Court should:

(1) primarily — upholding the first and/or second ground of appeal of the present proceedings — annul the order under appeal, find that the legal representation of the appellant partnership by the lawyers instructed at the stage of the proceedings before the General Court is valid, and therefore refer the case back to the General Court to rule on the merits;

(2) in the alternative — upholding the third ground of appeal of the present proceedings — annul the order, find that the Associazione Ughi e Nunziante — Studio Legale is entitled to continue with the proceedings with the assistance of a lawyer from outside the appellant professional partnership and therefore refer the case back to the General Court to rule on the merits;

(3) order EUIPO to pay the costs and expenses of the present appeal proceedings.

Grounds of appeal and main arguments

In support of its appeal, the appellant raises three grounds of appeal

First ground of appeal, alleging infringement of Articles 119 and 126 of the Rules of Procedure of the General Court.

The appellant claims that the General Court infringed the obligation to state reasons, having initially recalled the case-law of the Court regarding so-called 'self-representation', and subsequently moved on to the entirely different matter of the independence of lawyers.

The appellant submits that the General Court did not provide any arguments to justify the applicability of the requirement of independence of the lawyers where the appellant is a law firm formed as a partnership, or to justify its position that the mere fact that the lawyers who made the application are partners of the partnership is such as to exclude their independence.

Second ground of appeal, alleging infringement and/or misapplication of Article 51 of the Rules of Procedure of the General Court and Article 19 of the Statute of the Court of Justice of the European Union

The appellant claims that it duly filed all the documentation required under Article 51(2) of the Rules of Procedure of the General Court, fully confirming that the lawyers are authorised to provide legal representation in Italy; thus, in the appellant's view, it follows that there was no infringement of the fourth paragraph of Article 19 of the Statute, as alleged.

As far as the alleged infringement of the third paragraph of Article 19 of the Statute is concerned, the interpretation of the requirement that lawyers be independent was the subject of various recent rulings of the Court of Justice, from which the order under appeal deviated. In the present case, in the appellants view, there is no scenario in which the members of the law firm would not be able to perform their work to the best of their ability and in the interests of the client.

Third ground of appeal, alleging infringement of Articles 47 and 52 of the Charter of Fundamental Rights of the European Union, and, possibly, of Article 51(4) and Article 55(1) of the Rules of Procedure of the General Court.

The appellant claims that, having identified the alleged lack of independence, the General Court merely found that there are no remedies expressly provided for in the Rules of Procedure of the General Court for such a defect and, therefore, it automatically declared the appeal inadmissible.

The appellant submits that the General Court failed to take into account the fact that that requirement of independence was established by case-law; the remedy is not expressly provided for, for the simple fact that the alleged requirement was not expressly provided for by any legislation. In the appellant's view, the General Court's formalistic interpretation caused considerable and irreversible harm to its rights, in infringement of Articles 47 and 52 of the Charter.

Appeal allowed to proceed

By order of the Court (Chamber determining whether appeals may proceed) of 8 May 2023, the appeal was allowed to proceed in part. The response shall relate to the second and third grounds of appeal.

Appeal brought on 17 January 2023 by Arne-Patrik Heinze against the judgment of the General Court (Tenth Chamber) delivered on 9 November 2022 in Case T-610/21, L'Oréal v EUIPO — Heinze (K K WATER)

(Case C-15/23 P)

(2023/C 223/13)

Language of the case: English

Parties

Appellant: Arne-Patrik Heinze (represented by: N. Dauskardt, Rechtsanwalt)

Other parties to the proceedings: L'Oréal, European Union Intellectual Property Office (EUIPO)

By order of 11 May 2023, the Court of Justice (Chamber determining whether appeals may proceed) held that the appeal was not allowed to proceed and that Mr Arne-Patrik Heinze should bear his own costs.

Request for a preliminary ruling from the Bundesverwaltungsgericht (Austria) lodged on 27 February 2023 — XXXX

(Case C-116/23, Sozialministeriumservice)

(2023/C 223/14)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: XXXX

Other party to the proceedings: Sozialministeriumservice

Questions referred

1. Is the care leave allowance a sickness benefit within the meaning of Article 3 of Regulation (EC) No 883/2004 ([1]) or, if not, another benefit under Article 3 of Regulation (EC) No 883/2004?

2. If it is deemed to be a sickness benefit, would the care leave allowance then be a cash benefit within the meaning of Article 21 of Regulation (EC) No 883/2004?

3. Is the care leave allowance a benefit for the caregiver or the person in need of care?

4. Consequently, does a situation in which an applicant for the care leave allowance, who is an Italian citizen, and has been permanently resident in Austria in the province of Upper Austria since 28 June 2013, and has also been continuously working in Austria in the same province with the same employer since 1 July 2013 (for which reason there is no indication that the applicant is a cross-border commuter), entered into an agreement with his employer to take care leave in order to care for his father, an Italian citizen who resided in Italy (Sassuolo), throughout the relevant period from 1 May 2022 to 13 June 2022 and applied to the defendant authority for a care leave allowance, fall within the scope of Regulation (EC) No 883/2004?

5. Does Article 7 of Regulation (EC) No 883/2004 or the prohibition of discrimination enshrined in various pieces of European legislation (e.g. Article 18 TFEU, Article 4 of Regulation (EC) No 883/2004, etc.) preclude a national provision that makes the payment of a care leave allowance conditional upon the person in need of care receiving an Austrian care allowance of level 3 or higher?

6. Does the EU law principle of effectiveness or the EU law principle of non-discrimination enshrined in various pieces of European legislation (e.g. Article 18 TFEU, Article 4 of Regulation (EC) No 883/2004, etc.) preclude, in a situation such as the present case, the application of national legislation or established national case-law that does not provide any scope to reclassify a 'care leave allowance application' as a 'family hospice leave application', when clearly a 'care leave allowance application' form was used rather than the 'family hospice leave application' form, and an agreement was clearly entered into with the employer that referred to 'nursing care for a close relative' instead of 'end-of-life care', although the underlying facts would — given that the father, who was in need of care, has subsequently passed away — in principle also satisfy the requirements for a care leave allowance under the header of 'family hospice leave' if only a different agreement had been entered into with the employer and a different application had been lodged with the authority?

7. Does Article 4 of Regulation (EC) No 883/2004 or another provision of European Union law (for example Article 7 of the Charter of Fundamental Rights) preclude a national provision (Paragraph 21c(1) of the Bundespflegegeldgesetz (Austrian Federal Care Allowance Act, 'the BPGG')) which makes the payment of care leave allowance conditional upon the person in need of care receiving an Austrian care allowance of level 3 or higher, whereas another national provision (Paragraph 21c(3) BPGG), when applied to the same facts, does not make the payment of the allowance conditional upon a similar requirement?

([1]) Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ 2004 L 166, p. 1).

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 15 March 2023 — Sony Computer Entertainment Europe Ltd. v Datel Design and Development Ltd., Datel Direct Ltd., JS

(Case C-159/23, Sony Computer Entertainment Europe)

(2023/C 223/15)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant and appellant on a point of law: Sony Computer Entertainment Europe Ltd.

Defendants and respondents on a point of law: Datel Design and Development Ltd., Datel Direct Ltd., JS

Questions referred

1. Is there an interference with the protection afforded to a computer program under Article 1(1) to (3) of Directive 2009/24/EC ([1]) in the case where it is not the object code or the source code of a computer program, or the reproduction thereof, that is changed, but instead another program running at the same time as the protected computer program changes the content of variables which the protected computer program has transferred to the working memory and uses in the running of the program?

2. Is an alteration within the meaning of Article 4(1)(b) of Directive 2009/24 present in the case where it is not the object code or the source code of a computer program, or the reproduction thereof, that is changed, but instead another program running at the same time as the protected computer program changes the content of variables which the protected computer program has transferred to the working memory and uses in the running of the program?

([1]) Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs (Codified version) (OJ 2009 L 111, p. 16).

Request for a preliminary ruling from the Juzgado de lo Mercantil n.º 1 de Palma de Mallorca (Spain) lodged on 20 March 2023 — Eventmedia Soluciones SL v Air Europa Líneas Aéreas SAU

(Case C-173/23, Eventmedia Soluciones)

(2023/C 223/16)

Language of the case: Spanish

Referring court

Juzgado de lo Mercantil n.º 1 de Palma de Mallorca

Parties to the main proceedings

Applicant: Eventmedia Soluciones SL

Defendant: Air Europa Líneas Aéreas SAU

Questions referred

1. Must Articles 6(1) and 7(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts ([1]) be interpreted as meaning that a national court hearing an action seeking compensation for damage occasioned by delay in the carriage of baggage under Article 19 of the Montreal Convention is required to review of its own motion whether a clause in the contract of carriage that does not allow the passenger to transfer their rights is unfair, where the claim is brought by the transferee[,] who[,] unlike the transferor, is not a consumer or user?

2. If it is appropriate to carry out a review of the court's own motion, may the obligation to inform the consumer and establish whether they claim that the clause is unfair or consent to it be disregarded in the light of the conclusive act of having transferred their claim in breach of any unfair term that does not permit the claim to be transferred?

([1]) OJ 1993 L 95, p. 29.

Request for a preliminary ruling from the Cour de cassation (France) lodged on 21 March 2023 — HJ, IK, LM v Twenty First Capital S.A.S.

(Case C-174/23, Twenty First Capital)

(2023/C 223/17)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicants: HJ, IK, LM

Defendant: Twenty First Capital S.A.S.

Questions referred

1. a) Are Articles 13 and 61(1) of Directive No 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) 1095/2010 [1] to be interpreted as meaning that managers performing activities under the Directive before 22 July 2013 are required to comply with the obligations relating to remuneration policies and practices:

   i) at the expiry of the period for transposition of that directive,

   ii) at the date of entry into force of the provisions transposing the Directive into national law,

   iii) from the expiry of the period of one year, expiring on 21 July 2014, referred to in Article 61(1); or

   iv) from the time of obtaining authorisation as manager under the Directive?

   b) Does the answer to this question depend on whether the remuneration paid by the alternative investment fund manager to an employee or a director was agreed before or after:

   i) the expiry of the period for transposition of that directive;

   ii) the date of entry into force of the provisions transposing the Directive into national law;

   iii) the expiry on 21 July 2014 of the period laid down in Article 61(1) of the Directive;

   iv) the date on which the alternative investment fund manager obtained its authorisation?

2. If it follows from the answer to Question (1) that, following the transposition of the Directive into national law, an alternative investment fund manager is, for a certain period of time, only obliged to make its best efforts to comply with the national legislation resulting from this Directive, does it fulfil that obligation if, during that period, it hires an employee or appoints a director on terms of remuneration which do not comply with the requirements of the national provision transposing Article 13 of the Directive?

[1] OJ 2011 L 174, p. 1.

Request for a preliminary ruling from the Sąd Rejonowy dla Warszawy-Śródmieścia w Warszawie (Poland) lodged on 22 March 2023 — Credit Agricole Bank Polska SA v AB

(Case C-183/23, Credit Agricole Bank Polska)

(2023/C 223/18)

Language of the case: Polish

Referring court

Sąd Rejonowy dla Warszawy-Śródmieścia w Warszawie

Parties to the main proceedings

Applicant: Credit Agricole Bank Polska SA

Defendant: AB

Questions referred

1. Is Article 6(1) of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) ([1]) to be interpreted as meaning that the provisions of that regulation apply to the determination of jurisdiction in a case against a consumer *in absentia* who is not a national of any Member State and regarding whom, first, it is known that his or her last known place of residence was in a Member State and, second, there is credible evidence that he or she is no longer domiciled in the territory of that Member State, where there is no credible evidence suggesting that he or she has left the territory of the European Union to return to the State of which he or she is a national?

2. Is Article 26(1) and (2) of [Regulation No 1215/2012] to be interpreted as meaning that an appearance entered by a representative appointed in accordance with the national law of a Member State to represent that consumer *in absentia* replaces the appearance of the consumer and permits the assumption that a court of that Member State has jurisdiction despite the existence of credible evidence that the consumer is no longer domiciled in the territory of the Member State concerned?

([1]) OJ 2012 L 351, p. 1.

Request for a preliminary ruling from the Tribunal du travail francophone de Bruxelles (Belgium) lodged on 27 March 2023 — GI v Partena Assurances Sociales pour Travailleurs Indépendants ASBL

(Case C-195/23, Partena)

(2023/C 223/19)

Language of the case: French

Referring court

Tribunal du travail francophone de Bruxelles

Parties to the main proceedings

Applicant: GI

Defendant: Partena Assurances Sociales pour Travailleurs Indépendants ASBL

Question referred

Do Protocol (No 7) on the privileges and immunities of the European Union, in particular Article 14 thereof, the principle of a single social security scheme applicable to workers, whether employed or self-employed, active or retired, and the principle of sincere cooperation as set out in Article 4(3) of the Treaty on European Union preclude a Member State from imposing a national social security scheme on, and requiring the payment of social security contributions from, an official who, in addition to his employment within a European institution, also carries out additional teaching activities with the latter's authorisation, when that official is, by virtue of the Staff Regulations of Officials, already subject to the joint social security scheme of the EU institutions?

Request for a preliminary ruling from the Varhoven administrativen sad (Bulgaria) lodged on 28 March 2023 — Agentsia po vpisvaniyata v OL

(Case C-200/23, Agentsia po vpisvaniyata)

(2023/C 223/20)

Language of the case: Bulgarian

Referring court

Varhoven administrativen sad

Parties to the main proceedings

Appellant in cassation: Agentsia po vpisvaniyata

Respondent in cassation: OL

Questions referred

1. May Article 4(2) of Directive 2009/101/EC [1] be interpreted as meaning that it imposes an obligation on the Member State to permit the disclosure of an instrument of memorandum and articles of association, which is subject to registration under Article 119 of the Targovski zakon (Commercial Code), in the case where that instrument contains not only the names of the members of the company, which are subject to compulsory disclosure under Article 2(2) of the Zakon za targovskia registar i registara na yuriditcheskite litsa s nestopanska tsel (Law on the Commercial Register and the Register of Not-for-Profit Legal Persons), but also other personal data? When answering this question, it is important to take into account that the Registration Agency is a public-sector body against which the directly effective provisions of the aforementioned directive may be relied on, in accordance with the settled case-law of the Court of Justice (judgment of 7 September 2006, *Vassallo*, C-180/04, ECLI:EU:C:2006:518, paragraph 26 and the case-law cited).

2. If the first question is answered in the affirmative, may it be assumed that, in the circumstances which gave rise to the dispute in the main proceedings, the processing of personal information by the Registration Agency is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller, within the meaning of Article 6(1)(e) of Regulation 2016/679? [2]

3. If the first two questions are answered in the affirmative, may a national provision such as that contained in Article 13(9) of the Zakon za targovskia registar i registara na yuriditcheskite litsa s nestopanska tsel (Law on the Commercial Register and the Register of Not-for-Profit Legal Persons), in accordance with which, in the event that personal data not required by law are contained in an application [for registration] or in the documents annexed thereto, it must be assumed that the persons who made those data available consented to the processing thereof by the Agency and to the provision of public access thereto, be regarded as permissible, notwithstanding recitals 32, 40, 42, 43 and 50 of Regulation 2016/679, as a clarification of the possibility of 'voluntary disclosure', within the meaning of Article 4(2) of Directive 2009/101/EC, even of personal data?

4. Is it permissible for provisions of national law intended to give effect to the obligation laid down in Article 3(7) of Directive 2009/101/EC, whereby Member States are to take the necessary measures to avoid any discrepancy between what is disclosed in accordance with paragraph 5 and what appears in the register or file, and to take into account the interests of third parties in being acquainted with the essential documents of the company and certain information concerning the company, as referred to in recital 3 of that directive, to prescribe a procedure (application forms, submission of copies of documents in which personal data have been redacted) for exercising the right of natural persons under Article 17 of Regulation 2016/679 to obtain from the controller the erasure of personal data concerning him or her without undue delay, in the case where the personal data the erasure of which is sought are part of publicly disclosed (notified) documents which were made available to the controller, in accordance with a similar procedure, by another person who, in so doing, also determined the purpose of the processing initiated by him or her?

5. In the situation underlying the dispute in the main proceedings, does the Registration Agency act only as controller in relation to the personal data or is it also the recipient thereof, in the case where the purposes of processing those data were determined by another controller as part of the documents that were submitted for disclosure?

6. Does the handwritten signature of a natural person constitute information relating to an identified natural person, in the sense that it is covered by the term 'personal data' within the meaning of Article 4(1) of Regulation 2016/679?

7. Is the concept of 'non-material damage' in Article 82(1) of Regulation 2016/679 to be interpreted as meaning that the assumption of non-material damage requires a noticeable disadvantage and an objectively comprehensible impairment of personal interests, or is the mere short-term loss of the data subject's unfettered control over his or her data due to the publication of personal data in the commercial register, which did not have any noticeable or adverse consequences for the data subject, sufficient for that purpose?

8. May opinion No 01-116(20)/01.02.2021, issued by the national supervisory authority, the Komisia za zashtita na lichnite danni (Commission for the Protection of Personal Data), in accordance with Article 58(3)(b) of Regulation 2016/679, to the effect that the Registration Agency does not have the option or power in law to restrict of its own motion or at the request of the data subject the processing of data which have already been disclosed, permissibly be regarded as proof, for the purposes of Article 82(3), that the Registration Agency is in no way responsible for the circumstance which gave rise to the damage suffered by the natural person?

([1]) Directive 2009/101/EC of the European Parliament and of the Council of 16 September 2009 on coordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, with a view to making such safeguards equivalent (OJ 2009 L 258, p. 11).

([2]) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ 2016 L 119, p. 1).

Request for a preliminary ruling from the Sofiyski rayonen sad (Bulgaria) lodged on 7 April 2023 — 'Toplofikatsia Sofia' EAD

(Case C-222/23, Toplofikatsia Sofia)

(2023/C 223/21)

Language of the case: Bulgarian

Referring court

Sofiyski rayonen sad

Parties to the main proceedings

Applicant in the order for payment proceedings: 'Toplofikatsia Sofia' EAD

Questions referred

1. Is Article 62(1) of Regulation (EU) No 1215/2012 ([1]) on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, read in conjunction with Articles 18(1) and 21 TFEU, to be interpreted as precluding the concept of a natural person's 'domicile' from being derived from national legislation which provides that the permanent address of nationals of the forum State is always situated in that State and cannot be transferred to another place in the European Union?

2. Is Article 5(1) of Regulation (EU) No 1215/2012, read in conjunction with Articles 18(1) and 21 TFEU, to be interpreted as permitting national legislation and national case-law under which a court of a State may not refuse to issue an order for payment against a debtor who is a national of that State and in respect of whom there is a reasonable presumption that the court lacks international jurisdiction because the debtor is likely to be domiciled in another EU State, which is apparent from the debtor's declaration to the competent authority that he has a registered address in that State? In such a case, is the date on which that declaration was made relevant?

3. Where the international jurisdiction of the court seised is derived from a provision other than Article 5(1) of Regulation (EU) No 1215/2012, must Article 18(1) TFEU, read in conjunction with Article 47(2) of the Charter of Fundamental Rights, be interpreted as precluding national legislation and national case-law under which an order for payment may be issued only against a natural person who is habitually resident in the forum State, but a finding that the debtor, if a national of that State, has established that he is resident in another State cannot be based solely on the fact that he has given the first State a registered address ('current' address) that is in another State of the European Union, if the debtor is unable to demonstrate that he has entirely moved to that other State and has no address in the territory of the forum State? In this case, is the date on which the declaration concerning the current address was made relevant?

4. If the answer to the first part of the third question is that the issue of an order for payment is permissible, is it permissible under Article 4(1) of Regulation (EU) No 1215/2012, read in conjunction with Article 22(1) and (2) of Regulation (EU) 2020/1784 ([2]) of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters, as interpreted in the judgment in Case C-325/11, *Alder*, ([3]) and in conjunction with the principle of effective application of EU law in the exercise of national procedural autonomy, for a national court of a State in which nationals cannot give up their registered addresses in the territory of that State and cannot transfer them to another State, when it receives an application for an order for payment in proceedings in which the debtor is not involved, to obtain information in accordance with Article 7 of Regulation (EU) 2020/1784 from the authorities of the State in which the debtor has a registered address about the debtor's address in that State and the date of registration there, in order to determine the debtor's actual habitual residence before the final decision is given in the case?

([1]) OJ 2012 L 351, p. 1.
([2]) OJ 2020 L 405, p. 40.
([3]) ECLI:EU:C:2012:824.

Order of the President of the Court of 24 February 2023 (request for a preliminary ruling from the Sozialgericht Nürnberg — Germany) — CK v Familienkasse Bayern Nord

(Case C-284/22, ([1]) **Familienkasse Bayern Nord)**

(2023/C 223/22)

Language of the case: German

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

([1]) OJ C 276, 18.7.2022.

Order of the President of the Court of 27 February 2023 (request for a preliminary ruling from the Verwaltungsgerichtshof — Austria) — AB v Disziplinarrat der Österreichischen Apothekerkammer, *interested party:* Bundesminister für Soziales, Gesundheit, Pflege und Konsumentenschutz

(Case C-417/22, ([1]) **Disziplinarrat der Österreichischen Apothekerkammer)**

(2023/C 223/23)

Language of the case: German

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

([1]) OJ C 326, 29.8.2022.

GENERAL COURT

Judgment of the General Court of 10 May 2023 — Ryanair and Condor Flugdienst v Commission (Lufthansa; COVID-19)

(Joined Cases T-34/21 and T-87/21) ([1])

(State aid — German air transport market — Aid granted by Germany to an airline in the context of the COVID-19 pandemic — Recapitalisation of Deutsche Lufthansa — Decision not to raise any objections — Temporary Framework for State aid measures — Actions for annulment — Locus standi — Substantial effect on competitive position — Admissibility — Significant market power — Additional measures to preserve effective competition on the market — Obligation to state reasons)

(2023/C 223/24)

Language of the case: English

Parties

Applicant in Case T-34/21: Ryanair DAC (Swords, Ireland) (represented by: E. Vahida, F.-C. Laprévote, S. Rating, I.-G. Metaxas-Maranghidis and V. Blanc, lawyers)

Applicant in Case T-87/21: Condor Flugdienst GmbH (Neu-Isenburg, Germany) (represented by: A. Israel, J. Lang and E. Wright, lawyers)

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

Interveners in support of the defendant in Case T-34/21: Federal Republic of Germany (represented by: J. Möller and P.-L. Krüger, acting as Agents), French Republic (represented by: T. Stéhelin, J.-L. Carré and P. Dodeller, acting as Agents)

Intervener in support of the defendant in Cases T-34/21 and T-87/21: Deutsche Lufthansa AG (Cologne, Germany) (represented by: H.-J. Niemeyer and J. Burger, lawyers)

Re:

By their actions on the basis of Article 263 TFEU, the applicants seek annulment of Commission Decision C(2020) 4372 final of 25 June 2020 concerning State Aid SA.57153 (2020/N) — Germany — COVID-19 — Aid to Lufthansa.

Operative part of the judgment

The Court:

1. Annuls Commission Decision C(2020) 4372 final of 25 June 2020 concerning State Aid SA.57153 — Germany — COVID-19 — Aid to Lufthansa, as corrected by Commission Decision C(2021) 9606 final of 14 December 2021;

2. Orders the European Commission to bear its own costs and to pay those incurred by Ryanair DAC in Case T-34/21 and by Condor Flugdienst GmbH in Case T-87/21;

3. Orders the Federal Republic of Germany, the French Republic and Deutsche Lufthansa AG to bear their own costs in Case T-34/21;

4. Orders the Federal Republic of Germany and Deutsche Lufthansa to bear their own costs in Case T-87/21.

([1]) OJ C 79, 8.3.2021.

Judgment of the General Court of 10 May 2023 — Bastion Holding and Others v Commission

(Case T-102/21) ([1])

(State aid — Measures to support small and medium-sized enterprises in the context of the COVID-19 outbreak in the Netherlands — Decision not to raise any objections — Temporary framework for State aid measures — Obligation to state reasons)

(2023/C 223/25)

Language of the case: English

Parties

Applicants: Bastion Holding BV (Amsterdam, Netherlands), and the 35 other applicants whose names are listed in the annex to the judgment (represented by: B. Braeken, X.Y.G. Versteeg, L. Elzas and T. Hieselaar, lawyers)

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

Intervener in support of the defendant: Kingdom of the Netherlands (represented by: M. Bulterman and J. Langer, acting as Agents)

Re:

By their action under Article 263 TFEU, the applicants seek the annulment of Commission decision C(2020) 8286 final of 20 November 2020 on State Aid SA.59535 (2020/N) — The Netherlands — Amendment of the scheme SA.57712 — COVID-19: direct grant scheme to support the fixed costs for small and medium-sized enterprises affected by the COVID-19 outbreak.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Bastion Holding BV and the other applicant parties whose names are listed in the annex to bear their own costs and to pay those incurred by the European Commission;

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

([1]) OJ C 182, 10.5.2021.

Judgment of the General Court of 10 May 2023 — Ryanair v Commission (SAS II; COVID-19)

(Case T-238/21) ([1])

(State aid — Danish and Swedish air transport markets — Aid granted by Denmark and Sweden to an airline in the context of the COVID-19 pandemic — Recapitalisation of SAS — Decision not to raise any objections — Actions for annulment — Individual concern — Substantial effect on the competitive position — Admissibility — Temporary Framework for State aid measures — Aid to remedy a serious disturbance in the economy of a Member State — Compliance with the requirements of the Temporary Framework)

(2023/C 223/26)

Language of the case: English

Parties

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

Defendant: European Commission (represented by: L. Flynn, J. Carpi Badía and A. Bouchagiar, acting as Agents)

Interveners in support of the defendant: Kingdom of Denmark (represented by: M. Søndahl Wolff, C. Maertens and C. Grønbech-Jensen, acting as Agents, and by R. Holdgaard, lawyer), Kingdom of Sweden (represented by: C. Meyer-Seitz, H. Shev, A. Runeskjöld, M. Salborn Hodgson, R. Shahsavan Eriksson, H. Eklinder and O. Simonsson, acting as Agents), SAS AB (Stockholm, Sweden) (represented by: F. Sjövall and A. Lundmark, lawyers)

Re:

By its action under Article 263 TFEU, the applicant seeks annulment of Commission Decision C(2020) 5750 final of 17 August 2020 on State Aid SA.57543 (2020/N) — Denmark and SA.58342 (2020/N) — Sweden — COVID-19 recapitalisation of SAS AB.

Operative part of the judgment

The Court:

1. Annuls Commission Decision C(2020) 5750 final of 17 August 2020 on State Aid SA.57543 (2020/N) — Denmark and SA.58342 (2020/N) — Sweden — COVID-19 recapitalisation of SAS AB;

2. Orders the European Commission to bear its own costs and to pay those incurred by Ryanair DAC, with the exception of those related to the interventions;

3. Orders the Kingdom of Denmark, the Kingdom of Sweden and SAS to bear their own costs and to pay those incurred by Ryanair as a result of their respective interventions.

([1]) OJ C 242, 21.6.2021.

Judgment of the General Court of 3 May 2023 — SN v Parliament

(Case T-249/21) ([1])

(Law governing the institutions — Rules governing the payment of expenses and allowances to Members of Parliament — Parliamentary assistance allowance — Recovery of sums unduly paid — Obligation to state reasons — Independence of Members — Error of assessment)

(2023/C 223/27)

Language of the case: English

Parties

Applicant: SN (represented by: P. Eleftheriadis, Barrister)

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

Re:

By her action based on Article 263 TFEU, the applicant seeks annulment of the decision of the Secretary-General of the European Parliament of 21 December 2020 concerning the recovery of a sum of EUR 196 199,84 unduly paid by way of parliamentary assistance allowance, and of the corresponding debit note of 15 January 2021.

Operative part of the judgment

The Court:

1. Annuls the decision of the Secretary-General of the European Parliament of 21 December 2020 concerning the recovery from SN of a sum of EUR 196 199,84 unduly paid by way of parliamentary assistance and the corresponding debit note of 15 January 2021, in so far as they concern sums paid for May, July and November 2016, June 2017 and March, April and November 2018;

2. Dismisses the action as to the remainder;

3. Orders SN and the Parliament to bear their own costs, including those relating to the proceedings for interim measures.

(1) OJ C 278, 12.7.2021.

Judgment of the General Court of 10 May 2023 — Bastion Holding and Others v Commission

(Case T-289/21) (1)

(State aid — Measures to support enterprises in the context of the COVID-19 outbreak in the Netherlands — Decision not to raise any objections — Temporary framework for State aid measures — Obligation to state reasons)

(2023/C 223/28)

Language of the case: English

Parties

Applicants: Bastion Holding BV (Amsterdam, Netherlands), and the 35 other applicants whose names are listed in the annex to the judgment (represented by: B. Braeken, X.Y.G. Versteeg, T. Hieselaar and L. Elzas, lawyers)

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

Intervener in support of the defendant: Kingdom of the Netherlands (represented by: J. Langer and M. Bulterman, acting as Agents)

Re:

By their action under Article 263 TFEU, the applicants seek the annulment of Commission decision C(2021) 1872 final of 15 March 2021 on State Aid SA.62241 (2021/N) — The Netherlands — Third amendment of the direct grant scheme to support the fixed costs for enterprises affected by the COVID-19 outbreak.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Bastion Holding BV and the other applicant parties whose names are listed in the annex to bear their own costs and to pay those incurred by the European Commission;

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

(1) OJ C 278, 12.7.2021.

Judgment of the General Court of 10 May 2023 — Bastion Holding and Others v Commission

(Case T-513/21) (1)

(State aid — Measures to support enterprises in the context of the COVID-19 outbreak in the Netherlands — Decision not to raise any objections — Temporary framework for State aid measures — Obligation to state reasons)

(2023/C 223/29)

Language of the case: English

Parties

Applicants: Bastion Holding BV (Amsterdam, Netherlands), and the 35 other applicants whose names are listed in the annex to the judgment (represented by: B. Braeken, T. Hieselaar and L. Elzas, lawyers)

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

Re:

By their action under Article 263 TFEU, the applicants seek the annulment of Commission decision C(2021) 4735 final of 22 June 2021 on State Aid SA.63257 (2021/N) — The Netherlands — Fourth amendment of the direct grant scheme to support the fixed costs for enterprises affected by the COVID-19 outbreak.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Bastion Holding BV and the other applicant parties whose names are listed in the annex to bear their own costs and to pay those incurred by the European Commission.

([1]) OJ C 462, 15.11.2021.

Judgment of the General Court of 3 May 2023 — FFI Female Financial Invest v EUIPO — MLP Finanzberatung (Financery)

(Case T-7/22) ([1])

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

(2023/C 223/30)

Language of the case: German

Parties

Applicant: FFI Female Financial Invest GmbH (Düsseldorf, Germany) (represented by: M. Gramsch, lawyer)

Defendant: European Union Intellectual Property Office (represented by: T. Klee and E. Nicolás Gómez, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: MLP Finanzberatung SE (Wiesloch, Germany) (represented by: G. Hodapp, lawyer)

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 21 October 2021 (Case R 1820/2020-5).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders FFI Female Financial Invest GmbH to pay the costs.

([1]) OJ C 84, 21.2.2022.

Judgment of the General Court of 3 May 2023 — Chambre de commerce et d'industrie territoriale de la Marne en Champagne v EUIPO — Ambrosetti Group (TEHA)

(Case T-52/22) [1]

(European Union trade mark — Opposition proceedings — Application for the European Union figurative mark TEHA — Earlier national figurative mark tema — Relative ground for refusal — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001) — Lack of genuine use of the mark — Article 42(2) and (3) of Regulation No 207/2009 (now Article 47(2) and (3) of Regulation 2017/1001) — Use in a form which differs in elements which alter the distinctive character of the trade mark — Article 15(1), second subparagraph, point (a), of Regulation No 207/2009 (now Article 18(1), second subparagraph, point (a), of Regulation 2017/1001))

(2023/C 223/31)

Language of the case: English

Parties

Applicant: Chambre de commerce et d'industrie territoriale de la Marne en Champagne (Châlons-en-Champagne, France) (represented by: T. de Haan, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Ambrosetti Group Ltd (London, United Kingdom) (represented by: G. Guglielmetti, 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 23 November 2021 (Case R 837/2021-4).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders the chambre de commerce et d'industrie territoriale de la Marne en Champagne to pay the costs.

[1] OJ C 128, 21.3.2022.

Judgment of the General Court of 3 May 2023 — Chambre de commerce et d'industrie territoriale de la Marne en Champagne v EUIPO — Ambrosetti Group (TEHA)

(Case T-60/22) [1]

(European Union trade mark — Opposition proceedings — International registration designating the European Union — Word mark TEHA — Earlier national figurative mark tema — Relative ground for refusal — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001) — Lack of genuine use of the mark — Article 42(2) and (3) of Regulation No 207/2009 (now Article 47(2) and (3) of Regulation 2017/1001) — Use in a form which differs in elements which alter the distinctive character of the trade mark — Article 15(1), second subparagraph, point (a), of Regulation No 207/2009 (now Article 18(1), second subparagraph, point (a), of Regulation 2017/1001)))

(2023/C 223/32)

Language of the case: English

Parties

Applicant: Chambre de commerce et d'industrie territoriale de la Marne en Champagne (Châlons-en-Champagne, France) (represented by: T. de Haan, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Ambrosetti Group Ltd (London, United Kingdom) (represented by: G. Guglielmetti, 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 23 November 2021 (Case R 839/2021-4).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders the chambre de commerce et d'industrie territoriale de la Marne en Champagne to pay the costs.

([1]) OJ C 128, 21.3.2022.

Judgment of the General Court of 3 May 2023 — Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi v EUIPO — M. J. Dairies (BBQLOUMI)

(Case T-106/22) ([1])

(EU trade mark — Invalidity proceedings — EU word mark BBQLOUMI — Earlier EU collective word mark HALLOUMI — Relative grounds for invalidity — Likelihood of confusion — Detriment to reputation — Article 8(1)(b), Article 8(5) and Article 53(1)(a) of Regulation (EC) No 207/2009 (now Article 8(1)(b), Article 8(5) and Article 60(1)(a) of Regulation (EU) 2017/1001))

(2023/C 223/33)

Language of the case: English

Parties

Applicant: Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi (Nicosia, Cyprus) (represented by: S. Malynicz and C. Milbradt, lawyers)

Defendant: European Union Intellectual Property Office (represented by: 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: M. J. Dairies EOOD (Sofia, Bulgaria) (represented by: I. Pakidanska and D. Dimitrova, lawyers)

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 14 December 2021 (Case R 656/2021-4).

Operative part of the judgment

The Court:

1. Dismisses the action;

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

([1]) OJ C 165, 19.4.2022.

Judgment of the General Court of 3 May 2023 — Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi v EUIPO — Fontana Food (GRILLOUMI)

(Case T-168/22) ([1])

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

(2023/C 223/34)

Language of the case: English

Parties

Applicant: Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi (Nicosia, Cyprus) (represented by: S. Malynicz and C. Milbradt, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Fontana Food AB (Tyresö, Sweden)

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 3 January 2022 (Case R 1612/2021-5).

Operative part of the judgment

The Court:

1. Dismisses the action;

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

([1]) OJ C 207, 23.5.2022.

Judgment of the General Court of 3 May 2023 — Dicofarm v EUIPO — Marco Viti Farmaceutici (Vitis pharma Dicofarm group)

(Case T-303/22) ([1])

(EU trade mark — Invalidity proceedings — EU figurative mark Vitis pharma Dicofarm group — Earlier national figurative mark viti DREN — Relative ground for invalidity — Article 8(1)(b) of Regulation (EU) 2017/1001 — Weak similarity of the goods and services — No likelihood of confusion)

(2023/C 223/35)

Language of the case: Italian

Parties

Applicant: Dicofarm SpA (Rome, Italy) (represented by: F. Ferrari, L. Goglia and G. Rapaccini, lawyers)

Defendant: European Union Intellectual Property Office (represented by: M. Capostagno and R. Raponi, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Marco Viti Farmaceutici SpA (Vicenza, Italy) (represented by: F. Celluprica, F. Fischetti and F. De Bono, lawyers)

Re:

By its action under Article 263 TFEU, the applicant seeks the annulment of the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 16 March 2022 (Case R 1050/2021-2).

Operative part of the judgment

The Court:

1. Annuls the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 16 March 2022 (Case R 1050/2021-2) in so far as it concerns:

   — Class 3: 'Pomades, creams, ointments, lotions, gels and other preparations, all the aforesaid for cosmetic purposes; detergent preparations for personal use; scented room fragrances; deodorants for body care; non-medicated cosmetics excluding mouthwashes; toiletry preparations; perfumery, essential oils';

   — Class 29: 'Pollen prepared as foodstuff';

   — Class 30: 'Honey; bee glue; bee glue (propolis) for human consumption; royal jelly; non-medical herbal teas; herb teas, other than for medicinal use; infusions, not medicinal; tea extracts, tea; honey';

   — Class 40: 'Custom manufacture of pharmaceuticals; custom manufacture of biopharmaceuticals; treatment of biopharmaceutical materials; all the aforementioned services with the exclusion of oral and dental services';

   — Class 42: 'Scientific research; consultancy in relation to scientific research; provision of scientific information; biological research; chemical research and analysis services; genetic research and analysis; cosmetic research; research in the field of nutrition; research relating to food; pharmaceutical research, with the exclusion of oral and dental research; research and development in the field of biotechnology; product research and development with the exclusion of oral and dental research and development; scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software';

2. dismisses the action as to the remainder;

3. declares that Dicofarm SpA, EUIPO and Marco Viti Farmaceutici SpA are to bear their own costs.

(1) OJ C 276, 18.7.2022.

Judgment of the General Court of 10 May 2023 — Vanhove v EUIPO — Aldi Einkauf (bistro Régent)

(Case T-437/22) (1)

(EU trade mark — Opposition proceedings — Application for the EU figurative mark bistro Régent — Earlier national word mark REGENT — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001 — Genuine use of the earlier mark — Article 18(1), second subparagraph, point (a), and Article 47(2) of Regulation 2017/1001 — Form differing in elements which do not alter the distinctive character)

(2023/C 223/36)

Language of the case: English

Parties

Applicant: Vanhove (Bordeaux, France) (represented by: N. Castagnon, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Aldi Einkauf SE & Co. OHG (Essen, Germany) (represented by: N. Lützenrath, C. Fürsen, M. Minkner and A. Starcke, 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 18 May 2022 (Case R 1113/2021-5).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Vanhove to bear its own costs and to pay those incurred by Aldi Einkauf SE & Co. OHG;

3. Orders the European Union Intellectual Property Office (EUIPO) to bear its own costs.

(1) OJ C 326, 29.8.2022.

Judgment of the General Court of 3 May 2023 — Laboratorios Ern v EUIPO — Biolark (BIOLARK)

(Case T-459/22) (1)

(EU trade mark — Opposition proceedings — International registration designating the European Union — Figurative mark BIOLARK — Earlier national word mark BIOPLAK — No likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2023/C 223/37)

Language of the case: English

Parties

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

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

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

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 22 April 2022 (Case R 1234/2021-5).

Operative part of the judgment

The Court:

1. Refuses the application for a declaration that there is no need to adjudicate made by the European Union Intellectual Property Office (EUIPO);

2. Dismisses the action;

3. Orders each party to bear its own costs.

(1) OJ C 340, 5.9.2022.

Order of the General Court of 25 April 2023 — Klein v Commission

(Case T-562/19 RENV) ([1])

(Actions for failure to act — Medical devices — Article 8(1) and (2) of Directive 93/42/EEC — Safeguard clause procedure — Notification by a Member State of a decision prohibiting the placing on the market of a medical device — Absence of a decision by the Commission — Repeal of Directive 93/42 — Articles 94 to 97 of Regulation (EU) 2017/745 — Market surveillance measures — Action manifestly well founded)

(2023/C 223/38)

Language of the case: German

Parties

Applicant: Christoph Klein (Großgmain, Austria) (represented by: H.-J. Ahlt, lawyer)

Defendant: European Commission (represented by: C. Hermes, E. Sanfrutos Cano and F. Thiran, acting as Agents)

Re:

By his action under Article 265 TFEU, the applicant asks the General Court to declare that the European Commission unlawfully failed to act in the safeguard clause procedure initiated on 7 January 1998 by the Federal Republic of Germany and to take a decision in accordance with Directive 93/42/EEC of the Council of 14 June 1993 concerning medical devices (OJ 1993 L 169, p. 1), in relation to the 'Inhaler Broncho-Air®' device.

Operative part of the order

1. The European Commission has failed to fulfil its obligations under Article 8(2) of Directive 93/42/EEC of the Council of 14 June 1993 concerning medical devices by failing to act in the safeguard clause procedure initiated on 7 January 1998 by the Federal Republic of Germany and to take a decision in accordance with Directive 93/42, replaced by Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017 on medical devices, amending Directive 2001/83/EC, Regulation (EC) No 178/2002 and Regulation (EC) No 1223/2009 and repealing Council Directives 90/385/EEC and 93/42, in relation to the Inhaler Broncho-Air® device.

2. The Commission shall pay the costs related to the appeal proceedings before the Court in Case C-430/20 P and those related to the initial proceedings in Case T-562/19 and to the proceedings referred back to the General Court in Case T-562/19 RENV.

([1]) OJ C 337, 7.10.2019.

Order of the General Court of 4 May 2023 — Amazonen-Werke H. Dreyer v EUIPO — (Combination of the colours green and orange)

(Case T-618/22) ([1])

(EU trade mark — International registration designating the European Union — Mark consisting in a combination of the colours green and orange — 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 223/39)

Language of the case: English

Parties

Applicant: Amazonen-Werke H. Dreyer SE & Co. KG (Hasbergen-Gaste, Germany) (represented by: C. Neuhierl, lawyer)

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

Re:

By its action based on Article 263 TFEU, the applicant seeks annulment of the decision of the Fifth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 22 July 2022 (Case R 2006/2021-5).

Operative part of the order

1. The action is dismissed.

2. Each party shall bear its own costs.

([1]) OJ C 441, 21.11.2022.

Order of the President of the General Court of 19 April 2023 — UC v Council

(Case T-6/23 R)

(Interim relief — Common foreign and security policy — Restrictive measures taken in view of the situation in the Democratic Republic of the Congo — Freezing of funds — Application for suspension of operation of a measure — No urgency)

(2023/C 223/40)

Language of the case: Dutch

Parties

Applicant: UC (represented by: P. Bekaert and S. Bekaert, lawyers)

Defendant: Council of the European Union (represented by: B. Driessen and M.-C. Cadilhac, acting as Agents)

Re:

By his application based on Articles 278 and 279 TFEU, the applicant seeks suspension of the operation of Council Implementing Decision (CFSP) 2022/2398 of 8 December 2022 implementing Decision 2010/788/CFSP concerning restrictive measures in view of the situation in the Democratic Republic of the Congo (OJ 2022 L 316 I, p. 7), and of Council Implementing Regulation (EU) 2022/2397 of 8 December 2022 implementing Regulation (EC) No 1183/2005 concerning restrictive measures in view of the situation in the Democratic Republic of the Congo (OJ 2022 L 316 I, p. 1), in so far as those acts concern him.

Operative part of the order

1. The application for interim relief is dismissed.

2. The costs are reserved.

Action brought on 24 April 2023 — XH v Commission

(Case T-11/23)

(2023/C 223/41)

Language of the case: English

Parties

Applicant: XH (represented by: K. Górny, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul decision N° R/404/22 that upheld the note of 31 May 2022 on implementation of the judgment T-511/18 ([1]) concerning non-inclusion of the applicant's name in the list of the promoted officials in 2017 as defined by the note of 13 November 2017 (IA n° 25-2017);

— compensate the loss and damages of the applicant (EUR 25 000 for non-material loss and EUR 50 000 for material damage);

— order the defendant to pay all the costs and expenses under Article 268 TFEU.

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 error of law and the irregularity of the contested promotion procedure 2021: the violation of Decision C(2013) 8968 laying down general provisions implementing Article 45 of the Staff Regulations; the violation of Article 45(1) of the Staff Regulations in the light of Articles 7, 41 and 47 of the Charter of Fundamental Rights of the European Union, and the absence of actual comparison of the merits.

2. Second plea in law, alleging the manifest error of assessment in applying the promotion criteria provided for in Article 45 of the Staff Regulations, in the light of Articles 7, 41 and 47 of the Charter of Fundamental Rights of the European Union.

3. Third plea in law, while alleging these reasons, the applicant asks for compensation for material and non-material loss which the applicant claims to have suffered following/as a result of the above-mentioned decisions, which resulted in delayed rectification of the applicant's personal file taken into account in the promotion exercise; existence of irregular elements in the applicant's promotion file and manifest errors of assessment during the promotion exercises resulted in an absence of consideration of comparative merits of the candidate and non-implementation of the Court judgment due to failure to repeat in its entirety the promotion exercise 2017, in a regular procedure, with a negative impact on the promotion exercise 2021.

([1]) Judgment of 25 June 2020, *XH* v *European Commission* (Case T-511/18; EU:T:2020:291).

Action brought on 1 May 2023 — IB v EUIPO

(Case T-38/23)

(2023/C 223/42)

Language of the case: French

Parties

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

Defendant: European Union Intellectual Property Office (EUIPO)

Form of order sought

The applicant claims that the Court should:

— annul the decision of 11 April 2022 of the Director of the Human Resources Department of EUIPO enforcing the judgment in Case T-22/20 of 13 October 2021 pursuant to Article 266 TFEU and refusing to recommence the invalidity procedure in respect of the applicant;

— in so far as necessary, in so far as it is considered to provide additional information, annul the decision of 2 November 2022 rejecting the complaint lodged on 8 July 2022 under Article 90(2) of the Staff Regulations;

— appoint a third doctor of its own motion;

— at the very least, order the defendant to:

  — recommence the invalidity procedure at the stage of appointing an invalidity committee;

  — in the meantime and pending a final decision on the applicant's invalidity, pay him the minimum amount guaranteed under Article 9(4) of Annex IX to the Staff Regulations plus family allowances and interest calculated at the rate set by the ECB increased by two percentage points;

  — retroactively register the applicant with the JSIS;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging incorrect enforcement by the administration of the judgment of 13 October 2021 in breach of Article 266 TFEU, the prohibition of double punishment within the meaning of Annex IX to the Staff Regulations of Officials of the European Union and an error of law.

2. Second plea in law, alleging breach of the duty of care, breach of the right to human dignity, failure to state provide a sufficient statement of reasons to understand the special service interest, breach of the administration's duty to have regard for the welfare of its officials and former officials.

3. Third plea in law, alleging manifest errors of assessment in the examination of the procedure, in the assessment of the role of the appointing authority and of the invalidity committee and of the division of powers between them, contradictions in the statement of reasons and breach of the duty of sound administration.

Action brought on 7 April 2023 — Ballmann v EDPB

(Case T-183/23)

(2023/C 223/43)

Language of the case: English

Parties

Applicant: Lisa Ballmann (Innsbruck, Austria) (represented by: F. Mikolasch, lawyer)

Defendant: European Data Protection Board

Form of order sought

The applicant claims that the Court should:

— annul the decision of the European Data Protection Board ('the EDPB') of 7 February 2023 refusing access by the applicant to the file concerning the Binding Decision 3/2022 of the EDPB on the dispute submitted by the Irish Supervisory Authority on *Meta Platforms Ireland Limited* and its *Facebook* service (Article 65 General Data Protection Regulation ('the GDPR') [1]), pursuant to Article 41(2)(b) of the Charter of Fundamental Rights of the EU; and

— order the EDPB to bear 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, alleging that the EDPB violated Article 41(2)(b) of the Charter of Fundamental Rights of the EU ('the Charter')

— The EDPB violated Article 41(2)(b) of the Charter when it rejected the applicant's request to access the file concerning the EDPB's Binding Decision 3/2022 on the grounds that the complainants (the applicant and her representative under Article 80(1) GDPR *non-profit NOYB-European Center for Digital Rights*) are not entitled to a right of access to the file because they were not likely to be adversely affected by the Binding Decision 3/2022;

— Other than under Article 41(2)(a) of the Charter, 'adverse affect' is not an element of Article 41(2)(b) of the Charter and therefore does not need to be fulfilled;

— The applicant seeks access to 'her file' under Article 41(2)(b) of the Charter. The case directly deals with her personal complaint under Article 77 GDPR against *Meta* on her personal data. Binding Decision 3/2022 refers to the 'complaint' and the 'complainant' more than 160 times. The EDPB itself holds in the Binding Decision 3/2022 that the Draft Decision at issue relates to a 'complaint-based inquiry', whereas the complaint was lodged by the applicant. The Binding Decision 3/2022 refers to both the applicant and the non-profit *NOYB — European Center for Digital Rights*, who represented her under Article 80(1) GDPR, as the 'complainant';

— The Article 41(2)(b) Charter right to access the file is a stand-alone right. Article 41 of the Charter clearly differentiates the right to access the file from the right to be heard. The scope and the objective of these rights are different. The latter is mostly a defensive right. The right to access the file, on the other hand, is also an aspect of equality of arms and the right to an effective remedy. The Court of Justice itself addresses the entitlement to each of the two rights separately and does not condition the right to access the file on the right to be heard;

— Even if 'adverse affect' would be an element of Article 41(2)(b) of the Charter (which it is not) this condition would be met, given that:

  — only one claim out of nine claims of 9 September 2019 by the complainant was partially decided (the claim was limited from any form of 'advertisement' to only 'behavioural advertisement') by the EDPB's Binding Decision 3/2022 and the rest of the claims from the complaint have not been addressed by the EDPB;

  — there is a now a live dispute between the Austrian and Irish supervisory authorities on whether the matters are still pending before them, the EDPB or if these claims were at some level of the process rejected, and there is live litigation between the complainant and the supervisory authorities on this matter before the Irish and Austrian courts; and

  — the complainant cannot understand the procedure that led to the EDPB only partially deciding on one claim without having access to the files, while the Austrian and Irish supervisory authorities rely on the EDPB decision.

(1) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ 2016 L 119, p. 1).

Action brought on 14 April 2023 — Hansol Paper v Commission

(Case T-199/23)

(2023/C 223/44)

Language of the case: French

Parties

Applicant: Hansol Paper Co. Ltd (Seoul, South Korea) (represented by: J.-F. Bellis and B. Servais, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the anti-dumping duty imposed by Commission Implementing Regulation (EU) 2023/593 of 16 March 2023 re-imposing a definitive anti-dumping duty on imports of certain lightweight thermal paper originating in the Republic of Korea as regards the Hansol Group and amending the residual duty (OJ 2023 L 79, p. 54), in so far as it concerns the applicant;

— order the European Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Article 2(11) and of the second subparagraph of Article 9(4) of the basic regulation.

   — According to the applicant, the calculations made by the Commission to calculate, in the contested regulation, the revised anti-dumping duty of EUR 103,16 per tonne net do not correct the weighting error established by the General Court in paragraphs 85 and 86 of its judgment in Case T-383/17 and confirmed by the Court of Justice in paragraphs 62 to 64 of its judgment in Case C-260/20 P, and therefore infringe Article 2(11) and the second subparagraph of Article 9(4) of the basic regulation.

2. Second plea in law, alleging infringement of the second subparagraph of Article 2(1) of the basic regulation.

   — The applicant claims, in this connection, that the method used to calculate the normal value of Artone for a certain product type concerned infringes the second subparagraph of Article 2(1) of the basic regulation in that the Commission constructed the normal value of Artone for that product type, instead of basing the normal value on the prices of the applicant's domestic sales in the ordinary course of trade for that product type within the meaning of the second subparagraph of Article 2(1) of the basic regulation.

Action brought on 23 April 2023 — VT v Commission

(Case T-216/23)

(2023/C 223/45)

Language of the case: Italian

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the measure of 5 May 2022 by means of which the applicant was not included on the reserve list for competitions EPSO/AD/380/19-AD 7 and EPSO AD/380/19-AD9;

— annul the measure of 15 July 2022, refusing the request for review of the failure to include the applicant on the reserve list for competitions EPSO/AD/380/19-AD 7 and EPSO AD/380/19-AD9;

— annul the measure of the appointing authority of 10 February 2023 which was wrongfully drawn up following the silence maintained by EPSO for over four months and by which the complaint lodged by the applicant under Article 90(2) of the Staff Regulations of Officials ('the Staff Regulations') was rejected;

— order the Commission to pay the costs.

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 infringement of the provisions of law governing the rules on languages in the EU institutions. Holding the written and oral tests in a language (English and French) other than his mother tongue made it impossible to assess accurately his skills, since the result of his tests was also conditional on his level of knowledge of that language. This also led to an infringement of Article 27 of the Staff Regulations.

2. Second plea in law, alleging infringement of the principle of equal treatment among candidates, a failure to assess candidates objectively (case-law in *Glantenay*) and infringement of Article 5(1) and (3) of Annex III to the Staff Regulations. Some of them in fact resat the written tests, which were markedly less difficult. The comparison between the candidates in the tests in the assessment centre was distorted because the selection board had not checked in advance the accuracy of the information from the talent screener.

3. Third plea in law, alleging infringement of the obligation to state reasons and of the related principle of equality of the parties to proceedings (Article 47 of the Charter of Fundamental Rights of the European Union) since the applicant was not put in a position to know all of the reasons for which he was excluded from the competition before he lodged his action. That also constituted an infringement of the principle of equality of arms in proceedings.

4. Fourth plea in law, alleging infringement of Article 5(5) and (6) of Annex III to the Staff Regulations, in that the selection board failed to include on that reserve list at least twice as many candidates as there were posts available in the competition.

5. Fifth plea in law, alleging infringement of the competition notice, Article 5(1) of Annex III to the Staff Regulations and a consequential manifest error of assessment since, in the AD 7 competition, the candidates' leadership abilities were assessed, whereas that quality should have been assessed solely vis-à-vis the AD 9 candidates.

6. Sixth plea in law, alleging infringement of the principles in the case-law in *Di Prospero* v *Commission* and infringement of Article 27 of the Staff Regulations and of the principle of equality in that the competition notice did not allow candidates to participate in both the AD 7 and AD 9 competitions, whereas certain candidates who had applied for the AD 9 competition were automatically transferred to the AD 7 reserve list.

7. Seventh plea in law, alleging infringement of the principle of equality of candidates and lack of objectivity of assessment, due to the lack of stability in the selection board as a result of frequent changes to the composition of the selection board and the absence of shadowing by the President.

Action brought on 25 April 2023 — VU v Commission

(Case T-217/23)

(2023/C 223/46)

Language of the case: Italian

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the measure of 5 May 2022 by means of which the applicant was not included on the reserve list for competitions EPSO/AD/380/19-AD 7 and EPSO AD/380/19-AD9;

— annul the measure of 15 July 2022, refusing the request for review of the failure to include the applicant on the reserve list for competitions EPSO/AD/380/19-AD 7 and EPSO AD/380/19-AD9;

— annul the measure of the appointing authority of 10 February 2023 which was wrongfully drawn up following the silence maintained by EPSO for over four months and by which the complaint lodged by the applicant under Article 90(2) of the Staff Regulations of Officials ('the Staff Regulations') was rejected;

— order the Commission to pay the costs.

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 infringement of the provisions of law governing the rules on languages in the EU institutions. Holding the written and oral tests in a language (English and French) other than his mother tongue made it impossible to assess accurately his skills, since the result of his tests was also conditional on his level of knowledge of that language. This also led to an infringement of Article 27 of the Staff Regulations.

2. Second plea in law, alleging infringement of the principle of equal treatment among candidates, a failure to assess candidates objectively (case-law in *Glantenay*) and infringement of Article 5(1) and (3) of Annex III to the Staff Regulations. Some of them in fact resat the written tests, which were markedly less difficult. The comparison between the candidates in the tests in the assessment centre was distorted because the selection board had not checked in advance the accuracy of the information from the talent screener.

3. Third plea in law, alleging infringement of the obligation to state reasons and of the related principle of equality of the parties to proceedings (Article 47 of the Charter of Fundamental Rights of the European Union) since the applicant was not put in a position to know all of the reasons for which he was excluded from the competition before he lodged his action. That also constituted an infringement of the principle of equality of arms in proceedings.

4. Fourth plea in law, alleging infringement of Article 5(5) and (6) of Annex III to the Staff Regulations, in that the selection board failed to include on that reserve list at least twice as many candidates as there were posts available in the competition.

5. Fifth plea in law, alleging infringement of the competition notice, Article 5(1) of Annex III to the Staff Regulations and a consequential manifest error of assessment since, in the AD 7 competition, the candidates' leadership abilities were assessed, whereas that quality should have been assessed solely vis-à-vis the AD 9 candidates.

6. Sixth plea in law, alleging infringement of the principles in the case-law in *Di Prospero* v *Commission* and infringement of Article 27 of the Staff Regulations and of the principle of equality in that the competition notice did not allow candidates to participate in both the AD 7 and AD 9 competitions, whereas certain candidates who had applied for the AD 9 competition were automatically transferred to the AD 7 reserve list.

7. Seventh plea in law, alleging infringement of the principle of equality of candidates and lack of objectivity of assessment, due to the lack of stability in the selection board as a result of frequent changes to the composition of the selection board and the absence of shadowing by the President.

Action brought on 26 April 2023 — Casal sport v EUIPO — Tennis d'Aquitaine (CITY STADE)

(Case T-220/23)

(2023/C 223/47)

Language in which the application was lodged: French

Parties

Applicant: Sports et loisirs (Casal sport) (Altorf, France) (represented by: C. Pecnard, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Tennis d'Aquitaine SAS (Ambares, France)

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: EU figurative mark CITY STADE in red and white colours — EU trade mark No 11 945 581.

Proceedings before EUIPO: Invalidity proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 3 February 2023 in case R 179/2022-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and order the revocation of the EU trade mark CITY STADE No 11 945 581 in respect of all products;

— in the alternative, after annulment of the contested decision, remit the case to the Second Board of Appeal of EUIPO;

— order the proprietor to pay the costs of this action, including the costs incurred in the proceedings before EUIPO.

Plea in law

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

Action brought on 21 April 2023 — VZ v Parliament

(Case T-223/23)

(2023/C 223/48)

Language of the case: Spanish

Parties

Applicant: VZ (represented by: J.-M. Benítez de Lugo Guillen, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul the decision of the President of the European Parliament of 16 January 2023 and the decision of the Bureau of the European Parliament of 13 February 2023, which classified as psychological harassment the applicant's conduct towards three of her parliamentary assistants and which penalised the applicant in terms of: a) loss of her entitlement to the daily allowance for a period of five days and the temporary suspension of her participation in the Parliament's activities for five days, as regards the psychological harassment suffered by parliamentary assistant A; b) loss of her entitlement to the daily allowance for a period of fifteen days and the temporary suspension of her participation in the Parliament's activities for fifteen days, as regards the psychological harassment suffered by parliamentary assistant B; c) loss of her entitlement to the daily allowance for a period of ten days and the temporary suspension of her participation in the Parliament's activities for ten days, as regards the psychological harassment suffered by parliamentary assistant C;

— annul any other measure prior to, related to, or following, the penalties imposed on the applicant;

— order the European Parliament to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging a failure to comply with procedural time limits due to infringement of Articles 4.2 and 11.1 of the Decision of the Bureau of 2 July 2018 on the functioning of the advisory committee dealing with harassment complaints concerning Members of the European Parliament and its procedures for dealing with complaints.

2. Second plea in law, alleging infringement of the rights of the defence, the right to effective judicial protection, the right to equality of arms and access to the files, under Articles 41, 47 and 48 of the Charter of Fundamental Rights of the European Union.

3. Third plea in law, alleging infringement of the right to the presumption of innocence, under Article 48 of the Charter of Fundamental Rights of the European Union.

Action brought on 2 May 2023 — Mylan Ireland v Commission

(Case T-227/23)

(2023/C 223/49)

Language of the case: English

Parties

Applicant: Mylan Ireland Ltd (Dublin, Ireland) (represented by: K. Roox, T. De Meese, J. Stuyck and M. Van Nieuwenborgh, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare its request for annulment admissible and well-founded;

— annul the Commission Decision embedded in its letter of 17 March 2023 [ref. SANTE.DDG1. B.5/AL/mmc (2023) 2914698], as well as any later decisions to the extent they perpetuate and/or replace that decision, including any follow-up regulatory actions, in so far as they relate to the applicant;

— 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 three pleas in law.

1. First plea in law, alleging lack of competence and misuse of power by the above-mentioned Commission Decision of 17 March 2023 ('the contested decision') to amend and/or to withdraw the applicant's granted marketing authorization.

2. Second plea in law, alleging infringement of essential procedural requirement, as the contested decision lacks a legal basis and infringed the applicant's right to be heard pursuant to Article 41 of the Charter of Fundamental Rights of the European Union.

3. Third plea in law, alleging infringement of the Treaties or of any rule of law relating to their application:

   — the contested decision misapplies the law, as the Commission erred with respect to the scope of the Court of Justice's inter partes judgment of 16 March 2023, Commission and Others v Pharmaceutical Works Polpharma (C-438/21 P to C-440/21 P, EU:C:2023:213), and disregards the review of the Committee for Medicinal Products for Human Use;

   — the contested decision infringes the rights of defence and to a fair trial pursuant to Article 47 of the Charter of Fundamental Rights of the European Union, as several cases to which the applicant is a party are currently pending (T-730/20, T-279/22 and T-268/22);

   — the contested decision infringes legal certainty;

   — the contested decision violates the applicant's legitimate expectations, including the numerous obligations with public authorities, producers, suppliers, transport companies and hospitals, for the procurement of generic dimethyl fumarate products, and patients;

   — the contested decision violates the right to property laid down in Article 17 of the Charter of Fundamental Rights of the European Union.

Action brought on 2 May 2023 — Hitit Seramik v Commission

(Case T-230/23)

(2023/C 223/50)

Language of the case: English

Parties

Applicant: Hitit Seramik Sanayi ve Ticaret AŞ (Maslak, Türkiye) (represented by: A. Willems and B. Natens, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare the application admissible;

— annul Commission Implementing Regulation (EU) 2023/265 of 9 February 2023 imposing a definitive anti-dumping duty on imports of ceramic tiles originating in India and Türkiye ([1]) and

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that by using distorted costs of production to construct normal value for certain products, Regulation 2023/265 violates Articles 2(3), 2(5), first paragraph, and 2(10), first sentence, of Regulation (EU) 2016/1036 of the European Parliament and of the Council ([2]) and is vitiated by a manifest error of assessment.

2. Second plea in law, alleging that by failing to adjust normal value for inflation, Regulation 2023/265 violates Article 2(10)(k) and 2(10), first sentence, of Regulation 2016/1036 and is vitiated by a manifest error of assessment.

3. Third plea in law, alleging that by calculating an excessive dumping margin and imposing an excessive anti-dumping duty, Regulation 2023/265 violates Articles 2(12) and 9(4), second paragraph, of Regulation 2016/1036.

4. Fourth plea in law, alleging that by reaching conclusions unsupported by the facts, Regulation 2023/265 violates Articles 3(2), 3(5) and 3(6), read together with Article 17(1), of Regulation 2016/1036 and is vitiated by a manifest error of assessment.

([1]) Commission Implementing Regulation (EU) 2023/265 of 9 February 2023 imposing a definitive anti-dumping duty on imports of ceramic tiles originating in India and Türkiye (OJ 2023 L 41, p. 1).

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

Action brought on 3 May 2023 — Akgün Seramik and Others v Commission

(Case T-231/23)

(2023/C 223/51)

Language of the case: English

Parties

Applicants: Akgün Seramik Sanayi ve Ticaret AŞ (Pazaryeri, Türkiye) and 14 others (represented by: F. Di Gianni, A. Scalini and G. Coppo, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission Implementing Regulation (EU) 2023/265 of 9 February 2023 imposing a definitive anti-dumping duty on imports of ceramic tiles originating in India and Türkiye ([1]) (Contested Regulation) insofar as the applicants are concerned;

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

Pleas in law and main arguments

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

1. First plea in law, alleging that the Contested Regulation violated Article 3 of Regulation (EU) 2016/1036 of the European Parliament and of the Council ([2]) (Basic Regulation) insofar as the Commission committed a manifest error of assessment in concluding that the Union industry suffered material injury.

2. Second plea in law, alleging that the Contested Regulation violated Article 3(6) of the Basic Regulation insofar as the Commission committed a manifest error of assessment in concluding that imports from the countries concerned caused injury to the dominant Union industry.

3. Third plea in law, alleging that the Contested Regulation violated Article 4(1) of the Basic Regulation insofar as the Commission carried out an injury analysis not based on the major proportion of total Union production within the meaning of Article 4(1) of the Basic Regulation, read in the light of Article 4(1) of the WTO Anti-Dumping Agreement.

4. Fourth plea in law, alleging that the Contested Regulation violated Article 2(9) and 2(10) of the Basic Regulation inasmuch as (i) the Commission erroneously deducted the sales, general and administrative expenses and the profit of Bien & Qua's related trader from the export price, and alternatively (ii) the Commission, by not applying the same deductions on the normal value, failed to carry out a fair comparison.

([1]) Commission Implementing Regulation (EU) 2023/265 of 9 February 2023 imposing a definitive anti-dumping duty on imports of ceramic tiles originating in India and Türkiye (OJ 2023 L 41, p. 1).

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

Action brought on 4 May 2023 — Gutseriev v Council

(Case T-233/23)

(2023/C 223/52)

Language of the case: English

Parties

Applicant: Mikail Safarbekovich Gutseriev (Moscow, Russia) (represented by: B. Kennelly and J. Pobjoy, barristers and D. Anderson, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— pursuant to Article 263 TFEU, annul (i) Council Decision (CFSP) 2023/421 of 24 February 2023 amending 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 2023 L 61, p. 41) and (ii) Council Implementing Regulation (EU) 2023/419 of 24 February 2023 implementing Article 8a 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 2023 L 61, p. 20), insofar as they apply to the applicant (together, the '2023 Contested Acts');

— pursuant to Article 277 TFEU, declare that Article 4(1) of Council Decision 2012/642/CFSP of 15 October 2012 (as amended) and Article 2(5) of Council Regulation (EC) No 765/2006 of 18 May 2006 (as amended) are inapplicable insofar as they apply to the applicant by reason of illegality, and consequently annul, insofar as they apply to the applicant, the 2023 Contested Acts;

— order that the Council pays the applicant's 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 that the Council made a manifest error of assessment in considering that the criterion for listing the applicant in the contested measures is satisfied.

2. Second plea in law, alleging that the Council infringed the applicant's fundamental rights, including the rights to private life, property and freedom to conduct business.

3. Third plea in law, in the alternative, alleging illegality if the designation criterion in Article 4(1) of Council Decision 2012/642 and Article 2(5) of Council Regulation 765/2006 is to be interpreted to capture any form of support or any form of benefit.

Action brought on 7 May 2023 — Comité interprofessionnel du vin de Champagne and INAO v EUIPO — Nero Hotels (NERO CHAMPAGNE)

(Case T-239/23)

(2023/C 223/53)

Language in which the application was lodged: English

Parties

Applicants: Comité interprofessionnel du vin de Champagne (Épernay, France), Institut national de l'origine et de la qualité (INAO) (Montreuil, France) (represented by: E. Varese, G. Righini and V. Mazza, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Nero Hotels Srl (Milan, Italy)

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 trade mark NERO CHAMPAGNE — Application for registration No 18 024 731

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 17 February 2023 in Case R 531/2022-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision, except to the extent the application for the trade mark at issue was rejected also for services in Class 35;

— reject the application for the trade mark at issue for the goods and services concerned in Classes 33, 35 and 41 or, alternatively, refer the case back to another Board of Appeal for reconsideration;

— order the defendant and the other party to the proceedings before the Board of Appeal, should the latter intervene before the Court, to bear their own costs, as well as the fees and costs of the applicants incurred in the proceedings before the Opposition Division and the Second Board of Appeal, in accordance with Article 134(1) of the Rules of Procedure of the General Court.

Pleas in law

— Infringement of Article 8(6) of Regulation (EU) 2017/1001 of the European Parliament and of the Council in conjunction with Article 103(2)(a)(ii) of Regulation (EU) No 1308/2013 of the European Parliament and of the Council;

— Infringement of Article 8(6) of Regulation (EU) 2017/1001 of the European Parliament and of the Council in conjunction with Article 103(2)(a)(i) of Regulation (EU) No 1308/2013 of the European Parliament and of the Council;

— Infringement of Articles 263 and 296 TFEU and of Article 94(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

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

Action brought on 11 May 2023 — Quality First v EUIPO (MORE-BIOTIC)

(Case T-243/23)

(2023/C 223/54)

Language of the case: German

Parties

Applicant: Quality First GmbH (Elmshorn, Germany) (represented by: J. Schneider and M. Kleinn, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for the EU word mark 'MORE-BIOTIC' — Application No 18 634 806

Contested decision: Decision of the Second Board of Appeal of EUIPO of 23 February 2023 in Case R 1708/2022-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— allow the trade mark at issue to be granted protection through registration in the European Union;

— order EUIPO to pay the costs.

Pleas in law

— Infringement of Article 7(1)(b) and (c) of Regulation (EU) 2017/1001 of the European Parliament and of the Council, in so far as 'MORE-BIOTIC' is vague and undefined and, therefore, is distinctive;

— 'MORE-BIOTIC' is an unusual combination and is distinctive;

— 'MORE-BIOTIC' does not convey a purely promotional message;

— No direct description in respect of the goods and services;

— Infringement of the principle of equal treatment.

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

Publications Office
of the European Union
L-2985 Luxembourg
LUXEMBOURG

EN