Official Journal of the European Union

C 235

English edition

Information and Notices

Volume 66

3 July 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 235/01)

Last publication

OJ C 223, 26.6.2023

Past publications

OJ C 216, 19.6.2023

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

These texts are available on:

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

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Fifth Chamber) of 17 May 2023 (request for a preliminary ruling from the Verwaltungsgerichtshof — Austria) — Funke Sp. z o.o. v Landespolizeidirektion Wien

(Case C-626/21, [1] **Funke)**

(Reference for a preliminary ruling — Approximation of laws — Directive 2001/95/EC — Article 12 and Annex II — Technical standards and regulations — European Union Rapid Information System (RAPEX) — Guidelines — Dangerous non-food products — Implementing Decision (EU) 2019/417 — Regulation (EC) No 765/2008 — Articles 20 and 22 — Notifications to the European Commission — Administrative decision — Prohibition on the sale of certain pyrotechnic articles and obligation to withdraw — Request from a distributor of the products concerned that the notification be supplemented — Authority competent to give a decision on the request — Article 47 of the Charter of Fundamental Rights of the European Union — Effective judicial protection)

(2023/C 235/02)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Appellant: Funke Sp. z o.o.

Respondent: Landespolizeidirektion Wien

Operative part of the judgment

1. Articles 20 and 22 of Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93, Article 12 of and Annex II to Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety, as amended by Regulation No 765/2008 and the annex to Commission Implementing Decision (EU) 2019/417 of 8 November 2018 laying down guidelines for the management of the European Union Rapid Information System 'RAPEX' established under Article 12 of Directive 2001/95/EC on general product safety and its notification system

must be interpreted as giving an economic operator whose interests may be adversely affected by a notification under Article 22 of Regulation No 765/2008 by a Member State to the Commission, such as an importer of the products that are the subject of that notification, the right to request that the competent authorities of the notifying Member State supplement that notification.

2. Articles 20 and 22 of Regulation No 765/2008, Article 12 of and Annex II to Directive 2001/95, as amended by Regulation No 765/2008, and the annex to Implementing Decision 2019/417, read in the light of Article 47 of the Charter of Fundamental Rights of the European Union,

must be interpreted as meaning that an economic operator, such as an importer of products that are the subject of a notification under Article 22 of Regulation No 765/2008, who is not the addressee of the measure that gave rise to that notification and whose interests may be adversely affected because of the incomplete nature of that notification, must have a legal remedy open to it in the notifying Member State so that it can ensure that the obligations incumbent in that regard on that Member State are fulfilled.

(1) OJ C 37, 24.1.2022.

Judgment of the Court (Eighth Chamber) of 17 May 2023 (request for a preliminary ruling from the Landgericht Essen — Germany) — DC v HJ

(Case C-97/22, (1) **DC (Withdrawal after performance of the contract))**

(Reference for a preliminary ruling — Consumer protection — Directive 2011/83/EU — Article 14(4)(a)(i) and (5) — Right of withdrawal for off-premises contracts — Information requirements for the trader concerned — Failure of that trader to inform the consumer — Obligations of the consumer in the event of withdrawal — Withdrawal after the performance of the contract — Consequences)

(2023/C 235/03)

Language of the case: German

Referring court

Landgericht Essen

Parties to the main proceedings

Applicant: DC

Defendant: HJ

Operative part of the judgment

Article 14(4)(a)(i) and (5) of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council,

must be interpreted as meaning that it exempts a consumer from any obligation to pay for performance provided pursuant to an off-premises contract, where the trader concerned did not provide him or her with the information referred to in Article 14(4)(a)(i) of that directive and that consumer exercised his or her right of withdrawal after the performance of that contract.

(1) OJ C 165, 19.4.2022.

Judgment of the Court (Eighth Chamber) of 17 May 2023 (request for a preliminary ruling from the Naczelny Sąd Administracyjny — Poland) — P.M. v Dyrektor Izby Administracji Skarbowej w Warszawie

(Case C-105/22, [1] **Dyrektor Izby Administracji Skarbowej w Warszawie (Taxation of exported second hand vehicles))**

(Reference for a preliminary ruling — Free movement of goods — Tax provisions — Article 110 TFEU — Excise duty — Export of a vehicle registered in a Member State to a country of the European Economic Area (EEA) — Refusal to reimburse the excise duty paid in respect of that vehicle up to an amount proportionate to the duration of its use in the territory of the Member State of registration — Principle that excise duty is a single-stage tax and principle of proportionality)

(2023/C 235/04)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Appellant: P.M.

Respondent: Dyrektor Izby Administracji Skarbowej w Warszawie

Operative part of the judgment

Primary EU law, in particular the first paragraph of Article 110 TFEU, and the principle that excise duty is a single-stage tax and the principle of proportionality, must be interpreted as not precluding national legislation which does not provide, when a passenger car registered in the Member State concerned is exported, for reimbursement of the excise duty paid in respect of that vehicle in that Member State up to an amount which is proportionate to the duration of the use of that vehicle in the territory of that State.

[1] OJ C 207, 23.5.2022.

Judgment of the Court (Ninth Chamber) of 17 May 2023 (request for a preliminary ruling from the Spetsializiran nakazatelen sad — Bulgaria) — Criminal proceedings against BK, ZhP

(Case C-176/22, [1] **BK and ZhP (Partial stay of the main proceedings))**

(Reference for a preliminary ruling — Statute of the Court of Justice of the European Union — Article 23, first paragraph — Stay of the main proceedings by a national court which has submitted a request for a preliminary ruling to the Court of Justice under Article 267 TFEU — Possibility of a partial stay of proceedings)

(2023/C 235/05)

Language of the case: Bulgarian

Referring court

Spetsializiran nakazatelen sad

Parties in the main proceedings

BK, ZhP

intervening parties: Spetsializirana prokuratura

Operative part of the judgment

Article 23 of the Statute of the Court of Justice of the European Union must be interpreted as not precluding a national court which has made a request for a preliminary ruling under Article 267 TFEU from staying the main proceedings only with regard to the aspects of those proceedings that are likely to be affected by the Court's response to that request.

(1) OJ C 191, 10.5.2022.

Judgment of the Court (Ninth Chamber) of 17 May 2023 (request for a preliminary ruling from the Tribunal da Relação de Lisboa — Portugal) — Fonds de Garantie des Victimes des Actes de Terrorisme et d'Autres Infractions (FGTI) v Victoria Seguros SA

(Case C-264/22, (1) **Fonds de Garantie des Victimes des Actes de Terrorisme et d'Autres Infractions)**

(Reference for a preliminary ruling — Judicial cooperation in civil matters — Law applicable to non-contractual obligations — Regulation (EC) No 864/2007 — Article 4(1) — Article 15(h) — Article 19 — Accident caused by a boat in a Member State — Compensation for the victim of that accident — Subrogation in accordance with the law of another Member State — Reimbursement requested by the third-person subrogee — Applicable law — Limitation)

(2023/C 235/06)

Language of the case: Portuguese

Referring court

Tribunal da Relação de Lisboa

Parties to the main proceedings

Applicant: Fonds de Garantie des Victimes des Actes de Terrorisme et d'Autres Infractions (FGTI)

Defendant: Victoria Seguros SA

Operative part of the judgment

Article 4(1), Article 15(h) and Article 19 of Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II)

must be interpreted as meaning that the law which governs the action of a third party subrogated to the rights of an injured party against the person who caused the damage and which determines, in particular, the rules on limitation in respect of that action is, in principle, that of the country in which that damage occurs.

(1) OJ C 284, 25.7.2022.

Judgment of the Court (Eighth Chamber) of 17 May 2023 (request for a preliminary ruling from the Cour de cassation — Belgium) — IT v État belge

(Case C-365/22, (1) **État belge (VAT — Vehicles sold for parts))**

(Reference for a preliminary ruling — Value added tax (VAT) — Directive 2006/112/EC — Margin scheme — Article 311 — Concept of 'second-hand goods' — End-of-life vehicles sold for parts)

(2023/C 235/07)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicant: IT

Defendant: État belge

Operative part of the judgment

Article 311(1)(1) of Council Directive No 2006/112/EC of 28 November 2006 on the common system of value added tax,

must be interpreted as meaning that definitively end-of-life motor vehicles acquired by an undertaking from the persons referred to in Article 314 of that directive and intended to be sold 'for parts' without the parts having been removed are second-hand goods within the meaning of Article 311(1)(1) of that directive where, first, they still include parts which maintain the functionalities that they possessed when new so that they can be reused as such or after repair and, secondly, it is established that those vehicles remained in the same economic cycle because of that reuse of parts.

([1]) OJ C 380, 3.10.2022.

Judgment of the Court (Ninth Chamber) of 17 May 2023 (request for a preliminary ruling from the Tribunal de première instance du Luxembourg — Belgium) — SA CEZAM v État belge

(Case C-418/22, ([1]) **Cezam)**

(Reference for a preliminary ruling — Directive 2006/112/EC — Value added tax (VAT) — Obligations to declare and pay VAT — Article 273 — Penalties laid down for the failure of a taxable person to comply with the obligations — Principles of proportionality and neutrality of VAT — Right to deduct VAT — Compatibility of penalties)

(2023/C 235/08)

Language of the case: French

Referring court

Tribunal de première instance du Luxembourg

Parties to the main proceedings

Applicant: SA CEZAM

Defendant: État belge

Operative part of the judgment

Article 273 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax and the principles of proportionality and fiscal neutrality

must be interpreted as not precluding national legislation pursuant to which the failure to comply with the obligation to declare and pay value added tax (VAT) to the Treasury is penalised by a flat-rate fine amounting to 20 % of the amount of VAT which would have been due before subtracting deductible VAT, subject to the checks to be carried out by the referring court as regards the proportionate nature of the fine imposed in the case in the main proceedings.

([1]) OJ C 359, 19.9.2022.

Order of the Court (Seventh Chamber) of 24 May 2023 (request for a preliminary ruling from the Supremo Tribunal Administrativo — Portugal) — Shortcut — Consultadoria e Serviços de Tecnologias de Informação, Lda v Autoridade Tributária e Aduaneira

(Case C-690/22, [1] **Shortcut)**

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court — Common system of value added tax (VAT) — Directive 2006/112/EC — Article 178(a) — Right to deduct — Conditions of exercise — Article 226(6) — Details which must appear on the invoice — Scope and nature of the services provided — Invoices containing a generic description of the services provided)

(2023/C 235/09)

Language of the case: Portuguese

Referring court

Supremo Tribunal Administrativo

Parties to the main proceedings

Appellant: Shortcut — Consultadoria e Serviços de Tecnologias de Informação, Lda

Respondent: Autoridade Tributária e Aduaneira

Operative part of the order

Articles 178(a), 219 and 226(6) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax

must be interpreted as meaning that they preclude the national tax authorities from refusing the right to deduct value added tax on the ground that invoices containing details such as 'application development services' do not comply with the formal requirements referred to in the latter provision.

[1] Date lodged: 9.11.2022.

Order of the President of the Court of 24 April 2023 (request for a preliminary ruling from the Landgericht Düsseldorf — Germany) — LN v Société Air France SA

(Case C-162/23, [1] **Air France)**

(Air transport — Right to re-routing — Passenger requesting re-routing with no temporal link with the original travel plan)

(2023/C 235/10)

Language of the case: German

Referring court

Landgericht Düsseldorf

Parties to the main proceedings

Applicant: LN

Defendant: Société Air France SA

Operative part of the order

Case C-162/23 is removed from the Register of the Court.

[1] Date lodged: 16.3.2023.

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 7 March 2023 — X v Staatssecretaris van Financiën

(Case C-137/23, Alsen [1])

(2023/C 235/11)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: X

Respondent: Staatssecretaris van Financiën

Questions referred

1. Must Article 14(1)(c) of Directive 2003/96/EC [2] be interpreted as meaning that the tax exemption laid down in that provision applies to energy products which are known to be used for the propulsion of vessels in navigating the inland waterways of the European Union, even where those energy products (gas oil in this case) do not, during that use, contain the required minimum content of the marker Solvent Yellow 124, if the tax authorities do not have one or more indications that the owner or operator of the vessel or his or her representative on board the ship (the boatmaster) is involved in excise evasion, avoidance or abuse in respect of the gas oil being held?

2. If Question 1 is answered in the negative, must Article 7(2) of Directive 2008/118/EC [3] be interpreted as meaning that, where it is established that the bunker tank of an inland waterway vessel exclusively contains gas oil originating from a fuel supplier which, with the authorisation of the tax authorities, may release that gas oil for consumption exempt from excise duty, the mere fact that the gas oil does not contain the required minimum content of the marker Solvent Yellow 124 means that the excise duty became chargeable only at the time of that earlier release for consumption on the basis of Article 7(2)(a) of that directive?

3. If Question 2 is answered in the negative and Article 7(2)(b) of Directive 2008/118/EC is thus also applicable in the case referred to therein, does the EU law principle of proportionality preclude excise duty which has become chargeable pursuant to Article 7(2)(b) of Directive 2008/118/EC from being levied on the boatmaster holding the excise goods, in accordance with Article 8(1)(b) of that directive, even if that person had no reason to doubt that the gas oil was being supplied exempt from excise duty in accordance with EU and national law?

4. Is it relevant for the answer to Question 3 that the boatmaster does not perform his or her duties in an employment relationship but is also the owner of the vessel?

---

[1] The name of the present case is fictitious and does not correspond to the actual name of any party to the proceedings.

[2] Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ 2003 L 283, p. 51).

[3] Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (OJ 2009 L 9, p. 12).

Request for a preliminary ruling from the Landgericht Ravensburg (Germany) lodged on 9 March 2023 — TJ, KI, FA v Mercedes-Benz Bank AG, Volkswagen Bank GmbH

(Case C-143/23, Mercedes-Benz Bank and Volkswagen Bank)

(2023/C 235/12)

Language of the case: German

Referring court

Landgericht Ravensburg

Parties to the main proceedings

Applicants: TJ, KI, FA

Defendants: Mercedes-Benz Bank AG, Volkswagen Bank GmbH

Questions referred

1. Is it compatible with EU law, in particular Article 14(1) of Directive 2008/48/EC, ([1]) if, in the case of withdrawal from a consumer credit agreement linked to a vehicle sales agreement concluded with a brick-and-mortar trader, the amount of compensation for the diminished value to be paid by the consumer to the creditor on return of the vehicle financed is calculated by deducting from the trader's sales price at the time of purchase of the vehicle by the consumer the trader's purchase price at the time of the return of the vehicle?

2. Is the first sentence of Article 14(3)(b) of Directive 2008/48/EC fully harmonised, and therefore binding on the Member States, as regards consumer credit agreements which are linked to an agreement for the sale of a vehicle?

   If question 2 is answered in the negative:

3. Is it compatible with EU law, in particular Article 14(1) of Directive 2008/48/EC, if, following withdrawal from a consumer credit agreement linked to a vehicle sales agreement, the borrower is obliged to pay interest at the contractually agreed borrowing rate to the creditor (or to the seller) for the period between the payment of the loan to the seller of the vehicle being financed and the time when the vehicle is returned?

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

Request for a preliminary ruling from the Raad van State (Netherlands) lodged on 15 March 2023 — T.G. v Minister van Sociale Zaken en Werkgelegenheid

(Case C-158/23, Keren ([1]))

(2023/C 235/13)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Applicant: T.G.

Defendant: Minister van Sociale Zaken en Werkgelegenheid

Questions referred

1. Must Article 34 of the Qualification Directive ([2]) be interpreted as precluding a national rule such as that laid down in Article 7b of the Wet inburgering (Law on civic integration), pursuant to which holders of asylum status are placed under the obligation, on pain of a fine, to pass a civic integration examination?

2. Must Article 34 of the Qualification Directive be interpreted as precluding a national rule based on the premiss that holders of asylum status themselves bear the full costs of integration programmes?

3. In answering the second question, is it significant that holders of asylum status can receive a government loan to cover the costs of integration programmes and that that loan is waived if they pass their civic integration examination on time or are exempted from or released from the civic integration obligation in good time?

4. If it is permissible, under Article 34 of the Qualification Directive, that holders of asylum status are obliged, on pain of a fine, to pass a civic integration examination, and that holders of asylum status bear the full costs of integration programmes, does the amount of the loan to be repaid, whether or not together with the fine, then undermine the achievement of the purpose and useful effect of Article 34 of the Qualification Directive?

(1) The name of the present case is fictitious and does not correspond to the actual name of any party to the proceedings.
(2) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ 2011 L 337, p. 9).

Request for a preliminary ruling from the Înalta Curte de Casație și Justiție (Romania) lodged on 21 March 2023 — Centrul Român pentru Administrarea Drepturilor Artiștilor Interpreți (Credidam) v Guvernul României, Ministerul Finanțelor

(Case C-179/23, Credidam)

(2023/C 235/14)

Language of the case: Romanian

Referring court

Înalta Curte de Casație și Justiție

Parties to the main proceedings

Appellants in cassation — Defendants: Guvernul României, Ministerul Finanțelor

Respondent in cassation — Applicant: Centrul Român pentru Administrarea Drepturilor Artiștilor Interpreți (Credidam)

Questions referred

1. Does the collection, distribution and payment of remuneration by collective management organisations, in return for a fee, constitute a supply of services, within the meaning of Article 24(1) and Article 25(c) of Directive 2006/112/EC (1) (the VAT directive), to copyright holders and holders of related rights?

2. If the first question is answered in the affirmative, does the work that collective management organisations do for rights holders constitute a supply of services within the meaning of the VAT directive even if the rights holders, on whose behalf collective management organisations collect remuneration, are not deemed to be providing a service to the users who are required to pay that remuneration?

(1) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).

Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 22 March 2023 — Finanzamt T v S

(Case C-184/23, Finanzamt T II)

(2023/C 235/15)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Defendant and appellant on a point of law: Finanzamt T

Applicant and respondent on a point of law: S

Questions referred

1. Does the bringing together of several persons into a single taxable person, as provided for in the second subparagraph of Article 4(4) of Directive 77/388/EEC, ([1]) have the effect of removing supplies of goods or services made for consideration between those persons from the scope of value added tax as defined in Article 2(1) of that directive?

2. Do supplies of goods or services made for consideration between those persons fall within the scope of value added tax in any event in the case where the recipient of the supply of goods or services is not (or is only partly) entitled to deduct input tax, as there is otherwise a risk of tax losses?

([1]) Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1).

Request for a preliminary ruling from the Amtsgericht Lörrach (Germany) lodged on 23 March 2023 — in the probate proceedings P. M. J. T., testator

(Case C-187/23, Albausy ([1]))

(2023/C 235/16)

Language of the case: German

Referring court

Amtsgericht Lörrach

Parties to the main proceedings

Interested parties: E. V. G.-T., P. T., F. T., G. T.

Questions referred

(a) Must point (a) of the second subparagraph of Article 67(1) of the Succession Regulation ([2]) be interpreted as meaning that it also refers to challenges raised in the procedure for issuing the European Certificate of Succession itself, which the court is not permitted to examine, and that it does not refer only to challenges raised in other proceedings?

(b) If the answer to Question (a) is in the affirmative: Must point (a) of the second subparagraph of Article 67(1) of the Succession Regulation be interpreted as meaning that a European Certificate of Succession may not be issued even if challenges have been raised in the procedure for issuing the European Certificate of Succession, but they have already been examined in the proceedings for the issuance of a certificate of inheritance under German law?

(c) If the answer to Question (a) is in the affirmative: Must point (a) of the second subparagraph of Article 67(1) of the Succession Regulation be interpreted as covering any challenges, even if they have not been substantiated and no formal evidence is to be taken of that fact?

(d) If the answer to Question (a) is in the negative: In what form must the court state the reasons that led it to reject the challenges and to issue the European Certificate of Succession?

([1]) The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.
([2]) Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession (OJ 2012 L 201, p. 107).

Request for a preliminary ruling from the Landgericht Mainz (Germany) lodged on 31 March 2023 — FT and RRC Sports GmbH v Fédération Internationale de Football Association (FIFA)

(Case C-209/23, RRC Sports)

(2023/C 235/17)

Language of the case: German

Referring court

Landgericht Mainz

Parties to the main proceedings

Applicants: FT, RRC Sports GmbH

Defendant: Fédération Internationale de Football Association (FIFA)

Question referred

Must Article 101 TFEU (prohibition on cartels), Article 102 TFEU (prohibition on abuse of a dominant position) and Article 56 TFEU (freedom to provide services) and also Article 6 of the General Data Protection Regulation ([1]) be interpreted as precluding rules adopted by a world sporting association (in this case: FIFA), to which 211 national sports federations of the relevant sport (in this case: football) belong, and whose rules are therefore binding in any event on the majority of the actors active in the respective national professional leagues of the relevant sport (in this case: clubs (which also means football clubs organised as capital companies), players (who are club members) and players' agents), and which have the following content:

(1) it is prohibited to agree on players' agents' remuneration, or pay them remuneration, in excess of a cap calculated as a percentage of the transfer fee or the annual remuneration of that player,

as provided for in Article 15(2) of the FIFA Football Agent Regulations ('the FFAR'),

(2) it is prohibited for third parties to pay remuneration due under a representation agreement in respect of the players' agent's contracting partner,

as provided for in Article 14(2) and (3) of the FFAR,

(3) clubs are prohibited from paying more than 50 % of the total remuneration due from the player and the club for the services of the players' agent in cases where a players' agent acts on behalf of the engaging club and the player,

as provided for in Article 14(10) of the FFAR,

(4) for the grant of a licence as a players' agent, which is a condition for being allowed to provide players' agent services, it is required that the applicant submit to the internal regulations of the world sporting association (in this case: the FFAR, the FIFA Statutes, the FIFA Disciplinary Code, the FIFA Code of Ethics, the FIFA Regulations on the Status and Transfer of Players as well as the statutes, regulations, guidelines and decisions of authorities and bodies) and also to its jurisdiction as an association and that of confederations and member associations,

as provided for in Article 4(2), Article 16(2)(b) and Article 20 of the FFAR, in conjunction with Article 8(3), Article 57(1) and Article 58(1) and (2) of the FIFA Statutes, Article 5(a), Article 49 and Article 53(3) of the FIFA Disciplinary Code, and Article 4(2) and Article 82(1) of the Code of Ethics,

(5) requirements are laid down for the grant of a licence as a players' agent, under which the grant of a licence is permanently excluded in the case of convictions or settlements in criminal proceedings or a suspension of two years or more, licence suspension or withdrawal, or other disqualification by an authority or a sports governing body, without the possibility of the licence being granted at a later date,

as provided for in Article 5(1)(a)(ii) and (iii) of the FFAR,

(6) players' agents are prohibited, in connection with the conclusion of a transfer agreement and/or a contract of employment, from providing players' agent services or any other services to, and being remunerated for them, by:

(a) the releasing club and the engaging club,

(b) the releasing club and the player,

(c) any parties involved (releasing club, engaging club and player),

as provided for respectively in Article 12(8) and (9) of the FFAR, and

(6a) players' agents are prohibited, in connection with the conclusion of a transfer agreement and/or a contract of employment together with a connected players' agent, from providing players' agent services or any other services to, and being remunerated for them, by:

(a) the releasing club and the engaging club,

(b) the releasing club and the player,

(c) any parties involved (releasing club, engaging club and player),

if the concept of connected players' agent includes cooperation in accordance with the definition of 'connected football agent' laid down in the FFAR (fourth subparagraph on p. 6 of the FFAR),

as provided for in Article 12(10) of the FFAR, in conjunction with the definition of 'connected football agent' in the fourth subparagraph on p. 6 of the FFAR,

(7) players' agents are prohibited from approaching or entering into a representation agreement with a club, player, or member association of the world sporting association or a legal person operating a single-entity league which is permitted to engage players' agents and which have entered into an exclusive agreement with another players' agent,

as provided for in Article 16(1)(b) and (c) of the FFAR,

(8) the names and details of all players' agents, the names of the clients whom they represent, the players' agent services which they provide to each individual client and/or the details of all transactions involving players' agents, including the amount of remuneration payable to players' agents, must be uploaded to a platform of the world sporting association and this information is made available in part to other clubs, players or players' agents,

as provided for in Article 19 of the FFAR,

(9) it is prohibited to agree remuneration for players' agent services on any other basis than the player's remuneration or the transfer fee,

as provided for in Article 15(1) of the FFAR,

(10) it is presumed that other services provided by a players' agent or a connected players' agent in the 24 months prior to or following the provision of a players' agent service to a client involved in the transaction for which player agency services were performed form part of the player agent's services and, in so far that the presumption cannot be rebutted, remuneration for the other services is deemed to form part of the remuneration paid for the players' agent service,

as provided for in Article 15(3) and (4) of the FFAR,

(11) the amount of the players' agent's remuneration to be calculated on a pro-rata basis is to be based solely on the salary actually received by the player,

as provided for in Article 14(7) and (12) of the FFAR,

(12) players' agents are required to disclose the following information to the world sporting association:

(a) within 14 days of conclusion: any agreement with a client other than a representation agreement, including but not limited to other services, and the information requested on the platform,

(b) within 14 days of payment of remuneration: the information requested on the platform,

(c) within 14 days of payment of any remuneration related to any agreement with a client other than a representation agreement: the information requested on the platform,

(d) within 14 days of occurrence: any contractual or other arrangement between players' agents to cooperate in the provision of any services or to share the revenue or profits of any part of their players' agent services,

(e) if they conduct their business affairs through an agency, within 14 days of the first transaction involving the agency: the number of players' agents who use the same agency to conduct their business affairs and the name of all its employees,

as provided for in Article 16(2)(j)(ii) to (v) and (k)(ii) of the FFAR,

(13) clubs are prohibited from agreeing on remuneration or elements of remuneration with players' agents for the future transfer of a player or from paying remuneration or elements of remuneration to players' agents, the calculation basis for which is (also) dependent on future transfer compensation received by the club from a subsequent transfer of the player,

as provided for in Article 18ter(1), first alternative, of the FIFA Regulations on the Status and Transfer of Players ('the FIFA RSTP') and Article 16(3)(e) of the FFAR.

([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 (General Data Protection Regulation) (OJ 2016 L 119, p. 1).

Request for a preliminary ruling from the Fővárosi Törvényszék (Hungary) lodged on 11 April 2023 — FR v Nemzety Adó- és Vámhivatal Fellebbviteli Igazgatósága

(Case C-225/23, Pinta ([1])**)**

(2023/C 235/18)

Language of the case: Hungarian

Referring court

Fővárosi Törvényszék

Parties to the main proceedings

Applicant: FR

Defendant: Nemzety Adó- és Vámhivatal Fellebbviteli Igazgatósága

Questions referred

1. Should Article 54(3)(g) and Article 58 of the Treaty establishing the European Economic Community ('EEC Treaty'), which determine the effects of Council Directive 78/660/EEC ([2]) ('the Fourth Directive'), be interpreted as meaning that those provisions do not cover taxable persons who are private individuals, but instead apply only to companies to which Article 58 of the EEC Treaty refers?

2. If the answer is in the affirmative, does this mean that, in so far as concerns the effects of the Fourth Directive, the provisions of that directive which lay down accounting, preparation of supporting documents, record-keeping and disclosure obligations do not apply to taxable persons who are private individuals, that is to say, the obligations laid down in that directive apply only to companies which fall within the scope thereof, with the result that those obligations are not enforceable against taxable persons who are private individuals and cannot be used against them in the context of tax-related administrative proceedings or of judicial proceedings intended to examine whether they have complied with their tax obligations?

3. Independently of the preceding questions, is an action of the tax authority of a Member State, which consists in determining a tax difference owed by a taxable person who is a private individual, on the basis of the provisions referred to in the Law on Accounting, solely because the taxable person, for reasons for which he or she is not responsible, has not been able to make available to the tax authority all the accounting documents of several commercial companies which were independent of the taxable person at the time when the tax inspection was conducted or the registration of which on the Register had been cancelled, in order to prove that he or she paid to those companies cash amounts which he or she handled in the course of the functions that he or she performed previously within those companies or by agreement, or which were transferred to his or her private bank account, and, consequently, the tax authority relies on the absence of certain documents which the taxable person was unlikely to have had for objective reasons at the time when the tax inspection was conducted, and which he or she could not have influenced in terms of their creation or form of preparation, in conformity with basic accounting principles and with the objective and function of the publication requirement, as laid down in Articles 2, 31, 47, 48 and 51 of the Fourth Directive, the right to a fair trial enshrined as a general principle in Article 47 of the Charter of Fundamental Rights of the European Union ('the Charter') and with the fundamental principles of legal certainty and proportionality?

4. Are the recitals and Articles 2, 31, 47, 48 and 51 of the Fourth Directive to be interpreted as meaning that fulfilment of the obligations laid down therein gives rise to a legal presumption that the information contained in the annual financial statements as published complies with basic accounting principles, in particular the principle of accuracy and the principle of justification, and with the accounting documents based thereon?

5. Is an action whereby the tax authority does not accept that certain accounting documents prepared in accordance with accounting rules constitute reliable evidence in themselves in conformity with Articles 2, 31, 47, 48 and 51 of the Fourth Directive, as well as the right to a fair trial enshrined in Article 47 of the Charter and the principles of legal certainty and of the primacy and effectiveness of European Union law?

6. Is an action whereby the tax authority accepts neither the annual financial statements published by the company as information for the audit of accounting documents (till receipts) adjusted in terms of form and submitted by the taxable person, who is a private individual, nor the statements or declarations corroborating the same, stating that those financial statements are in themselves insufficient since, in order reliably to demonstrate the movements of funds that form the subject matter of the dispute, the entirety of the company's accounting documents for the financial year under examination is required, in conformity with Articles 2, 31, 47, 48 and 51 of the Fourth Directive, as well as the right to a fair trial enshrined in Article 47 of the Charter and the principle of legal certainty? Should it be inferred from the aforementioned articles of the Fourth Directive that the probative value of the entirety of the accounting documents prepared in accordance with those articles, in relation to the evidence of cash payments made from the company's bank account, is greater than that of the annual financial statements published in accordance with Articles 48 and 51 of the Fourth Directive or that of certain till receipts prepared in accordance with the same accounting rules?

([1]) The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

([2]) Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54(3)(g) of the Treaty on the annual accounts of certain types of companies (OJ 1978 L 222, p. 11).

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 13 April 2023 — Paolo Beltrami S.p.A. v Comune di Milano

(Case C-235/23, Paolo Beltrami)

(2023/C 235/19)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellant: Paolo Beltrami S.p.A.

Respondent: Comune di Milano

Question referred

Do Articles 16, 49, 50 and 52 of the Charter of Fundamental Rights of the European Union, Article 4 of Protocol 7 to the European Convention on Human Rights (ECHR), Article 6 TEU, the principles of proportionality, competition, freedom of establishment and freedom to provide services laid down in Articles 49, 50, 54 and 56 TFEU preclude a national rule (as contained in Article 75 of decreto legislativo n. 163 del 2006 (Legislative Decree No 163 of 2006)) which provides for the application of the penalty of forfeiture of the provisional security, as an automatic consequence of the exclusion of an economic operator from a procedure for the award of a public service contract, irrespective of whether or not that economic operator has been awarded the contract?

Appeal brought on 17 April 2023 by the European Commission against the judgment of the General Court (Eighth Chamber, Extended Composition) delivered on 8 February 2023 in Case T-522/20, Carpatair v Commission

(Case C-244/23 P)

(2023/C 235/20)

Language of the case: English

Parties

Appellant: European Commission (represented by: I. Georgiopoulos, F. Tomat, Agents)

Other parties to the proceedings: Carpatair SA, Wizz Air Hungary Légiközlekedési Zrt. (Wizz Air Hungary Zrt.), Societatea Națională 'Aeroportul Internațional Timişoara — Traian Vuia' SA (AITTV)

Form of order sought

The Appellant claims that the Court should:

— set aside the judgment of the General Court (Eighth Chamber, Extended Composition) of 8 February 2023 in case T-522/20, Carpatair v Commission, in so far as it upheld the second plea in law in that case and found that the Commission erred in law by concluding that the agreements concluded in 2008 and 2010 between Societatea Națională 'Aeroportul Internațional Timişoara — Traian Vuia' SA (AITTV) and Wizz Air Hungary Légiközlekedési Zrt. (Wizz Air Hungary Zrt.) did not confer an advantage on Wizz Air;

— reject the second plea in law in Case T-522/20, and

— order Carpatair SA to pay the costs of both proceedings.

Pleas in law and main arguments

By the judgment under appeal, the General Court annulled Article 2 of Commission Decision (EU) 2021/1428 ([1]) of 24 February 2020 on the State Aid SA.31662 — C/2011 (ex NN/2011) implemented by Romania for Timişoara International Airport — Wizz Air in so far as it concluded that the airport charges in the Aeronautical Information Publication of 2010 and the agreements concluded between Societatea Națională 'Aeroportul Internațional Timişoara — Traian Vuia' SA (AITTV) and Wizz Air Hungary Légiközlekedési Zrt. (Wizz Air Hungary Zrt.) in 2008 (including the 2010 amendment agreements) do not constitute State aid.

The Commission puts forward a single ground in support of its appeal against the judgment.

Ground of appeal: In paragraphs 179 to 201 of the judgment under appeal, the General Court erred in law in the interpretation of Article 107(1) TFEU, failed to state reasons due to an inadequate and contradictory reasoning, misrepresented and misinterpreted the Decision. This ground of appeal is divided into five parts:

— First part: In paragraphs 186 to 192 of the judgment under appeal, the General Court erred in law in the interpretation of Article 107(1) TFEU, in particular regarding the application of the market economy operator principle. The General Court erred in law by considering that the absence of a prior evaluation is per se a decisive element for the application of that principle.

— Second part: In paragraphs 186 to 192 of the judgment under appeal, the General Court erred in law in the interpretation of Article 107(1) TFEU, in particular regarding the application of the market economy operator principle, by rejecting the relevance of ex ante profitability analyses reconstructed ex post based on data available and developments foreseeable at the time when the decision to adopt a measure was taken.

— Third part: In paragraphs 179 to 185 of the judgment under appeal, the General Court erred in law in the interpretation of Article 107(1) TFEU, in particular regarding the application of the market economy operator principle and the type of evidence required for the application of that principle. Moreover, in paragraphs 182 and 184 of the judgment under appeal, the General Court failed to state reasons due to inadequate and contradictory reasoning.

— Fourth part: In paragraphs 186 to 192 of the judgment under appeal, the General Court erred in law in the interpretation of Article 107(1) TFEU, in particular regarding the application of the market economy operator principle and the relevance of factors arising after a measure has been taken. The General Court failed to distinguish between factors arising after a measure has been adopted and economic studies and analyses that have been carried out after the adoption of that measure but are based on information available and developments foreseeable at the time when the decision to proceed with the measure was taken. Moreover, in paragraphs 196 and 197 of the judgment under appeal, the General Court misrepresented and misinterpreted Commission Decision (EU) 2021/1428 of 24 February 2020 on the State Aid SA.31662.

— Fifth part: In paragraphs 193 and 195 of the judgment under appeal, the General Court erred in law in the interpretation of Article 107(1) TFEU, failed to state reasons due to inadequate and contradictory reasoning, misrepresented and misinterpreted Commission Decision (EU) 2021/1428 of 24 February 2020 on the State Aid SA.31662.

Finally, the General Court impermissibly extended the conclusions drawn in relation to the 2008 agreements to the 2010 amendment agreements. The findings in paragraphs 170 to 198 of the judgment under appeal concern exclusively the 2008 agreements. However, paragraph 199 and point 1 of the operative part of that judgment refer also to the 2010 amendment agreements; those references are not supported by the findings contained in the contested judgment. Therefore, the contested judgment is vitiated by a failure to state reasons.

(1) OJ 2021, L 308, p. 1.

Appeal brought on 17 April 2023 by Wizz Air Hungary Légiközlekedési Zrt. (Wizz Air Hungary Zrt.) against the judgment of the General Court (Eighth Chamber, Extended Composition) delivered on 8 February 2023 in Case T-522/20, Carpatair v Commission

(Case C-245/23 P)

(2023/C 235/21)

Language of the case: English

Parties

Appellant: Wizz Air Hungary Légiközlekedési Zrt. (Wizz Air Hungary Zrt.) (represented by: E. Vahida, avocat, S. Rating, abogado, I.-G. Metaxas-Maranghidis, Δικηγόρος)

Other parties to the proceedings: Carpatair SA, European Commission, Societatea Națională 'Aeroportul Internațional Timişoara — Traian Vuia' SA (AITTV)

Form of order sought

The Appellant claims that the Court should:

— set aside the judgment of the General Court in Case T-522/20, Carpatair SA v European Commission;

— dismiss the action brought by Carpatair for annulment of European Commission Decision (EU) 2021/1428 ([1]) of 24 February 2020 on the State Aid SA.31662 — C/2011 (ex NN/2011) implemented by Romania for Timişoara International Airport — Wizz Air, and

— order Carpatair to bear its own costs and to pay the costs incurred by Wizz Air both before the General Court and in the proceedings before the Court of Justice.

Alternatively:

— set aside the judgment of the General Court in Case T-522/20, Carpatair SA v European Commission;

— refer back the case to the General Court for reconsideration, and

— reserve the costs of the proceedings at first instance and on appeal.

Pleas in law and main arguments

The Appellant submits that the judgment under appeal should be set aside on the following grounds.

— First ground of appeal: the General Court distorted the evidence and violated an essential procedural requirement in its findings of a causality link between the 2008 and 2010 agreements between Wizz Air and the airport and alleged substantial effects suffered by Carpatair.

— Second ground of appeal: the General Court failed to state reasons for the existence of a substantial effect suffered by Carpatair as a result of the 2010 Aeronautical Information Publication and of an interest to act regarding the same measure.

— Third ground of appeal: the General Court made an error of law in its finding that the Commission's finding that the 2010 Aeronautical Information Publication was non-selective was flawed.

— Fourth ground of appeal: the General Court made an error of law in its finding that the ex post report on the profitability of the 2008 and 2010 agreements which was based on ex ante data was irrelevant.

([1]) OJ 2021, L 308, p. 1.

Appeal brought on 17 April 2023 by Societatea Națională 'Aeroportul Internațional Timişoara — Traian Vuia' SA (AITTV) against the judgment of the General Court (Eighth Chamber, Extended Composition) delivered on 8 February 2023 in Case T-522/20, Carpatair v Commission

(Case C-246/23 P)

(2023/C 235/22)

Language of the case: English

Parties

Appellant: Societatea Națională 'Aeroportul Internațional Timişoara — Traian Vuia' SA (AITTV) (represented by: V. Power, R. Hourihan, Solicitors)

Other parties to the proceedings: Carpatair SA, European Commission, Wizz Air Hungary Légiközlekedési Zrt. (Wizz Air Hungary Zrt.)

Form of order sought

The Appellant claims that the Court should:

— set aside the General Court Judgment and dismiss the action for annulment brought by Carpatair against the Decision ([1]), and either give its own judgment in the matter dismissing Carpatair's case in full (including its third and fourth pleas left undecided by the General Court) or remit the matter to the General Court for a rehearing, and

— reserve the question of Carpatair's and AITTV's costs if the case is remitted to the General Court or, if this Honourable Court substitutes its own judgement then order Carpatair to pay its own costs and those of AITTV at first instance and on appeal.

Pleas in law and main arguments

The Appellant submits that the judgment under appeal should be set aside on the following grounds:

Plea 1 — erred in law by deeming Carpatair's action admissible despite Carpatair not being 'substantially affected' by the contested arrangements;

Plea 2 — erred in law in finding that the arrangements were selective;

Plea 3 — erred in law by rejecting the admissibility of the ex ante assessment;

Plea 4 — disregarded relevant considerations (e.g., by deeming the Oxera report as 'irrelevant'), and

Plea 5 — failed to sufficiently take into account evidence submitted by the Commission, Wizz and AITTV relating to the material lack of competition between Wizz and Carpatair when the arrangements were concluded.

(1) Commission Decision (EU) 2021/1428 of 24 February 2020 ON THE STATE AID SA.31662 — C/2011 (ex NN/2011) implemented by Romania for Timişoara International Airport — Wizz Air (OJ 2021, L 308, p. 1).

Request for a preliminary ruling from the Fővárosi Törvényszék (Hungary) lodged on 18 April 2023 — VP v Országos Idegenrendészeti Főigazgatóság

(Case C-247/23, Deldits [1]**)**

(2023/C 235/23)

Language of the case: Hungarian

Referring court

Fővárosi Törvényszék

Parties to the main proceedings

Applicant: VP

Defendant: Országos Idegenrendészeti Főigazgatóság

Questions referred

1. Must Article 16 of the GDPR [2] be interpreted as meaning that, in connection with the exercise of the rights of the data subject, the authority responsible for keeping registers under national law is required to rectify the personal data relating to the sex of that data subject recorded by that authority, where those data have changed after they were entered in the register and therefore do not comply with the principle of accuracy established in Article 5(1)(d) of the GDPR?

2. If the answer to the first question referred is in the affirmative, must Article 16 of the GDPR be interpreted as meaning that it requires the person requesting rectification of the data relating to his or her sex to provide evidence in support of the request for rectification?

3. If the answer to the second question referred is in the affirmative, must Article 16 of the GDPR be interpreted as meaning that the person making the request is required to prove that he or she has undergone sex reassignment surgery?

(1) The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.
(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 (General Data Protection Regulation) (Text with EEA relevance) (OJ 2016 L 119, p. 1).

Request for a preliminary ruling from the Fővárosi Törvényszék (Hungary) lodged on 18 April 2023 — Novo Nordisk AS v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

(Case C-248/23, Novo Nordisk)

(2023/C 235/24)

Language of the case: Hungarian

Referring court

Fővárosi Törvényszék

Parties to the main proceedings

Applicant: Novo Nordisk AS

Defendant: Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

Question referred

Must Article 90(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ([1]) be interpreted as precluding the national legislation at issue in the main proceedings, under which a pharmaceutical company which makes payments *ex lege* to the State health insurance agency based on the revenue obtained from publicly funded pharmaceutical products is not entitled subsequently to reduce the taxable amount, by reason of the fact that the payments are made *ex lege*, that payments made under a funding volume agreement and investments made by the company in research and development in the health sector may be deducted from the base amount for the payment obligation, and that the amount payable is collected by the State tax authority, which immediately transfers it to the State health insurance agency?

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

Appeal brought on 18 April 2023 by ClientEarth AISBL against the judgment of the General Court (Sixth Chamber) delivered on 01 February 2023 in Case T-354/21, ClientEarth v Commission

(Case C-249/23 P)

(2023/C 235/25)

Language of the case: English

Parties

Appellant: ClientEarth AISBL (represented by: O. W. Brouwer, and T. C. van Helfteren, advocaten)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal;

— render final judgment and annul the Commission Decision C(2021) 4348 final of 7 April 2021 refusing access to certain documents requested pursuant to Regulation (EC) No 1049/2001 ([1]) of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, or alternatively

— refer the case back to the General Court for determination in accordance with the judgment of the Court of Justice; and

— order the Commission to pay the costs of these proceedings and of the proceedings before the General Court, including the costs relating to any intervening parties.

Pleas in law and main arguments

In support of the appeal, the appellant relies on two pleas in law.

First plea: the judgment of the General Court is vitiated by contradictory reasoning, a denaturation of evidence, and an error of law in the application of the legal standard for assessing if there is an overriding public interest that can justify disclosure within the meaning of Article 4(2) of Regulation 1049/2001.

Second plea: the judgment of the General Court is vitiated by insufficient reasoning as regards the rejection of the existence of an overriding public interest.

(1) OJ 2001 L 145, p. 43.

Request for a preliminary ruling from the Ekonomisko lietu tiesa (Latvia) lodged on 19 April 2023 — criminal proceedings against A, B, C, D, F, E, G, SIA AVVA, SIA Liftu alianse

(Case C-255/23, AVVA and Others)

(2023/C 235/26)

Language of the case: Latvian

Referring court

Ekonomisko lietu tiesa

Criminal proceedings against

A, B, C, D, F, E, G, SIA AVVA, SIA Liftu alianse

Questions referred

1. Do Articles 1(1), 6(1)(a) and 24(1), second subparagraph, of Directive 2014/41 (1) permit legislation of a Member State according to which a person residing in a different Member State may, without a European investigation order being issued, participate by videoconference, as an accused person, in judicial proceedings, where the accused person is not being heard in that phase of the proceedings, that is to say, where no evidence is being gathered, provided the person directing the proceedings in the Member State in which the case is being tried is able, by technical means, to verify the identity of the person in the other Member State and provided that person's rights of the defence and assistance by an interpreter are ensured?

2. If the answer to the first question is in the affirmative, could the consent of the person who is to be heard constitute an independent or supplementary criterion or prerequisite for that person to participate by videoconference in the judicial proceedings in question, where no evidence is being gathered in that phase of the proceedings, if the person directing the proceedings in the Member State in which the case is being tried is able, by technical means, to verify the identity of the person who is in the other Member State and provided that person's rights of the defence and assistance by an interpreter are ensured?

(1) Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters (OJ 2014 L 130, p. 1).

Appeal brought on 8 May 2023 by the Republic of Bulgaria against the judgment of the General Court, delivered on 8 March 2023 in Case T-235/21, Republic of Bulgaria v European Commission

(Case C-294/23 P)

(2023/C 235/27)

Language of the case: Bulgarian

Parties

Appellant: Republic of Bulgaria (represented by: T. Mitova and S. Ruseva, acting as Agents)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside in its entirety the judgment of the General Court of 8 March 2023, in Case T-235/21, *Republic of Bulgaria* v *European Commission* (EU:T:2023:105) and give final judgment or, in the alternative, refer the case back before the General Court for a ruling on the dispute, and

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

Grounds of appeal and main arguments

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

1. The General Court erred in law in its interpretation of Article 52(3) of Regulation No 1306/2013 ([1]) and Article 34 of Regulation No 908/2014, ([2]) in conjunction with Articles 52(1) and 54(5) of Regulation No 1306/2013, and of the obligation to state reasons laid down in Article 296 TFEU, and of the principles of good administration and sincere cooperation and thus reached the incorrect conclusion that the rights of the defence of the Republic of Bulgaria and the procedural guarantees arising from the conformity clearance procedure, the obligation to state reasons for measures, as well as the principles of good administration and sincere cooperation were respected. The reasoning in the judgment is insufficient and inappropriate since the General Court did not assess all the relevant facts and arguments put forward by the Republic of Bulgaria.

2. The General Court erred in law in its interpretation of Article 54(5)(a) and (c), in conjunction with Article 5491) of Regulation No 1306/2013, considering that, in the present case, the time limit of 18 months laid down in Article 54(1) of Regulation No 1306/2013 had started running 'when the paying agency received' OLAF's final reports. The General Court's findings in paragraphs 76 to 78 of the judgment in Case T-235/21 are contrary to the settled case-law to the effect that decisions under Article 52 of Regulation No 306/2013 are to be taken at the conclusion of a specific procedure giving effect to the *audi alteram partem* rule and the various documents exchanged during the administrative procedure are preparatory documents for the adoption of a decision.

([1]) Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ L 347, 2013, p. 549).

([2]) Commission Implementing Regulation (EU) No 908/2014 of 6 August 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, rules on checks, securities and transparency (OJ L 255, 2014, p. 59).

Appeal brought on 11 May 2023 by Harley-Davidson Europe Ltd and Neovia Logistics Services International against the judgment of the General Court (Eighth Chamber, Extended Composition) delivered on 1 March 2023 in Case T-324/21, Harley-Davidson Europe and Neovia Logistics Services International v Commission

(Case C-297/23 P)

(2023/C 235/28)

Language of the case: English

Parties

Appellants: Harley-Davidson Europe Ltd and Neovia Logistics Services International (represented by: E. Righini, avvocato and S. Völcker, Rechtsanwalt)

Other party to the proceedings: European Commission

Form of order sought

The appellants claim that the Court should:

— set aside the judgment under appeal;

— annul the contested decision; and

— order the Commission to pay the appellants' costs before this Court and before the General Court.

Pleas in law and main arguments

1. First plea in law, alleging errors of law regarding the General Court's interpretation of Article 33 of the Commission Delegated Regulation (EU) 2015/2446 ([1]) ('UCC-DA'). The General Court failed to assess the purpose and context of Article 33 UCC-DA, it unfairly disregarded the right of traders to respond to commercial policy measures of the European Union by relocating their production operations, and incorrectly interpreted the standard of proof necessary to shift the burden of proof to the appellants.

2. Second plea in law, alleging errors of law regarding the General Court's conclusion that Article 33 UCC-DA does not exceed the limits of the delegation conferred on the Commission by Article 62 of Regulation (EU) No 952/2013 ([2]) laying down the Union Customs Code.

3. Third plea in law, alleging a violation of the appellants' right to good administration. The General Court wrongly upheld the Contested Decision despite finding a breach of the appellants' right to be heard, and erred in concluding that the length of the Commission's procedure, including the period to initiate formal proceedings, was not excessive in breach of the reasonable time principle and the appellants' legitimate expectations.

([1]) Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ 2015, L 343, p. 1).

([2]) Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ .2013, L 269, p. 1).

GENERAL COURT

Judgment of the General Court of 17 May 2023 — EVH v Commission

(Case T-312/20) ([1])

(Competition — Concentrations — German electricity market — Decision declaring a concentration compatible with the internal market — Action for annulment — Locus standi — Admissibility — Obligation to state reasons — Concept of a 'single concentration' — Right to effective judicial protection — Right to be heard — Definition of the market — Analysis period — Analysis of market power — Decisive influence — Manifest errors of assessment — Due diligence obligation)

(2023/C 235/29)

Language of the case: German

Parties

Applicant: EVH GmbH (Halle-sur-Saale, Germany) (represented by: I. Zenke and T. Heymann, lawyers)

Defendant: European Commission (represented by: G. Meessen and I. Zaloguin, acting as Agents, and by T. Funke and A. Dlouhy, lawyers)

Interveners in support of the defendant: Federal Republic of Germany (represented by: J. Möller and S. Costanzo, acting as Agents), E.ON SE (Essen, Germany) (represented by: C. Grave, C. Barth and D.-J. dos Santos Goncalves, lawyers), RWE AG (Essen) (represented by: U. Scholz, J. Siegmund and J. Ziebarth, lawyers)

Re:

By its action based on Article 263 TFEU, the applicant seeks the annulment of Commission Decision C(2019) 1711 final of 26 February 2019 declaring a concentration to be compatible with the internal market and the EEA Agreement (Case M.8871 — RWE/E.ON Assets) (OJ 2020 C 111, p. 1).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders EVH GmbH to bear its own costs and to pay those incurred by the European Commission, E.ON SE and RWE AG;

3. Orders the Federal Republic of Germany to bear its own costs.

([1]) OJ C 247, 27.7.2020.

Judgment of the General Court of 17 May 2023 — Stadtwerke Leipzig v Commission

(Case T-313/20) ([1])

(Competition — Concentrations — German electricity market — Decision declaring the concentration compatible with the internal market — Action for annulment — Standing to bring proceedings — Admissibility — Obligation to state reasons — Definition of 'single concentration' — Right to effective judicial protection — Right to be heard — Definition of the market — Analysis period — Analysis of market power — Decisive influence — Manifest errors of assessment — Duty of care)

(2023/C 235/30)

Language of the case: German

Parties

Applicant: Stadtwerke Leipzig GmbH (Leipzig, Germany) (represented by: I. Zenke and T. Heymann, lawyers)

Defendant: European Commission (represented by: G. Meessen and I. Zaloguin, acting as Agents, and by T. Funke and A. Dlouhy, lawyers)

Interveners in support of the defendant: Federal Republic of Germany (represented by: J. Möller and S. Costanzo, acting as Agents), E.ON SE (Essen, Germany) (represented by: C. Grave, C. Barth and D.-J. dos Santos Goncalves, lawyers), RWE AG (Essen) (represented by: U. Scholz, J. Siegmund and J. Ziebarth, lawyers)

Re:

By its action under Article 263 TFEU, the applicant seeks annulment of Commission Decision C(2019) 1711 final of 26 February 2019, declaring a concentration compatible with the internal market and the EEA Agreement (Case M.8871 — RWE/E.ON Assets) (OJ 2020 C 111, p. 1).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Stadtwerke Leipzig GmbH to bear its own costs and to pay those incurred by the European Commission, E.ON SE and RWE AG;

3. Orders the Federal Republic of Germany to bear its own costs.

([1]) OJ C 247, 27.7.2020.

Judgment of the General Court of 17 May 2023 — Stadtwerke Hameln Weserbergland v Commission

(Case T-314/20) ([1])

(Competition — Concentrations — German electricity market — Decision declaring the concentration compatible with the internal market — Action for annulment — No standing to bring proceedings — No active participation — Inadmissibility)

(2023/C 235/31)

Language of the case: German

Parties

Applicant: Stadtwerke Hameln Weserbergland GmbH, formerly GWS Stadtwerke Hameln GmbH (Hamelin, Germany) (represented by: I. Zenke and T. Heymann, lawyers)

Defendant: European Commission (represented by: G. Meessen and I. Zaloguin, acting as Agents, and by T. Funke and A. Dlouhy, lawyers)

Interveners in support of the defendant: Federal Republic of Germany (represented by: J. Möller and S. Costanzo, acting as Agents), E.ON SE (Essen, Germany) (represented by: C. Grave, C. Barth and D.-J. dos Santos Goncalves, lawyers), RWE AG (Essen) (represented by: U. Scholz, J. Siegmund and J. Ziebarth, lawyers)

Re:

By its action under Article 263 TFEU, the applicant seeks annulment of Commission Decision C(2019) 1711 final of 26 February 2019, declaring a concentration compatible with the internal market and the EEA Agreement (Case M.8871 — RWE/E.ON Assets) (OJ 2020 C 111, p. 1).

Operative part of the judgment

The Court:

1. Dismisses the action as inadmissible;

2. Orders Stadtwerke Hameln Weserbergland GmbH to bear its own costs and to pay those incurred by the European Commission, E.ON SE and RWE AG;

3. Orders the Federal Republic of Germany to bear its own costs.

(1) OJ C 247, 27.7.2020.

Judgment of the General Court of 17 May 2023 — TEAG v Commission

(Case T-315/20) (1)

(Competition — Concentrations — German electricity market — Decision declaring the concentration compatible with the internal market — Action for annulment — Standing to bring proceedings — Admissibility — Obligation to state reasons — Definition of 'single concentration' — Right to effective judicial protection — Right to be heard — Definition of the market — Analysis period — Analysis of market power — Decisive influence — Manifest errors of assessment — Duty of care)

(2023/C 235/32)

Language of the case: German

Parties

Applicant: TEAG Thüringer Energie AG (Erfurt, Germany) (represented by: I. Zenke and T. Heymann, lawyers)

Defendant: European Commission (represented by: G. Meessen and I. Zaloguin, acting as Agents, and by T. Funke and A. Dlouhy, lawyers)

Interveners in support of the defendant: Federal Republic of Germany (represented by: J. Möller and S. Costanzo, acting as Agents), E.ON SE (Essen, Germany) (represented by: C. Grave, C. Barth and D.-J. dos Santos Goncalves, lawyers), RWE AG (Essen) (represented by: U. Scholz, J. Siegmund and J. Ziebarth, lawyers)

Re:

By its action under Article 263 TFEU, the applicant seeks annulment of Commission Decision C(2019) 1711 final of 26 February 2019, declaring a concentration compatible with the internal market and the EEA Agreement (Case M.8871 — RWE/E.ON Assets) (OJ 2020 C 111, p. 1).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders TEAG Thüringer Energie AG to bear its own costs and to pay those incurred by the European Commission, E.ON SE and RWE AG;

3. Orders the Federal Republic of Germany to bear its own costs.

(1) OJ C 247, 27.7.2020.

Judgment of the General Court of 17 May 2023 — Naturstrom v Commission

(Case T-316/20) (1)

(Competition — Concentrations — German electricity market — Decision declaring the concentration compatible with the internal market — Action for annulment — No standing to bring proceedings — No active participation — Inadmissibility)

(2023/C 235/33)

Language of the case: German

Parties

Applicant: Naturstrom AG (Düsseldorf, Germany) (represented by: I. Zenke and T. Heymann, lawyers)

Defendant: European Commission (represented by: G. Meessen and I. Zaloguin, acting as Agents, and by T. Funke and A. Dlouhy, lawyers)

Interveners in support of the defendant: Federal Republic of Germany (represented by: J. Möller and S. Costanzo, acting as Agents), E.ON SE (Essen, Germany) (represented by: C. Grave, C. Barth and D.-J. dos Santos Goncalves, lawyers), RWE AG (Essen) (represented by: U. Scholz, J. Siegmund and J. Ziebarth, lawyers)

Re:

By its action under Article 263 TFEU, the applicant seeks annulment of Commission Decision C(2019) 1711 final of 26 February 2019, declaring a concentration compatible with the internal market and the EEA Agreement (Case M.8871 — RWE/E.ON Assets) (OJ 2020 C 111, p. 1).

Operative part of the judgment

The Court:

1. Dismisses the action as inadmissible;

2. Orders Naturstrom AG to bear its own costs and to pay those incurred by the European Commission, E.ON SE and by RWE AG;

3. Orders the Federal Republic of Germany to bear its own costs.

([1]) OJ C 247, 27.7.2020.

Judgment of the General Court of 17 May 2023 — EnergieVerbund Dresden v Commission

(Case T-317/20) ([1])

(Competition — Concentrations — German electricity market — Decision declaring the concentration compatible with the internal market — Action for annulment — Standing to bring proceedings — Admissibility — Obligation to state reasons — Definition of 'single concentration' — Right to effective judicial protection — Right to be heard — Definition of the market — Analysis period — Analysis of market power — Decisive influence — Manifest errors of assessment — Duty of care)

(2023/C 235/34)

Language of the case: German

Parties

Applicant: EnergieVerbund Dresden GmbH (Dresden, Germany) (represented by: I. Zenke and T. Heymann, lawyers)

Defendant: European Commission (represented by: G. Meessen and I. Zaloguin, acting as Agents, and by T. Funke and A. Dlouhy, lawyers)

Interveners in support of the defendant: Federal Republic of Germany (represented by: J. Möller and S. Costanzo, acting as Agents), E.ON SE (Essen, Germany) (represented by: C. Grave, C. Barth and D.-J. dos Santos Goncalves, lawyers), RWE AG (Essen) (represented by: U. Scholz, J. Siegmund and J. Ziebarth, lawyers)

Re:

By its action under Article 263 TFEU, the applicant seeks annulment of Commission Decision C(2019) 1711 final of 26 February 2019, declaring a concentration compatible with the internal market and the EEA Agreement (Case M.8871 — RWE/E.ON Assets) (OJ 2020 C 111, p. 1).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders EnergieVerbund Dresden GmbH to bear its own costs and to pay those incurred by the European Commission, E. ON SE and RWE AG;

3. Orders the Federal Republic of Germany to bear its own costs.

(1) OJ C 240, 20.7.2020.

Judgment of the General Court of 17 May 2023 — eins energie in sachsen v Commission

(Case T-318/20) (1)

(Competition — Concentrations — German electricity market — Decision declaring the concentration compatible with the internal market — Action for annulment — Lack of standing — Lack of active participation — Inadmissibility)

(2023/C 235/35)

Language of the case: German

Parties

Applicant: eins energie in sachsen GmbH & Co. KG (Chemnitz, Germany) (represented by: I. Zenke and T. Heymann, lawyers)

Defendant: European Commission (represented by: G. Meessen and I. Zaloguin, acting as Agents, and by T. Funke and A. Dlouhy, lawyers)

Interveners in support of the defendant: Federal Republic of Germany (represented by: J. Möller and S. Costanzo, acting as Agents), E.ON SE (Essen, Germany) (represented by: C. Grave, C. Barth and D.-J. dos Santos Goncalves, lawyers), RWE AG (Essen) (represented by: U. Scholz, J. Siegmund and J. Ziebarth, lawyers)

Re:

By its action under Article 263 TFEU, the applicant seeks annulment of Commission Decision C(2019) 1711 final of 26 February 2019 declaring a concentration to be compatible with the internal market and with the EEA Agreement (Case M.8871 — RWE/E.ON Assets) (OJ 2020 C 111, p. 1).

Operative part of the judgment

The Court:

1. Dismisses the action as inadmissible;

2. Orders eins energie in sachsen GmbH & Co. KG to bear its own costs and to pay those incurred by the European Commission, E.ON SE and RWE AG.

3. Orders the Federal Republic of Germany to bear its own costs.

(1) OJ C 240, 20.7.2020.

Judgment of the General Court of 17 May 2023 — GGEW v Commission

(Case T-319/20) (1)

(Competition — Concentrations — German electricity market — Decision declaring the concentration to be compatible with the internal market — Action for annulment — Standing to bring proceedings — Admissibility — Obligation to state reasons — Concept of a 'single concentration' — Right to effective judicial protection — Right to be heard — Definition of the market — Period of analysis — Analysis of market power — Decisive influence — Manifest errors of assessment — Duty of diligence)

(2023/C 235/36)

Language of the case: German

Parties

Applicant: GGEW, Gruppen-Gas- und Elektrizitätswerk Bergstraße AG (Bensheim, Germany) (represented by: I. Zenke and T. Heymann, lawyers)

Defendant: European Commission (represented by: G. Meessen and I. Zaloguin, acting as Agents, and by T. Funke and A. Dlouhy, lawyers)

Interveners in support of the defendant: Federal Republic of Germany (represented by: J. Möller and S. Costanzo, acting as Agents), E.ON SE (Essen, Germany) (represented by: C. Grave, C. Barth and D.-J. dos Santos Goncalves, lawyers), RWE AG (Essen) (represented by: U. Scholz, J. Siegmund and J. Ziebarth, lawyers)

Re:

By its action under Article 263 TFEU, the applicant seeks the annulment of Commission Decision C(2019) 1711 final of 26 February 2019 declaring a concentration to be compatible with the internal market and the EEA Agreement (Case M.8871 — RWE/E.ON Assets) (OJ 2020 C 111, p. 1).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders GGEW, Gruppen-Gas- und Elektrizitätswerk Bergstraße AG to bear its own costs and to pay those incurred by the European Commission, E.ON SE and RWE AG.

3. Orders the Federal Republic of Germany to bear its own costs.

([1]) OJ C 240, 20.7.2020.

Judgment of the General Court of 17 May 2023 — Mainova v Commission

(Case T-320/20) ([1])

(Competition — Concentrations — German electricity market — Decision declaring the concentration compatible with the internal market — Action for annulment — No standing to bring proceedings — No active participation — Admissibility)

(2023/C 235/37)

Language of the case: German

Parties

Applicant: Mainova AG (Frankfurt, Germany) (represented by: C. Schalast and H. Löschan, lawyers)

Defendant: European Commission (represented by: G. Meessen and I. Zaloguin, acting as Agents, assisted by F. Haus and F. Schmidt, lawyers)

Interveners in support of the defendant: Federal Republic of Germany (represented by: J. Möller and S. Costanzo, acting as Agents), E.ON SE (Essen, Germany) (represented by: C. Grave, C. Barth and D.-J. dos Santos Goncalves, lawyers), RWE AG (Essen) (represented by: U. Scholz, J. Siegmund and J. Ziebarth, lawyers)

Re:

By its action under Article 263 TFEU, the applicant seeks annulment of Commission Decision C(2019) 1711 final of 26 February 2019, declaring a concentration compatible with the internal market and the EEA Agreement (Case M.8871 — RWE/E.ON Assets) (OJ 2020 C 111, p. 1).

Operative part of the judgment

The Court:

1. Dismisses the action as inadmissible;

2. Orders Mainova AG to bear its own costs and to pay those incurred by the European Commission, E.ON SE and RWE AG;

3. Orders the Federal Republic of Germany to bear its own costs.

(1) OJ C 247, 27.7.2020.

Judgment of the General Court of 17 May 2023 — enercity v Commission

(Case T-321/20) (1)

(Competition — Concentrations — German electricity market — Decision declaring a concentration compatible with the internal market — Action for annulment — No locus standi — No active participation — Inadmissibility)

(2023/C 235/38)

Language of the case: German

Parties

Applicant: enercity AG (Hanover, Germany) (represented by: C. Schalast and H. Löschan, lawyers)

Defendant: European Commission (represented by: G. Meessen and I. Zaloguin, acting as Agents, and by F. Haus and F. Schmidt, lawyers)

Interveners in support of the defendant: Federal Republic of Germany (represented by: J. Möller and S. Costanzo, acting as Agents), E.ON SE (Essen, Germany) (represented by: C. Grave, C. Barth and D.-J. dos Santos Goncalves, lawyers), RWE AG (Essen) (represented by: U. Scholz, J. Siegmund and J. Ziebarth, lawyers)

Re:

By its action based on Article 263 TFEU, the applicant seeks the annulment of Commission Decision C(2019) 1711 final of 26 February 2019 declaring a concentration to be compatible with the internal market and the EEA Agreement (Case M.8871 — RWE/E.ON Assets) (OJ 2020 C 111, p. 1).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders enercity AG to bear its own costs and to pay those incurred by the European Commission, E.ON SE and RWE AG;

3. Orders the Federal Republic of Germany to bear its own costs.

(1) OJ C 247, 27.7.2020.

Judgment of the General Court of 17 May 2023 — Stadtwerke Frankfurt am Main v Commission

(Case T-322/20) (1)

(Competition — Concentrations — German electricity market — Decision declaring the concentration compatible with the internal market — Action for annulment — No standing to bring proceedings — Inadmissibility)

(2023/C 235/39)

Language of the case: German

Parties

Applicant: Stadtwerke Frankfurt am Main Holding GmbH (Frankfurt am Main, Germany) (represented by: C. Schalast and H. Löschan, lawyers)

Defendant: European Commission (represented by: G. Meessen and I. Zaloguin, acting as Agents, and by F. Haus and F. Schmidt, lawyers)

Interveners in support of the defendant: Federal Republic of Germany (represented by: J. Möller and S. Costanzo, acting as Agents), E.ON SE (Essen, Germany) (represented by: C. Grave, C. Barth and D.-J. dos Santos Goncalves, lawyers), RWE AG (Essen) (represented by: U. Scholz, J. Siegmund and J. Ziebarth, lawyers)

Re:

By its action under Article 263 TFEU, the applicant seeks annulment of Commission Decision C(2019) 1711 final of 26 February 2019, declaring a concentration compatible with the internal market and the EEA Agreement (Case M.8871 — RWE/E.ON Assets) (OJ 2020 C 111, p. 1).

Operative part of the judgment

The Court:

1. Dismisses the action as inadmissible;

2. Orders Stadtwerke Frankfurt am Main Holding GmbH to bear its own costs and to pay those incurred by the European Commission, E.ON SE and RWE AG;

3. Orders the Federal Republic of Germany to bear its own costs.

([1]) OJ C 247, 27.7.2020.

Judgment of the General Court of 24 May 2023 — Meta Platforms Ireland v Commission

(Case T-451/20) ([1])

(Competition — Data market — Administrative procedure — Article 18(3) and Article 24(1)(d) of Regulation (EC) No 1/2003 — Request for information — Virtual data room — Obligation to state reasons — Legal certainty — Rights of the defence — Necessity of the information requested — Misuse of powers — Right to privacy — Proportionality — Principle of good administration — Professional secrecy)

(2023/C 235/40)

Language of the case: English

Parties

Applicant: Meta Platforms Ireland Ltd, formerly Facebook Ireland Ltd (Dublin, Ireland) (represented by: D. Jowell KC, D. Bailey, Barrister, J. Aitken, D. Das, S. Malhi, R. Haria, M. Quayle, Solicitors, and T. Oeyen, lawyer)

Defendant: European Commission (represented by: G. Conte, C. Urraca Caviedes and C. Sjödin, acting as Agents)

Intervener in support of the defendant: Federal Republic of Germany (represented by: S. Costanzo, acting as Agent)

Re:

By its action under Article 263 TFEU, the applicant seeks annulment of Commission Decision C(2020) 3011 final of 4 May 2020 relating to a proceeding pursuant to Article 18(3) and to Article 24(1)(d) of Council Regulation (EC) No 1/2003 (Case AT.40628 — Facebook Data-related practices), as amended by Commission Decision C(2020) 9231 final of 11 December 2020.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Meta Platforms Ireland Ltd to bear its own costs and to pay those incurred by the European Commission, including those incurred in the proceedings for interim relief;

3. Orders the Federal Republic of Germany to bear its own costs.

([1]) OJ C 287, 31.8.2020.

Judgment of the General Court of 24 May 2023 — Meta Platforms Ireland v Commission

(Case T-452/20) ([1])

(Competition — Data market — Administrative procedure — Article 18(3) and Article 24(1)(d) of Regulation (EC) No 1/2003 — Request for information — Virtual data room — Obligation to state reasons — Legal certainty — Rights of the defence — Necessity of the information requested — Misuse of powers — Right to privacy — Proportionality — Principle of good administration — Professional secrecy)

(2023/C 235/41)

Language of the case: English

Parties

Applicant: Meta Platforms Ireland Ltd, formerly Facebook Ireland Ltd (Dublin, Ireland) (represented by: D. Jowell KC, D. Bailey, Barrister, J. Aitken, D. Das, S. Malhi, R. Haria, M. Quayle, Solicitors, and T. Oeyen, lawyer)

Defendant: European Commission (represented by: G. Conte, C. Urraca Caviedes and C. Sjödin, acting as Agents)

Intervener in support of the defendant: Federal Republic of Germany (represented by: S. Costanzo, acting as Agent)

Re:

By its action under Article 263 TFEU, the applicant seeks annulment of Commission Decision C(2020) 3013 final of 4 May 2020 relating to a proceeding under Article 18(3) and Article 24(1)(d) of Council Regulation (EC) No 1/2003 (Case AT.40684 — Facebook Marketplace), as amended by Commission Decision C(2020) 9229 final of 11 December 2020.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Meta Platforms Ireland Ltd to bear its own costs and to pay those incurred by the European Commission, including those incurred in the proceedings for interim relief;

3. Orders the Federal Republic of Germany to bear its own costs.

([1]) OJ C 287, 31.8.2020.

Judgment of the General Court of 24 May 2023 — Lyubetskaya v Council

(Case T-556/21) ([1])

(Common foreign and security policy — Restrictive measures adopted in view of the situation in Belarus — Freezing of funds — Restriction on entry into the territory of the Member States — Inclusion of the applicant's name on the lists of persons, entities and bodies concerned — Duty to state reasons — Error of assessment — Proportionality)

(2023/C 235/42)

Language of the case: French

Parties

Applicant: Sviatlana Lyubetskaya (Minsk, Belarus) (represented by: D. Litvinski, lawyer)

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

Re:

Application under Article 263 TFEU for annulment of Council Implementing Decision (CFSP) 2021/1002 of 21 June 2021 implementing Decision 2012/642/CFSP concerning restrictive measures in view of the situation in Belarus (OJ 2021 L 219 I, p. 70), and of Council Implementing Regulation (EU) 2021/997 of 21 June 2021, implementing Article 8a(1) of Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus (OJ 2021 L 219 I, p. 3), in so far as those acts concern her.

Operative part

The Court:

1. Dismisses the action.

2. Orders Ms Sviatlana Lyubetskaya to bear, in addition to her own costs, those incurred by the Council of the European Union.

(1) OJ C 11, 10.1.2022.

Judgment of the General Court of 24 May 2023 — Omeliyanyuk v Council

(Case T-557/21) (1)

(Common foreign and security policy — Restrictive measures adopted in view of the situation in Belarus — Freezing of funds — Restriction on entry into the territory of the Member States — Inclusion of the applicant's name on the lists of persons, entities and bodies concerned — Duty to state reasons — Error of assessment — Proportionality)

(2023/C 235/43)

Language of the case: French

Parties

Applicant: Aleksandr Omeliyanyuk (Minsk, Belarus) (represented by: D. Litvinski, lawyer)

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

Re:

Application under Article 263 TFEU for annulment of Council Implementing Decision (CFSP) 2021/1002 of 21 June 2021 implementing Decision 2012/642/CFSP concerning restrictive measures in view of the situation in Belarus (OJ 2021 L 219 I, p. 70), and of Council Implementing Regulation (EU) 2021/997 of 21 June 2021, implementing Article 8a(1) of Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus (OJ 2021 L 219 I, p. 3), in so far as those acts concern him.

Operative part

The Court:

1. Dismisses the action;

2. Orders Mr Aleksandr Omeliyanyuk to bear, in addition to his own costs, those incurred by the Council of the European Union.

(1) OJ C 11, 10.1.2022.

Judgment of the General Court of 24 May 2023 — Gusachenka v Council

(Case T-579/21) (1)

(Common foreign and security policy — Restrictive measures adopted in view of the situation in Belarus — Freezing of funds — Restriction on entry into the territory of the Member States — Inclusion of the applicant's name on the lists of persons, entities and bodies concerned — Duty to state reasons — Error of assessment — Proportionality)

(2023/C 235/44)

Language of the case: French

Parties

Applicant: Siarhei Gusachenka (Minsk, Belarus) (represented by: D. Litvinski, lawyer)

Defendant: Council of the European Union (represented by: A. Limonet and V. Piessevaux, acting as Agents)

Re:

Application under Article 263 TFEU for annulment of Council Implementing Decision (CFSP) 2021/1002 of 21 June 2021 implementing Decision 2012/642/CFSP concerning restrictive measures in view of the situation in Belarus (OJ 2021 L 219 I, p. 70), and of Council Implementing Regulation (EU) 2021/997 of 21 June 2021, implementing Article 8a(1) of Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus (OJ 2021 L 219 I, p. 3), in so far as those acts concern him.

Operative part

The Court:

1. Dismisses the action;

2. Orders Mr Siarhei Gusachenka to bear, in addition to his own costs, those incurred by the Council of the European Union.

([1]) OJ C 11, 10.1.2022.

Judgment of the General Court of 24 May 2023 — Haidukevich v Council

(Case T-580/21) ([1])

(Common foreign and security policy — Restrictive measures adopted in view of the situation in Belarus — Freezing of funds — Restriction on entry into the territory of the Member States — Inclusion of the applicant's name on the lists of persons, entities and bodies concerned — Duty to state reasons — Error of assessment — Proportionality)

(2023/C 235/45)

Language of the case: French

Parties

Applicant: Aleh Haidukevich (Semkino, Belarus) (represented by: D. Litvinski, lawyer)

Defendant: Council of the European Union (represented by: S. Lejeune, E. d'Ursel and V. Piessevaux, acting as Agents)

Re:

Application under Article 263 TFEU for annulment of Council Implementing Decision (CFSP) 2021/1002 of 21 June 2021 implementing Decision 2012/642/CFSP concerning restrictive measures in view of the situation in Belarus (OJ 2021 L 219 I, p. 70), and of Council Implementing Regulation (EU) 2021/997 of 21 June 2021, implementing Article 8a(1) of Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus (OJ 2021 L 219 I, p. 3), in so far as those acts concern him.

Operative part

The Court:

1. Dismisses the action;

2. Orders Mr Aleh Haidukevich to bear, in addition to his own costs, those incurred by the Council of the European Union.

([1]) OJ C 11, 10.1.2022.

Judgment of the General Court of 17 May 2023 — IR v Commission

(Case T-685/21) ([1])

(Civil service — Officials — Social security — Joint rules on sickness insurance for officials — Article 72 of the Staff Regulations — Serious illness — Opinion of the Medical Officer — Obligation to state reasons)

(2023/C 235/46)

Language of the case: French

Parties

Applicant: IR (represented by: S. Pappas and A. Pappas, lawyers)

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

Re:

By his action under Article 270 TFEU, the applicant seeks annulment of the decision of 11 December 2020 by which the European Commission rejected the application for renewal of the serious illness scheme in respect of his son's illness.

Operative part of the judgment

The Court:

1. Annuls the decision of 11 December 2020 by which the European Commission rejected the application for renewal of the serious illness scheme in respect of the illness of IR's son.

2. Orders the Commission to pay the costs.

([1]) OJ C 11, 10.1.2022.

Judgment of the General Court of 17 May 2023 — Chambers and Others v Commission

(Case T-177/22) ([1])

(Civil service — Members of the temporary staff — Members of the contract staff — Reimbursement of expenses — Travel expenses — Consequences of the departure of the United Kingdom from the European Union — Place of origin located in a third country — Withdrawal of entitlement to annual flat-rate payment for travel expenses — Error of assessment — Equal treatment)

(2023/C 235/47)

Language of the case: French

Parties

Applicants: Alexander Chambers (Barcelona, Spain), and the nine other applicants whose names are listed in the annex to the judgment (represented by: N. de Montigny, lawyer)

Defendant: European Commission (represented by: T. Bohr and M. Brauhoff, acting as Agents)

Re:

By their action under Article 270 TFEU, the applicants seek the annulment of their pay slips for June 2021, in so far as those pay slips support a finding that, following the departure of the United Kingdom of Great Britain and Northern Ireland from the European Union (or 'Brexit'), they were no longer eligible for the annual flat-rate payment corresponding to the cost of travel from the place of employment to the place of origin.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Alexander Chambers and the other applicants whose names are listed in the annex to pay the costs.

(1) OJ C 222, 7.6.2022.

Judgment of the General Court of 17 May 2023 — Consulta v EUIPO — Karlinger (ACASA)

(Case T-267/22) (1)

(EU trade mark — Invalidity proceedings — EU word mark ACASA — Absolute ground for invalidity — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 40/94 (now Article 7(1)(b) of Regulation (EU) 2017/1001) — Obligation to state reasons — Article 94 of Regulation 2017/1001)

(2023/C 235/48)

Language of the case: German

Parties

Applicant: Consulta GmbH (Cham, Switzerland) (represented by: M. Kinkeldey and S. Brandstätter, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Mario Karlinger (Sölden, Austria) (represented by: M. Mungenast and K. Riedmüller, lawyers)

Re:

By its action under Article 263 TFEU, the applicant seeks the annulment of the decision of the First Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 24 January 2022 (Case R 487/2021-1).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Consulta GmbH to pay the costs.

(1) OJ C 257, 4.7.2022.

Judgment of the General Court of 17 May 2023 — Panicongelados-Massas Congeladas v EUIPO — Seder (panidor)

(Case T-480/22) (1)

(EU trade mark — Opposition proceedings — Application for EU figurative mark panidor — Earlier national word mark ANIDOR — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2023/C 235/49)

Language of the case: English

Parties

Applicant: Panicongelados-Massas Congeladas, SA (Leiria, Portugal) (represented by: I. Monteiro Alves, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Seder Establishment Limited (Mriehel Birkirkara, Malta)

Re:

By its action under Article 263 TFEU, the applicant seeks annulment of the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 11 May 2022 (Case R 1946/2021-2).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders each party to bear its own costs.

(1) OJ C 359, 19.9.2022.

Judgment of the General Court of 24 May 2023 — Bimbo v EUIPO — Bottari Europe (BimboBIKE)

(Case T-509/22) (1)

(EU trade mark — Opposition proceedings — Application for EU figurative mark BimboBIKE — Earlier national word mark BIMBO — Relative ground for refusal — Detriment to reputation — Article 8(5) of Regulation (EU) 2017/1001)

(2023/C 235/50)

Language of the case: English

Parties

Applicant: Bimbo, SA (Madrid, Spain) (represented by: J. Carbonell Callicó, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Bottari Europe Srl (Pomponesco, Italy)

Re:

By its action under Article 263 TFEU, the applicant seeks the annulment of the decision of the First Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 16 June 2022 (Case R 2110/2021-1).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders each party to bear its own costs.

(1) OJ C 389, 10.10.2022.

Judgment of the General Court of 17 May 2023 — moderne Stadt v EUIPO (DEUTZER HAFEN)

(Case T-656/22) ([1])

(EU trade mark — Application for EU word mark DEUTZER HAFEN — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EU) 2017/1001 — Equal treatment)

(2023/C 235/51)

Language of the case: German

Parties

Applicant: moderne Stadt Gesellschaft zur Förderung des Städtebaues und der Gemeindeentwicklung mbH (Cologne, Germany) (represented by: G. Simon and L. Daams, lawyers)

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

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 24 August 2022 (Case R 2195/2021-5).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders moderne Stadt Gesellschaft zur Förderung des Städtebaues und der Gemeindeentwicklung mbH and the European Union Intellectual Property Office (EUIPO) to bear their own costs.

([1]) OJ C 472, 12.12.2022.

Judgment of the General Court of 17 May 2023 — moderne Stadt v EUIPO (DEUTZER HAFEN KÖLN)

(Case T-657/22) ([1])

(EU trade mark — Application for EU word mark DEUTZER HAFEN KÖLN — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EU) 2017/1001 — Equality of treatment)

(2023/C 235/52)

Language of the case: German

Parties

Applicant: moderne Stadt Gesellschaft zur Förderung des Städtebaues und der Gemeindeentwicklung mbH (Cologne, Germany) (represented by: G. Simon and L. Daams, lawyers)

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

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 24 August 2022 (Case R 2196/2021-5).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders moderne Stadt Gesellschaft zur Förderung des Städtebaues und der Gemeindeentwicklung mbH and the European Union Intellectual Property Office (EUIPO) to bear their own respective costs.

(1) OJ C 472, 12.12.2022.

Order of the General Court of 10 May 2023 — PSCC 2012 v EUIPO — Starwood Hotels & Resorts Worldwide (LA BOTTEGA W)

(Case T-265/22) (1)

(EU trade mark — Cancellation proceedings — Withdrawal of the application for registration — No need to adjudicate)

(2023/C 235/53)

Language of the case: Italian

Parties

Applicant: PSCC 2012 Srl (Rome, Italy) (represented by: P. Alessandrini and E. Montelione, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Starwood Hotels & Resorts Worldwide LLC (Bethesda, Maryland, United States) (represented by: P. Roncaglia, M. Boletto and N. Parrotta, lawyers)

Re:

By its action under Article 263 TFEU, the applicant seeks the annulment and amendment of the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 24 February 2022 (Case R 621/2019-2).

Operative part of the order

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

2. PSCC 2012 Srl and Starwood Hotels & Resorts Worldwide LLC shall bear their own costs and shall each pay half of the costs incurred by the European Union Intellectual Property Office (EUIPO).

(1) OJ C 257, 4.7.2022.

Action brought on 13 March 2023 — Óbudai Egyetem v Council and Commission

(Case T-132/23)

(2023/C 235/54)

Language of the case: English

Parties

Applicant: Óbudai Egyetem (Budapest, Hungary) (represented by: V. Łuszcz and K. Bendzsel-Varga, lawyers)

Defendants: Council of the European Union and European Commission

Form of order sought

The applicant claims that the Court should:

— annul Article 2, paragraph 2, of Council Implementing Decision (EU) 2022/2506 of 15 December 2022, (1) partially, in so far as it provides 'or any entity maintained by such a public interest trust' and in so far as that provision of Decision 2022/2506 concerns the applicant;

— annul the Joint Statement of 26 January 2023 of Commissioners Hahn and Gabriel on the application of Council Implementing Decision of 15 December 2022 in relation to Hungarian public interest trusts in so far as the applicant is concerned;

— annul the Commission's communications of 20 January, 21 February and 3 March 2023, published as 'Disclaimers' or 'FAQ' on the ERASMUS+ and Horizon Europe portals, as referred to in the said Joint Statement, in so far as they concern the applicant;

— annul the Commission's act embedded in the email message of EIT Manufacturing of 2 February 2023 sent to the consortium coordinator in Project Action to Boost Ecosystem Impact through Cross-partner Learning — EcoAction, in so far as the applicant is concerned;

— order the Council and the Commission and any intervener opposing this application to bear 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 breach of the Conditionality Regulation, ([2]) of the duty to provide adequate reasons, the principle of proportionality, Article 16 of the Charter of Fundamental Rights of the EU, and Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018. ([3])

   — The applicant submits that the Commission and the Council (i) failed to establish the relevance of the breach to the sound financial management of the EU budget or to the protection of the EU's financial interests and failed to establish the genuine link between the breach and the serious risk of affecting the sound financial management of the EU budget or the protection of the EU's financial interests; and (ii) failed to establish the proportionality of the measure under Article 5(3) of the Conditionality Regulation. The applicant further considers that the Commission and the Council committed errors of assessment, infringed the Conditionality Regulation, and breached the duty to provide adequate reasons in this regard. The applicant also raises a plea of illegality against the Conditionality Regulation, in case that Regulation excludes individual exemptions from the application of the contested decision.

2. Second plea in law, alleging breach of the principle of presumption of innocence and breach of the principle of equal treatment and non-discrimination.

3. Third plea in law, alleging breach of the right to operate on an undistorted market (Article 16 of the Charter of Fundamental Rights of the EU in conjunction with Articles 101-108 TFEU).

4. Fourth plea in law, alleging infringement of the principles of legal certainty, legitimate expectations and infringement of essential procedural requirements.

In the context of its first, second and fourth pleas, the applicant also enters a plea of illegality against the Conditionality Regulation, in case that the Regulation excludes individual exemptions from the application of the contested decision.

([1]) Council Implementing Decision (EU) 2022/2506 of 15 December 2022 on measures for the protection of the Union budget against breaches of the principles of the rule of law in Hungary (OJ 2022 L 325, p. 94).

([2]) Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (OJ 2020 L 433 I, p. 1).

([3]) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ 2018 L 193, p. 1).

Action brought on 13 March 2023 — Állatorvostudományi Egyetem v Council and Commission

(Case T-133/23)

(2023/C 235/55)

Language of the case: English

Parties

Applicant: Állatorvostudományi Egyetem (Budapest, Hungary) (represented by: V. Łuszcz and K. Bendzsel-Varga, lawyers)

Defendants: Council of the European Union and European Commission

Form of order sought

The applicant claims that the Court should:

— annul Article 2, paragraph 2, of Council Implementing Decision (EU) 2022/2506 of 15 December 2022, ([1]) partially, in so far as it provides 'or any entity maintained by such a public interest trust' and in so far as that provision of Decision 2022/2506 concerns the applicant;

— annul the Joint Statement of 26 January 2023 of Commissioners Hahn and Gabriel on the application of Council Implementing Decision of 15 December 2022 in relation to Hungarian public interest trusts in so far as the applicant is concerned;

— annul the Commission's communications of 20 January, 21 February and 3 March 2023, published as 'Disclaimers' or 'FAQ' on the ERASMUS+ and Horizon Europe portals, as referred to in the said Joint Statement, in so far as they concern the applicant;

— annul the Commission's act embedded in the email message of European Health and Digital executive Agency (HADEA) of 25 January 2023 sent to the consortium coordinator in Project Digital Europe project in the field of informational technology and food science (TRACE4EU), in so far as the applicant is concerned;

— order the Council and the Commission and any intervener opposing this application to bear 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 breach of the Conditionality Regulation, ([2]) of the duty to provide adequate reasons, the principle of proportionality, Article 16 of the Charter of Fundamental Rights of the EU, and Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018. ([3])

   — The applicant submits that the Commission and the Council (i) failed to establish the relevance of the breach to the sound financial management of the EU budget or to the protection of the EU's financial interests and failed to establish the genuine link between the breach and the serious risk of affecting the sound financial management of the EU budget or the protection of the EU's financial interests; and (ii) failed to establish the proportionality of the measure under Article 5(3) of the Conditionality Regulation. The applicant further considers that the Commission and the Council committed errors of assessment, infringed the Conditionality Regulation, and breached the duty to provide adequate reasons in this regard. The applicant also raises a plea of illegality against the Conditionality Regulation, in case that Regulation excludes individual exemptions from the application of the contested decision.

2. Second plea in law, alleging breach of the principle of presumption of innocence and breach of the principle of equal treatment and non-discrimination.

3. Third plea in law, alleging breach of the right to operate on an undistorted market (Article 16 of the Charter of Fundamental Rights of the EU in conjunction with Articles 101-108 TFEU).

4. Fourth plea in law, alleging breach of the principles of legal certainty, legitimate expectations and the infringement of essential procedural requirements.

In the context of its first, second and fourth pleas, the applicant also enters a plea of illegality against the Conditionality Regulation, in case that the Regulation excludes individual exemptions from the application of the contested decision.

(1) Council Implementing Decision (EU) 2022/2506 of 15 December 2022 on measures for the protection of the Union budget against breaches of the principles of the rule of law in Hungary (OJ 2022 L 325, p. 94).

(2) Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (OJ 2020 L 433 I, p. 1).

(3) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ 2018 L 193, p. 1).

Action brought on 13 March 2023 — Miskolci Egyetem v Council and Commission

(Case T-139/23)

(2023/C 235/56)

Language of the case: English

Parties

Applicant: Miskolci Egyetem (Miskolc, Hungary) (represented by: V. Łuszcz and K. Bendzsel-Varga, lawyers)

Defendants: European Commission and Council of the European Union

Form of order sought

The applicant claim that the Court should:

— annul Article 2, paragraph 2, of Council Implementing Decision (EU) 2022/2506 of 15 December 2022, (1) partially, in so far as it provides 'or any entity maintained by such a public interest trust' and in so far as that provision of Decision 2022/2506 concerns the applicant;

— annul the Joint Statement of 26 January 2023 of Commissioners Hahn and Gabriel on the application of Council Implementing Decision of 15 December 2022 in relation to Hungarian public interest trusts in so far as the applicant is concerned;

— annul the Commission's communications of 20 January, 21 February and 3 March 2023, published as 'Disclaimers' or 'FAQ' on the ERASMUS+ and Horizon Europe portals, as referred to in the said Joint Statement, in so far as they concern the applicant;

— annul the Commission's act embedded in the letter of EACEA of 21 February 2023 sent to the consortium coordinator in Project Enhancing sport organisations and management, in so far as the applicant is concerned;

— order the Council and the Commission and any intervener opposing this application to bear 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 breach of Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 ('the Conditionality Regulation'), (2) of the duty to provide adequate reasons, the principle of proportionality, Article 16 of the Charter of Fundamental Rights of the EU, and Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018. (3)

— The applicant submits that the Commission and the Council (i) failed to establish the relevance of the breach to the sound financial management of the EU budget or to the protection of the EU's financial interests and failed to establish the genuine link between the breach and the serious risk of affecting the sound financial management of the EU budget or the protection of the EU's financial interests; and (ii) failed to establish the proportionality of the measure under Article 5(3) of the Conditionality Regulation. The applicant further considers that the Commission and the Council committed errors of assessment, infringed the Conditionality Regulation, and breached the duty to provide adequate reasons in this regard.

2. Second plea in law, alleging breach of the principle of presumption of innocence and breach of the principle of equal treatment and non-discrimination.

3. Third plea in law, alleging breach of the right to operate on an undistorted market (Article 16 of the Charter of Fundamental Rights of the EU in conjunction with Articles 101-108 TFEU).

4. Fourth plea in law, alleging breach of the principles of legal certainty, legitimate expectations and the infringement of essential procedural requirements.

In the context of its first, second and fourth pleas, the applicant also enters a plea of illegality against the Conditionality Regulation, in case that the Regulation excludes individual exemptions from the application of the contested decision.

(1) Council Implementing Decision (EU) 2022/2506 of 15 December 2022 on measures for the protection of the Union budget against breaches of the principles of the rule of law in Hungary (OJ 2022 L 325, p. 94).

(2) Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (OJ 2020 L 433I, p. 1).

(3) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ 2018 L 193, p 1).

Action brought on 13 March 2023 — Dunaújvárosi Egyetem v Council and Commission

(Case T-140/23)

(2023/C 235/57)

Language of the case: English

Parties

Applicant: Dunaújvárosi Egyetem (Dunaújváros, Hungary) (represented by: V. Łuszcz and K. Bendzsel-Varga, lawyers)

Defendants: Council of the European Union and European Commission

Form of order sought

The applicant claims that the Court should:

— annul Article 2, paragraph 2, of Council Implementing Decision (EU) 2022/2506 of 15 December 2022, (1) partially, in so far as it provides 'or any entity maintained by such a public interest trust' and in so far as that provision of Decision 2022/2506 concerns the applicant;

— annul the Joint Statement of 26 January 2023 of Commissioners Hahn and Gabriel on the application of Council Implementing Decision of 15 December 2022 in relation to Hungarian public interest trusts in so far as the applicant is concerned;

— annul the Commission's communications of 20 January, 21 February and 3 March 2023, published as 'Disclaimers' or 'FAQ' on the ERASMUS+ and Horizon Europe portals, as referred to in the said Joint Statement, in so far as they concern the applicant;

— order the Council and the Commission and any intervener opposing this application to bear 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 breach of Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 ('the Conditionality Regulation'), ([2]) of the duty to provide adequate reasons, the principle of proportionality, Article 16 of the Charter of Fundamental Rights of the EU, and Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018. ([3])

   — The applicant submits that the Commission and the Council (i) failed to establish the relevance of the breach to the sound financial management of the EU budget or to the protection of the EU's financial interests and failed to establish the genuine link between the breach and the serious risk of affecting the sound financial management of the EU budget or the protection of the EU's financial interests; and (ii) failed to establish the proportionality of the measure under Article 5(3) of the Conditionality Regulation. The applicant further considers that the Commission and the Council committed errors of assessment, infringed the Conditionality Regulation, and breached the duty to provide adequate reasons in this regard.

2. Second plea in law, alleging breach of the principle of presumption of innocence and breach of the principle of equal treatment and non-discrimination.

3. Third plea in law, alleging breach of the right to operate on an undistorted market (Article 16 of the Charter of Fundamental Rights of the EU in conjunction with Articles 101-108 TFEU).

4. Fourth plea in law, alleging breach of the principles of legal certainty, legitimate expectations and the infringement of essential procedural requirements.

In the context of its first, second and fourth pleas, the applicant also enters a plea of illegality against the Conditionality Regulation, in case that the Regulation excludes individual exemptions from the application of the contested decision.

([1]) Council Implementing Decision (EU) 2022/2506 of 15 December 2022 on measures for the protection of the Union budget against breaches of the principles of the rule of law in Hungary (OJ 2022 L 325, p. 94).

([2]) Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 1 December 2020 on a general regime of conditionality for the protection of the Union budget (OJ 2020 L 433I, p. 1).

([3]) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ 2018 L 193, p. 1).

Action brought on 17 April 2023 — Domingo Alonso Group v EUIPO — Ald Automotive and Salvador Caetano Auto (my CARFLIX)

(Case T-200/23)

(2023/C 235/58)

Language in which the application was lodged: Spanish

Parties

Applicant: Domingo Alonso Group, SL (Las Palmas de Gran Canaria, Spain) (represented by: J. García Domínguez, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other parties to the proceedings before the Board of Appeal: Ald Automotive, SA (Majadahonda, Spain), Salvador Caetano Auto (SGPS), SA (Vila Nova de Gaia, Portugal)

Details of the proceedings before EUIPO

Proprietors of the trade mark at issue: Applicant before the General Court Domingo Alonso Group, SL and the other party to the proceedings before the Board of Appeal Salvador Caetano Auto (SGPS), SA

Trade mark at issue: Figurative mark my CARFLIX — European Union trade mark No 18 124 505

Proceedings before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 24 October 2022 in Case R 2213/2021-5

Form of order sought

The applicant claims that the Court should annul the contested decision and order the defendant to pay the costs of the present proceedings and of the earlier proceedings before the Fifth Board of Appeal of EUIPO.

Plea in law

Infringement of Article 60(1) in conjunction with Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 20 April 2023 — Laboratorios Ern v EUIPO — Cannabinoids Spain (Sanoid)

(Case T-206/23)

(2023/C 235/59)

Language in which the application was lodged: Spanish

Parties

Applicant: Laboratorios Ern, SA (Barcelona, Spain) (represented by: T. González Martínez, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Cannabinoids Spain SLU (Córdoba, Spain)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for EU figurative mark Sanoid — Application for registration No 18 091 726

Proceedings before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 3 February 2023 in Joined Cases R 1024/2022-5 and R 1036/2022-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— reject EU trade mark application No 18 091 726 Sanoid for Classes 3, 5, 31, 32, 35, 41, 42 and 44;

— order EUIPO and, if appropriate, the intervener, to pay the costs.

Plea in law

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

Action brought on 23 April 2023 — Fractal Analytics v EUIPO — Fractalia Remote Systems (FRACTALIA Remote Systems)

(Case T-211/23)

(2023/C 235/60)

Language in which the application was lodged: Spanish

Parties

Applicant: Fractal Analytics, Inc. (New York, New York, United States) (represented by: J. Güell Serra, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

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

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: Figurative mark FRACTALIA Remote Systems — EU trade mark No 5 106 406

Proceedings before EUIPO: Invalidity proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 30 January 2023 in Case R 858/2022-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO and the other party to the proceedings before EUIPO to pay the costs.

Pleas in law

— Infringement of Article 27(4) of Commission Delegated Regulation (EU) 2018/625 read in conjunction with Article 58(1)(a) of Regulation (EU) 2017/1001 of the European Parliament and of the Council and Article 19(1) of Commission Delegated Regulation (EU) 2018/625;

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

— Infringement of Article 58(1)(a) and Article 10(3) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 18 April 2023 — Greenpeace and Others v Commission

(Case T-214/23)

(2023/C 235/61)

Language of the case: English

Parties

Applicants: Greenpeace eV (Hamburg, Germany) and 7 other applicants (represented by: R. Verheyen, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission Decision dated 6 February 2023 rejecting the applicants' request for internal review;

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

Pleas in law and main arguments

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

1. First plea in law, alleging that Commission Decision dated 6 February 2023 ('the Contested Decision') errs in law and/or makes errors of assessment in interpreting Article 19(1)(f), of Regulation (EU) 2020/852 of the European Parliament and of the Council, ([1]) as to the requirement for Technical Screening Criteria ('TSC') to be based on conclusive scientific evidence and the precautionary principle.

With regard to nuclear activities

2. Second plea in law, alleging that the Contested Decision errs in law and/or makes errors of assessment in rejecting the argument that the TSC for nuclear power do not comply with the requirement for 'best performance in the sector' under Article 10(2)(a) of Regulation 2020/852.

3. Third plea in law, alleging that the Contested Decision errs in law and/or makes errors of assessment in rejecting the ground that the criteria in the Commission Delegated Regulation (EU) 2022/1214 ([2]) do not comply with Article 10(2) of Regulation 2020/852 ('transition to a climate-neutral economy').

4. Fourth plea in law, alleging that the Contested Decision errs in law and/or makes errors of assessment in rejecting the ground that nuclear power does not contribute substantially to climate change adaptation under Article 11(1)(a) of Regulation 2020/852.

5. Fifth plea in law, alleging that the Contested Decision errs in law, makes errors of assessment, and/or provides inadequate reasons, in rejecting the submission that nuclear activities do not satisfy the 'do no significant harm' requirement of Articles 3, 9 and 17 of Regulation 2020/852.

6. Sixth plea in law, alleging that the Contested Decision errs in law and/or erred in assessment, and/or provides inadequate reasoning, in rejecting the ground that there was an infringement of the requirement for minimum safeguards for nuclear activities under Articles 3(c) and 18 of Regulation 2020/852.

With regard to fossil gas activities

7. Seventh plea in law, alleging that the Contested Decision errs in law and/or made errors of assessment in rejecting the submission that the emissions thresholds set for fossil gas activities are contrary to the requirements of Article 10(2) of Regulation 2020/852.

8. Eighth plea in law, alleging that the Contested Decision errs in law and/or made errors of assessment in rejecting the ground that the inclusion of fossil gas activities would hamper the development and deployment of low-carbon alternatives, contrary to Article 10(2) of Regulation 2020/852.

9. Ninth plea in law, alleging that the Contested Decision errs in law and/or made errors of assessment in rejecting the ground that the TSC for Fossil Gas are contrary to the requirement under Article 10(2) of Regulation 2020/852 that no low carbon alternative is available.

10. Tenth plea in law, alleging that the Contested Decision errs in law and/or made errors of assessment in rejecting the ground that the classification of fossil gas activities as sustainable is contrary to the requirement in Article 10(2)(c) of Regulation 2020/852 that an activity must not lead to a lock-in of carbon-intensive assets.

11. Eleventh plea in law, alleging that the Contested Decision errs in law and/or made errors of assessment in rejecting the ground that the TSC for fossil gas activities breach the 'do no significant harm' requirement pursuant to Articles 3, 9 and 17 of Regulation 2020/852.

Other pleas

12. Twelfth plea in law, alleging that the Contested Decision errs in law and/or made errors of assessment in rejecting the grounds that the Commission had wrongly failed to conduct a Climate Consistency Assessment or an Impact Assessment.

13. Thirteenth plea in law, alleging that the Contested Decision errs in law and/or made errors of assessment in rejecting grounds as to effective consultation of the Platform and the Member State Expert Group.

14. Fourteenth plea in law, alleging that the Contested Decision errs in law in rejecting grounds as to its non-compliance with Article 290(1) TFEU.

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

([2]) Commission Delegated Regulation (EU) 2022/1214 of 9 March 2022 amending Delegated Regulation (EU) 2021/2139 as regards economic activities in certain energy sectors and Delegated Regulation (EU) 2021/2178 as regards specific public disclosures for those economic activities (OJ 2022 L 188, p. 1).

Action brought on 18 April 2023 — ClientEarth and Others v Commission

(Case T-215/23)

(2023/C 235/62)

Language of the case: English

Parties

Applicants: ClientEarth AISBL (Ixelles, Belgium), Fédération Européenne pour le Transport et l'Environnement (Ixelles), WWF European Policy Programme (Brussels, Belgium), Bund für Umwelt und Naturschutz Deutschland (Berlin, Germany) (represented by: F. Logue, Solicitor, J. MacLeod, Barrister-at-Law)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul the decision of the Commission, sent by letter of 8 February 2023, by which the Commission rejected a request for internal review dated 9 September 2022 brought by the applicants pursuant to Article 10 of Regulation (EC) No 1367/2006 of the European Parliament and of the Council; ([1]) and

— order the Commission to meet the applicants' costs of these proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission erred in rejecting the arguments that it had been required to conduct — and had not conducted — a climate consistency assessment as required by Article 6(4) of Regulation (EU) 2021/1119 of the European Parliament and of the Council. ([2])

2. Second plea in law, alleging that the Commission erred as to the requirements of Article 19 of Regulation (EU) 2020/852 of the European Parliament and of the Council ([3]) not only as to its analysis as a whole but as to:

   — its interpretation and assessment of the requirements of 'conclusive scientific evidence and the precautionary principle';

— the lifecycle of economic activities; and

— stranded assets and lock-in of emissions.

3. Third plea in law, alleging that the Commission erred in respect of errors surrounding the classification of activities as transitional, including by erring:

— in the classification of fossil gas based activities as transitional;

— in respect of the greenhouse gas emissions thresholds set;

— in respect of the contribution of alternative technologies;

— in respect of the requirement to phasing out greenhouse gas emissions; and

— in respect of the development and deployment of low carbon alternatives.

4. Fourth plea in law, alleging that the Commission erred in respect of the requirement to 'do no significant harm' to any of the six environmental objectives in Regulation 2020/852.

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

(2) Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ 2021 L 243, p. 1).

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

Action brought on 28 April 2023 — VY v Parliament

(Case T-224/23)

(2023/C 235/63)

Language of the case: French

Parties

Applicant: VY (represented by: L. Levi and P. Baudoux, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— declare the present action admissible and well founded;

consequently

— annul the decision of 9 June 2022 notifying the applicant that his contract would be terminated and, in so far as necessary, the decision of 17 January 2023, notified on 23 January 2023, rejecting his complaint against the decision of 9 June 2022;

— order the defendant to compensate the applicant for the damage suffered;

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

Pleas in law and main arguments

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

1. First plea in law, alleging a manifest error of assessment with respect to the reasons relied on and infringement of the principle of proportionality.

2. Second plea in law, alleging infringement of Article 41 of the Charter of Fundamental Rights of the European Union and, in particular, the right to be heard, the duty to state reasons, compliance with the requirement of impartiality of the administration and the duty of care.

3. Third plea in law, alleging infringement of the duty to have regard for the welfare of officials.

Action brought on 2 May 2023 — Neuraxpharm Pharmaceuticals v Commission

(Case T-226/23)

(2023/C 235/64)

Language of the case: English

Parties

Applicant: Neuraxpharm Pharmaceuticals SL (Barcelona, Spain) (represented by: K. Roox, T. De Meese, J. Stuyck, M. Van Nieuwenborgh and N. Dumont, 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) 2915367], 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;

   — 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 — Zaklady Farmaceutyczne Polpharma v Commission

(Case T-228/23)

(2023/C 235/65)

Language of the case: English

Parties

Applicant: Zaklady Farmaceutyczne Polpharma S.A. (Starogard Gdański, Poland) (represented by: K. Roox, T. De Meese, J. Stuyck, M. Van Nieuwenborgh and N. Dumont 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) 2915860], 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;

   — the contested decision infringes legal certainty;

   — the contested decision violates the applicant's legitimate expectations, including the numerous obligations with its clients, public authorities, wholesalers, transport companies, and hospitals, for the sale and distribution 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 1 May 2023 — WA v Commission

(Case T-234/23)

(2023/C 235/66)

Language of the case: Italian

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the General 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 7and 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 11 February 2023 which was wrongfully drawn up following the silence maintained by EPSO for over four months and by which the complaint lodged on 11 October 2022 under Article 90(2) of the Staff Regulations of Officials of the European Union ('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 2 May 2023 — WB v Commission

(Case T-235/23)

(2023/C 235/67)

Language of the case: Italian

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the General 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 7and 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 on 10 October 2022 under Article 90(2) of the Staff Regulations of Officials of the European Union ('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 2 May 2023 — WD v Commission

(Case T-236/23)

(2023/C 235/68)

Language of the case: Italian

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

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

— Annul the measure of the Appointing Authority of 14 February 2023 which was wrongfully drawn up following the silence maintained by EPSO for over four months and by which the complaint lodged on 14 October 2022 under Article 90(2) of the Staff Regulations of Officials of the European Union ('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 3 May 2023 — WE v Commission

(Case T-237/23)

(2023/C 235/69)

Language of the case: Italian

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the General 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 7and 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 12 February 2023 which was wrongfully drawn up following the silence maintained by EPSO for over four months and by which the complaint lodged on 12 October 2022 under Article 90(2) of the Staff Regulations of Officials of the European Union ('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 her mother tongue made it impossible to assess accurately her skills, since the result of her tests was also conditional on her 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 she was excluded from the competition before she lodged her 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 4 May 2023 — WF v Commission

(Case T-238/23)

(2023/C 235/70)

Language of the case: Italian

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the General 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 7and 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 6 March 2023 which was wrongfully drawn up following the silence maintained by EPSO for over four months and by which the complaint lodged on 6 October 2022 under Article 90(2) of the Staff Regulations of Officials of the European Union ('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 8 May 2023 — LichtBlick v Commission

(Case T-240/23)

(2023/C 235/71)

Language of the case: German

Parties

Applicant: LichtBlick SE (Hamburg, Germany) (represented by: C. von Hammerstein, P. Roegele and H. Schutte, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the decision of the defendant of 21 December 2022 (State Aid SA.104606 (2222/N) — Germany, TCF communication: Temporary cost containment of natural gas, heat and electricity price increases) in so far as it declared the grant of aid under the German law on the introduction of an electricity price brake and amending other provisions of energy law (Gesetz zur Einführung einer Strompreisbremse und zur Änderung weiterer energierechtlicher Bestimmungen) to charging point operators to reduce the cost of charging electricity consumed by third persons behind a charging point to be compatible with the internal market;

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

Pleas in law and main arguments

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

1. First plea in law

   By its first plea, the applicant submits that the Commission failed to initiate the formal investigation procedure under Article 108(2) TFEU despite serious difficulties. The defendant overlooked the fact that the aid scheme of the Strompreisbremsegesetz (German Electricity Price Brake Law) also benefits charging point operators even though they are energy suppliers and not final consumers.

2. Second plea in law

   By its second plea, the applicant submits that the formal investigation procedure under Article 108(2) TFEU ought to have been initiated because the Commission ought to have determined on a complete examination that charging point operators, which are both providers and suppliers of charging electricity, and not pure suppliers of charging electricity, such as the applicant, are to receive aid.

3. Third plea in law

   By its third plea, the applicant submits that the defendant incorrectly declared the aid scheme of the German Electricity Price Brake Law for the benefit of charging point operators to be compatible with the internal market pursuant to Article 107(3)(b) TFEU. It follows from the TCF communication that aid to compensate for additional costs due to exceptionally severe increases in electricity prices following the aggression against Ukraine by Russia is only compatible with Article 107(3)(b) TFEU if there is a mechanism which ensures that the aid also benefits those who are affected by a serious disturbance in the economy of a Member State. Such a mechanism is lacking in the case of the aid to charging point operators.

4. Fourth plea in law

   By its fourth plea, the applicant submits that the aid scheme of the German Electricity Price Brake Law for charging point operators is incompatible with the internal market because it distorts, without any reasonable justification, competition between pure suppliers of charging electricity, on the one hand, and charging point operators, on the other. The aid scheme of the German Electricity Price Brake Law benefited only suppliers of charging electricity which also operated charging points. By contrast, pure suppliers of charging electricity did not receive any aid under the German Electricity Price Brake Law. Charging point operators were therefore given a competitive advantage over pure suppliers of charging electricity.

5. Fifth plea in law

   By its fifth plea, the applicant submits that the charging electricity aid infringes Directive (EU) 2019/944 ([1]) because it is based on a fiction — which is unlawful under Article 2(3) of Directive (EU) 2019/944 — that charging point operators are final consumers when in fact they are electricity undertakings within the meaning of Article 2(57) of Directive (EU) 2019/944 and carry out tasks related to supply pursuant to Article 2(12) of Directive (EU) 2019/944. The selective granting of aid only to charging point operators and not also to pure suppliers of charging electricity leads to a distortion of competition contrary to Article 3(4) and Article 5(1) of Directive (EU) 2019/944.

([1]) Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (recast) (OJ 2019 L 158, p. 125).

Action brought on 8 May 2023 — WG v Commission

(Case T-241/23)

(2023/C 235/72)

Language of the case: Italian

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the General 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 7and 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 11 February 2023 which was wrongfully drawn up following the silence maintained by EPSO for over four months and by which the complaint lodged on 11 October 2022 under Article 90(2) of the Staff Regulations of Officials of the European Union ('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 9 May 2023 — WH v Commission

(Case T-242/23)

(2023/C 235/73)

Language of the case: Italian

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the General 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 7and 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 14 February 2023 which was wrongfully drawn up following the silence maintained by EPSO for over four months and by which the complaint lodged on 14 October 2022 under Article 90(2) of the Staff Regulations of Officials of the European Union ('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 her mother tongue made it impossible to assess accurately her skills, since the result of her tests was also conditional on her 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 she was excluded from the competition before she lodged her 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 12 May 2023 — Braunschweiger Versorgungs v EUIPO — B.F. Energy (BF energy)

(Case T-245/23)

(2023/C 235/74)

Language in which the application was lodged: English

Parties

Applicant: Braunschweiger Versorgungs AG & Co. KG (Braunschweig, Germany) (represented by: C. Drzymalla, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: B.F. Energy Srl (Rome, 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 BF energy — Application for registration No 18 336 443

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 17 February 2023 in Case R 1646/2022-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— reject the application for the trade mark at issue;

— order EUIPO and the other party to pay the costs, including the costs of proceedings before the Board of Appeal.

Pleas in law

— Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council with regard to the level of attention of the public at large;

— Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council with regard to the visual, aural and conceptual similarity of the signs;

— Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council with regard to the overall assessment of the likelihood of confusion.

Action brought on 8 May 2023 — Sky v EUIPO — Skyworks Solutions (SKYWORKS Sky5)

(Case T-246/23)

(2023/C 235/75)

Language in which the application was lodged: English

Parties

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

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Skyworks Solutions, Inc. (Wilmington, Delaware, United States)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union word mark SKYWORKS Sky5 — Application for registration No 17 936 585

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 11 February 2023 in Case R 2461/2020-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

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

Pleas in law

— Infringement of Article 8(1)(b), 8(5), 8(2)(c) and 8(4) in conjunction with Article 46(1)(a) and (c) and Article 8(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council insofar as the Board of Appeal found that the earlier UK rights no longer constitute a valid base in *inter partes* proceedings before the EUIPO;

— Infringement of Article 8(1)(b) and 8(5) of Regulation (EU) 2017/1001 of the European Parliament and of the Council to the extent that the Board of Appeal found that evidence of use, enhanced distinctiveness and/or reputation of the earlier EU marks must be excluded from the opposition proceedings insofar as such evidence related to the UK territory.

Action brought on 12 May 2023 — Bonami.CZ v EUIPO — Roval Print (Bonami)

(Case T-248/23)

(2023/C 235/76)

Language in which the application was lodged: English

Parties

Applicant: Bonami.CZ, a.s. (Prague, Czech Republic) (represented by: M.-G. Marinescu, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: SC Roval Print SRL (Galati, Romania)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union word trade mark Bonami — Application for registration No 18 009 799

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 23 February 2023 in Case R 1291/2022-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and reject the opposition entirely;

— order EUIPO and the intervener to bear the costs of the proceedings.

Pleas in law

— Infringement of procedural requirements related to the (online) substantiation of the opposition;

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

Action brought on 13 May 2023 — WI v Commission

(Case T-249/23)

(2023/C 235/77)

Language of the case: Italian

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the General 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 on 10 October 2022 under Article 90(2) of the Staff Regulations of Officials of the European Union ('the Staff Regulations') was rejected; and

— 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.

— 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.

— 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, in the absence of objective justification.

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.

— 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.

— 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.

— 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.

— 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.

— 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 13 May 2023 — WJ v Commission

(Case T-250/23)

(2023/C 235/78)

Language of the case: Italian

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the General 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 11 February 2023 which was wrongfully drawn up following the silence maintained by EPSO for over four months and by which the complaint lodged on 11 October 2022 under Article 90(2) of the Staff Regulations of Officials of the European Union ('the Staff Regulations') was rejected; and

— 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.

— 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 her mother tongue made it impossible to assess accurately her skills, since the result of her tests was also conditional on her level of knowledge of that language. This also led to an infringement of Article 27 of the Staff Regulations.

— 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.

— 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 she was excluded from the competition before she lodged her action. That also constituted an infringement of the principle of equality of arms in proceedings.

— 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.

— 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.

— 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.

— 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 13 May 2023 — WK v Commission

(Case T-251/23)

(2023/C 235/79)

Language of the case: Italian

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the General 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 8 February 2023 which was wrongfully drawn up following the silence maintained by EPSO for over four months and by which the complaint lodged on 8 October 2022 under Article 90(2) of the Staff Regulations of Officials of the European Union ('the Staff Regulations') was rejected; and

— 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.

— 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 her mother tongue made it impossible to assess accurately her skills, since the result of her tests was also conditional on her level of knowledge of that language. This also led to an infringement of Article 27 of the Staff Regulations.

— 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.

— 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 she was excluded from the competition before she lodged her action. That also constituted an infringement of the principle of equality of arms in proceedings.

— 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.

— 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.

— 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.

— 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 14 May 2023 — WL v Commission

(Case T-252/23)

(2023/C 235/80)

Language of the case: Italian

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the General 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 8 February 2023 which was wrongfully drawn up following the silence maintained by EPSO for over four months and by which the complaint lodged on 8 October 2022 under Article 90(2) of the Staff Regulations of Officials of the European Union ('the Staff Regulations') was rejected; and

— 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.

— 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 her mother tongue made it impossible to assess accurately her skills, since the result of her tests was also conditional on her level of knowledge of that language. This also led to an infringement of Article 27 of the Staff Regulations.

— 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, without the necessary requirements having been met.

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.

— 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 she was excluded from the competition before she lodged her action. That also constituted an infringement of the principle of equality of arms in proceedings.

— 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.

— 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.

— 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.

— 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 14 May 2023 — WM v Commission

(Case T-253/23)

(2023/C 235/81)

Language of the case: Italian

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

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

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

— 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 on 10 October 2022 under Article 90(2) of the Staff Regulations of Officials of the European Union ('the Staff Regulations') was rejected; and

— 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.

— 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.

— 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.

— 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.

— 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.

— 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.

— 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.

— 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 16 May 2023 — Symrise v Commission

(Case T-263/23)

(2023/C 235/82)

Language of the case: English

Parties

Applicant: Symrise AG (Holzminden, Germany) (represented by: T. Kuhn, M. Rust, T.-M. Wienke, L. Bär and J. Jourdan, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission's decision C(2023) 1103 final of 10 February 2023 ordering an inspection at Symrise AG and all of its directly and indirectly controlled subsidiaries pursuant to article 20(4) of Council Regulation (EC) No. 1/2003 ([1]) (AT.40826 — Rose);

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

Pleas in law and main arguments

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

1. First plea in law, alleging a breach of the applicant's fundamental rights of inviolability of private premises and privacy as guaranteed by Article 7 of the Charter of Fundamental Rights. The applicant submits that the Decision ordering the inspection at the applicant's premises is (i) arbitrary because the Commission did not have sufficient indicia providing reasonable grounds for suspecting the applicant's involvement in any competition law infringement, and (ii) constitutes a disproportionate interference with its fundamental rights of inviolability of private premises and privacy as it contains no limitation in time.

2. Second plea in law, alleging a breach of Article 20(4) Regulation (EC) No 1/2003 and the Commission's obligation to state reasons as set forth in Article 296(2) TFEU. The applicant submits that the Decision infringes the Commission's obligation to specify clearly and precisely the subject matter of the inspection, in violation of Article 20(4) of Regulation (EC) No 1/2003 and the Commission's duty to state reasons clearly in its decisions. More specifically, the wording of the Decision was such that it did not place the applicant in a position to understand the scope of the inspection, and thus exercise its rights of defence.

([1]) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ 2003 L 1, p. 1).

Action brought on 11 May 2023 — VDK v Commission

(Case T-265/23)

(2023/C 235/83)

Language of the case: German

Parties

Applicant: Verband der Deutschen Kutter- und Küstenfischer e.V. (VDK) (Hamburg, Germany) (represented by: M. Waller, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Delegated Regulation (EU) 2023/340 of 8 December 2022 amending Delegated Regulation (EU) 2017/118 as regards conservation measures in Sylter Aussenriff, Borkum-Riffgrund, Doggerbank and Östliche Deutsche Bucht, and in Klaverbank, Friese Front and Centrale Oestergronden; ([1])

— order the defendant 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 the Treaties

According to the applicant, the contested regulation infringes the principle of proportionality defined in Article 5(4) of the EU Treaty. In particular:

— The contested regulation does not pursue a legitimate aim with regard to the protection of the habitat type 'reefs' (Code 1170) sought by that regulation. The definition adopted by Germany of the habitat type 'reef' listed in Annex I to the Habitats Directive is too imprecise. The Commission erred in failing to seek clarification of that definition.

— The areas covered by the fishing restrictions imposed by the contested regulation were drafted too broadly and go beyond what is necessary to protect the habitats.

— In so far as the purpose of the regulation is the protection of the biotope type 'Species-rich gravel, coarse sand and shell-gravel areas in marine and costal areas', the applicant submits that the need for restrictions on fishing to protect that biotope type has not been established.

— An assessment of the appropriateness of the restrictions on fishing laid down in the contested regulation is not at all possible, since the technical basis for the management measures submitted by Germany is already deficient. The Commission erred in failing to seek clarification in that regard.

— In addition, there are exceptions to certain catch limitations on the eastern part of the Sylter Aussenriff for traditional shrimp fishing but not for other fishing techniques which have a comparably minor impact on habitats.

— Furthermore, the closure of 55 % of the Amrum Bank cannot be justified, at least with regard to shrimp fishing. The effects of shrimp fishing on sandy subsoils have been sufficiently examined in various research projects. To that extent, significant effects on the sandbank habitat are precluded.

— There does not appear to be a technical basis for exempting a part of the Sylter Aussenriff from fishing restrictions, which calls into question the fishing restrictions for the whole area.

2. Second plea in law, alleging lack of competence

In the applicant's view, in so far as the purpose of the contested delegated regulation is the protection of the biotope type 'Species-rich gravel, coarse sand and shell-gravel areas', it does not fall within the competence framework under Article 11(2) of Regulation (EU) No 1380/2013 ([2]) in conjunction with Article 13(4) of Directive 2008/56/EC, ([3]) since that biotope type is not integrated into a national programme of measures, nor is it covered by the protected areas referred to in Article 13(4) of Directive 2008/56/EC.

([1]) OJ 2023 L 48, p. 1.

([2]) Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ 2013 L 354, p. 22).

([3]) Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ 2008 L 164, p. 19).

Action brought on 17 May 2023 — AirDoctor v EUIPO (AMAZING AIR)

(Case T-269/23)

(2023/C 235/84)

Language of the case: English

Parties

Applicant: AirDoctor LLC (Sherman Oaks, California, United States) (represented by: K. Rantala, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for European Union word mark AMAZING AIR — Application for registration No 18 716 085

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 8 March 2023 in Case R 2299/2022-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

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

Action brought on 18 May 2023 — Rosbank v Council

(Case T-270/23)

(2023/C 235/85)

Language of the case: French

Parties

Applicant: Rosbank PAO (Moscow, Russia) (represented by: A. Genko, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare that its application for annulment is admissible and well-founded and consequently:

— annul Council Regulation (EU) 269/2014 of 17 March 2014 as amended on 25 February 2023 by Implementing Regulation (EU) 2023/429 (OJ 2023 L 59 I, p. 278) in that it adds the applicant to the list of sanctioned entities under entry number 199;

— annul Council Decision 2014/145/CFSP of 17 March 2014 as amended on 25 February 2023 by Council Decision (CFSP) 2023/432 (OJ 2023 L 59 I, p. 437) in that it adds that applicant to the list of sanctioned entities under entry number 199;

— annul Council Regulation (EU) 269/2014 of 17 March 2014 as amended on 25 February 2022 by Regulation (EU) 2022/330 (OJ 2022 L 51, p. 1) by the addition of a new criterion making it possible to impose sanctions on 'leading businesspersons or legal persons, entities or bodies involved in economic sectors providing a substantial source of revenue to the government of the Russian Federation', in so far as it affects the applicant;

— annul Council Decision 2014/145/CFSP of 17 March 2014 as amended by Decision (CFSP) 2022/329 of 25 February 2022 (OJ 2022 L 50, p. 1) by the addition of a new criterion making it possible to impose sanctions on 'leading businesspersons involved in economic sectors providing a substantial source of revenue to the government of the Russian Federation …', in so far as it affects the applicant;

— annul the maintaining acts in so far as they affect the applicant;

— order the Council to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging a failure to state reasons. The Council put forward no individual, specific and concrete grounds allowing it to classify the applicant according to the criterion applied to it, namely the criterion making it possible to impose sanctions on 'entities … involved in economic sectors providing a substantial source of revenue to the government of the Russian Federation'.

2. Second plea in law, alleging an error in assessment. The applicant submits that the statement of reasons contains erroneous assertions and that the evidence file does not establish that there were facts justifying the imposition of sanctions. Next, there is no evidence of a substantial contribution to the resources of the government of the Russian Federation. Finally, the Conseil relied on outdated facts.

3. Third plea in law, alleging a misuse of powers. The Council's evidence file shows that that measure sanctions a natural person who is a third party and, more generally, that the measure is intended to sanction Russian assets in Europe and not the applicant.

4. Fourth plea in law, alleging an infringement of the principle of proportionality since the sanction has a disproportionate effect on third parties and makes it impossible to achieve the objectives of Regulation No 269/2014.

5. Fifth plea in law, alleging an infringement of the principle of non-discrimination since the sanction has a disproportionate effect on third parties and makes it impossible to achieve the objectives of Regulation No 269/2014.

6. Sixth plea in law, alleging an undue prejudice to fundamental rights, in particular the right to property.

7. Seventh plea in law, alleging that it was possible to adopt other measures which were less restrictive than the measures at issue.

8. Eighth plea in law, based on an indirect plea of illegality, regarding the criterion concerning entities added to Article 3(1)(g) of Regulation No 269/2014. The applicant claims that there is no sufficient link between the criterion and the objective pursued and that there has been an infringement of the fundamental principles of the Union, in particular the principle of equality and non-discrimination.

Action brought on 22 May 2023 — Alfa-Bank v Council

(Case T-271/23)

(2023/C 235/86)

Language of the case: English

Parties

Applicant: Alfa-Bank JSC (Moscow, Russia) (represented by: B. Malmendier, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul paragraph 198 of Council Decision (CFSP) 2023/432 of 25 February 2023 ([1]) amending Decision 2014/145/CFSP of 17 March 2014;

— annul paragraph 198 of Council Implementing Regulation (EU) 2023/429 of 25 February 2023 ([2]) implementing Regulation (EU) No 269/2014 of 17 March 2014;

— order the Council of the European Union to pay the costs of the proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging erroneous assessment of the facts by the Council, which resulted in the unreasonable classification of the applicant as a person of the specified category — 'leading businesspersons or legal persons, entities or bodies involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation, which is responsible for the annexation of Crimea and the destabilization of Ukraine, and natural or legal persons, entities or bodies associated with them'.

2. Second plea in law, alleging absence of legal grounds for the Council to impose economic restrictive measures on the applicant, its 'associates' and clients.

3. Third plea in law, alleging that the Council does not have complete, reliable and sufficient evidence to justify the grounds for applying restrictive measures in respect of the applicant and his related persons.

4. Fourth plea in law, alleging breach of the principle of proportionality and infringement of fundamental rights, in particular the right to property, the freedom to pursue an economic or commercial activity and the right to protection of reputation.

5. Fifth plea in law, alleging lack of evidence of the existence of legal associates, as well as the relevance and type of relationship between the applicant and the associates.

6. Sixth plea in law, alleging violation by the Council of the balance between the foreign policy objective of the sanctions and the restriction of the applicant's economic rights and, as a result, contributing to the impoverishment of the population of the Russian Federation.

([1]) Council Decision (CFSP) 2023/432 of 25 February 2023 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2023 LI 59, p. 437).

([2]) Council Implementing Regulation (EU) 2023/429 of 25 February 2023 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2023 LI 59, p. 278).

Action brought on 19 May 2023 — Karadeniz v EUIPO — Cakmakci (Acapulco)

(Case T-274/23)

(2023/C 235/87)

Language in which the application was lodged: German

Parties

Applicant: Taha Karadeniz (Dinslaken, Germany) (represented by: J. Schmidt, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Ayhan Cakmakci (Bochum, Germany)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: EU word mark 'Acapulco' — EU trade mark No 18 125 766

Proceedings before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 14 February 2023 in Case R 691/2022-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

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

Pleas in law

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

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

Action brought on 22 May 2023 — Sumol + Compal Marcas v EUIPO — Kåska (smål)

(Case T-279/23)

(2023/C 235/88)

Language in which the application was lodged: English

Parties

Applicant: Sumol + Compal Marcas SA (Carnaxide, Portugal) (represented by: R. Milhões, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Kåska Oy (Helsinki, Finland)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union figurative trade mark smål — Application for registration No 18 442 375

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 1 March 2023 in Case R 2295/2022-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— annul the decision of the Opposition Division of 23 September 2022 in opposition proceedings No. B 3 150 396;

— order EUIPO and the other party to the proceedings to pay the costs.

Plea in law

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

Action brought on 23 May 2023 — Aven v Council

(Case T-283/23)

(2023/C 235/89)

Language of the case: French

Parties

Applicant: Petr Aven (Klauģulejas, Latvia) (represented by: T. Marembert and A. Bass, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2023/572 ([1]) of 13 March 2023 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, in so far as it concerns the applicant;

— annul Council Implementing Regulation (EU) 2023/571 ([2]) of 13 March 2023 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, in so far as it concerns the applicant;

— order the Council to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of essential procedural requirements and of the obligation to conduct a periodic review.

2. Second plea in law, alleging an error in assessment. The applicant submits that the Council has failed to substantiate any of the assertions in its statement of reasons and that the criterion relating to actively supporting actions and policies which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine, that is, the criterion referred to in Article 2(1)(a) of Decision 2014/145/CFSP, has not been satisfied.

3. Third plea in law, alleging an error in assessment. The applicant submits that the Council has failed to substantiate any of the assertions in its statement of reasons and that the criterion relating to actively supporting, materially or financially, or benefitting from Russian decision-makers responsible for the annexation of Crimea or the destabilisation of Ukraine, that is, the criterion referred to in Article 2(1)(d) of Decision 2014/145/CFSP, has not been satisfied.

4. Fourth plea in law, alleging that the criterion laid down in Article 2(1)(g) of Decision 2014/145/CFSP is unlawful. The applicant takes the view that there is no legal basis for the criterion relied on by the Council.

5. Fifth plea in law, alleging that the criterion laid down in Article 2(1)(g) of Decision 2014/145/CFSP is unlawful. The applicant submits in that regard that that criterion infringes the principle of proportionality.

6. Sixth plea in law, alleging an error in assessment, on the ground that the Council has not established that the applicant is a leading businessperson or that the banking sector provides a substantial source of revenue to the government of the Russian Federation. Finally, the applicant submits that he has not been active in the Russian banking sector for almost one year.

([1]) (OJ 2023 L 75 I, p. 134).
([2]) (OJ 2023 L 75 I, p. 1).

Action brought on 24 May 2023 — Volta Charging v EUIPO — The Paper & Office Equipment Spain Ass (VOLTA)

(Case T-285/23)

(2023/C 235/90)

Language in which the application was lodged: English

Parties

Applicant: Volta Charging LLC (San Francisco, California, United States) (represented by: T. Stein, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: The Paper & Office Equipment Spain Ass, SA (Arrankudiaga, Spain)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union word mark VOLTA — European Union trade mark No 17 630 252

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 6 March 2023 in Case R 1860/2022-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— revoke EUTM No 17 630 252 VOLTA in its entirety;

— order EUIPO to pay the costs necessarily incurred by the applicant for the purposes of the proceedings before the Court and the Board of Appeal.

Plea in law

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

Order of the General Court of 16 May 2023 — C&C IP UK v EUIPO — Tipico Group (t)

(Case T-762/21) ([1])

(2023/C 235/91)

Language of the case: English

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

([1]) OJ C 64, 7.2.2022.

Order of the General Court of 16 May 2023 — Diesel v EUIPO — Lidl Stiftung (Joggjeans)

(Case T-378/22) ([1])

(2023/C 235/92)

Language of the case: English

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

([1]) OJ C 311, 16.8.2022.

Order of the General Court of 16 May 2023 — Diesel v EUIPO — Lidl Stiftung (Joggjeans)

(Case T-379/22) ([1])

(2023/C 235/93)

Language of the case: English

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

([1]) OJ C 311, 16.8.2022.

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

Publications Office
of the European Union
L-2985 Luxembourg
LUXEMBOURG

EN