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Information and Notices

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(2023/C 271/01)

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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Eighth Chamber) of 15 June 2023 — Joshua David Silver, Leona Catherine Bashow, Charles Nicholas Hilary Marquand, JY, JZ, Anthony Styles Clayton, Gillian Margaret Clayton v Council of the European Union

(Case C-499/21 P) [1]

(Appeal — Action for annulment — Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community — Decision (EU) 2020/135 — Nationals of the United Kingdom of Great Britain and Northern Ireland — Consequences of that agreement on the status of citizen of the European Union and the rights attaching to that status for those nationals — Fourth paragraph of Article 263 TFEU — Locus standi — Conditions — Interest in bringing proceedings)

(2023/C 271/02)

Language of the case: English

Parties

Appellants: Joshua David Silver, Leona Catherine Bashow, Charles Nicholas Hilary Marquand, JY, JZ, Anthony Styles Clayton, Gillian Margaret Clayton (represented by: P. Tridimas, dikigoros, D. Harrison and A. von Westernhagen, Solicitors)

Other party to the proceedings: Council of the European Union, (represented by M. Bauer, J. Ciantar and R. Meyer, acting as Agents)

Operative part of the judgment

The Court:

1. Dismisses the appeal;

2. Orders Mr Joshua David Silver, Ms Leona Catherine Bashow, Mr Charles Nicholas Hilary Marquand, JY, JZ, Mr Anthony Styles Clayton and Ms Gillian Margaret Clayton to pay the costs.

[1] OJ C 490, 6.12.2021.

Judgment of the Court (Eighth Chamber) of 15 June 2023 — Harry Shindler, Christopher David Randolph, Douglas Edward Watson, Michael Charles Strawson, Hilary Elizabeth Walker, Sarah Caroline Griffiths, James Graham Cherrill, Anita Ruddell Tuttell, Joséphine French, William John Tobbin v Council of the European Union

(Case C-501/21 P) ([1])

(Appeal — Action for annulment — Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community — Decision (EU) 2020/135 — Nationals of the United Kingdom of Great Britain and Northern Ireland — Consequences of that agreement on the status of citizen of the European Union and the rights attaching to that status for those nationals — Fourth paragraph of Article 263 TFEU — Locus standi — Conditions — Interest in bringing proceedings)

(2023/C 271/03)

Language of the case: French

Parties

Appellants: Harry Shindler, Christopher David Randolph, Douglas Edward Watson, Michael Charles Strawson, Hilary Elizabeth Walker, Sarah Caroline Griffiths, James Graham Cherrill, Anita Ruddell Tuttell, Joséphine French, William John Tobbin (represented by J. Fouchet, avocat)

Other party to the proceedings: Council of the European Union (represented by: M. Bauer, J. Ciantar and R. Meyer, acting as Agents)

Operative part of the judgment

The Court:

1. Dismisses the appeal;

2. Orders Mr Harry Shindler, Mr Christopher David Randolph, Mr Douglas Edward Watson, Mr Michael Charles Strawson, Ms Hilary Elizabeth Walker, Ms Sarah Caroline Griffiths, Mr James Graham Cherrill, Ms Anita Ruddell Tuttell, Ms Joséphine French and Mr William John Tobbin to pay the costs.

([1]) OJ C 452, 8.11.2021.

Judgment of the Court (Eighth Chamber) of 15 June 2023 — David Price v Council of the European Union

(Case C-502/21 P) ([1])

(Appeal — Action for annulment — Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community — Decision (EU) 2020/135 — Nationals of the United Kingdom of Great Britain and Northern Ireland — Consequences of that agreement on the status of citizen of the European Union and the rights attaching to that status for those nationals — Fourth paragraph of Article 263 TFEU — Locus standi — Conditions — Interest in bringing proceedings)

(2023/C 271/04)

Language of the case: French

Parties

Appellant: David Price (represented by: J. Fouchet, avocat)

Other party to the proceedings: Council of the European Union (represented by: M. Bauer, J. Ciantar and R. Meyer, acting as Agents)

Operative part of the judgment

The Court:

1. Dismisses the appeal;

2. Orders Mr David Price to pay the costs.

(1) OJ C 452, 8.11.2021.

Judgment of the Court (Fourth Chamber) of 15 June 2023 (request for a preliminary ruling from the Sąd Rejonowy dla Warszawy — Śródmieścia w Warszawie — Poland) — Arkadiusz Szcześniak v Bank M. SA

(Case C-520/21, (1) **Bank M. (Consequences of the annulment of the contract))**

(Reference for a preliminary ruling — Unfair terms in consumer contracts — Directive 93/13/EEC — Article 6(1) and Article 7(1) — Mortgage loan indexed to a foreign currency — Conversion clauses — Determination of the exchange rate between that foreign currency and the national currency — Effects of a finding that a clause is unfair — Effects of the annulment of a contract in its entirety — Possibility of asserting claims that go beyond the reimbursement of the amounts agreed in the contract and the payment of default interest — Damage incurred by the consumer — Unavailability of the amount of the monthly instalments paid to the bank — Damage incurred by the bank — Unavailability of the amount of the capital paid to the consumer — Deterrent effect of the prohibition on unfair terms — Effective protection of the consumer — Judicial interpretation of national legislation)

(2023/C 271/05)

Language of the case: Polish

Referring court

Sąd Rejonowy dla Warszawy — Śródmieścia w Warszawie

Parties to the main proceedings

Applicant: Arkadiusz Szcześniak

Defendant: Bank M. SA

Intervening parties: Rzecznik Praw Obywatelskich, Rzecznik Finansowy, Prokurator Prokuratury Rejonowej Warszawa–Śródmieście w Warszawie, Przewodniczący Komisji Nadzoru Finansowego

Operative part of the judgment

In the context of the annulment in its entirety of a mortgage loan agreement on the ground that it cannot continue in existence after the removal of the unfair terms,

Article 6(1) and Article 7(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts

must be interpreted as

— not precluding a judicial interpretation of national law according to which the consumer has the right to seek compensation from the credit institution going beyond reimbursement of the monthly instalments paid and the expenses paid in respect of the performance of that agreement together with the payment of default interest at the statutory rate from the date on which notice is served, provided that the objectives of Directive 93/13 and the principle of proportionality are observed and,

— precluding a judicial interpretation of national law according to which the credit institution is entitled to seek compensation from the consumer going beyond reimbursement of the capital paid in respect of the performance of that agreement together with the payment of default interest at the statutory rate from the date on which notice is served.

(1) OJ C 64, 7.2.2022.

Judgment of the Court (Second Chamber) of 15 June 2023 (request for a preliminary ruling from the High Court (Ireland) — Ireland) — Eco Advocacy CLG v An Bord Pleanála

(Case C-721/21, [1] **Eco Advocacy)**

(Reference for a preliminary ruling — Environment — Directive 92/43/EEC — Conservation of natural habitats and of wild fauna and flora — Special areas of conservation — Article 6(3) — Screening of a plan or project with a view to determining whether or not it is necessary to carry out an appropriate assessment of the implications of that plan or project for a special area of conservation — Statement of reasons — Measures that may be taken into account — Project for the construction of a dwelling — Procedural autonomy — Principles of equivalence and effectiveness — Procedural rules according to which the subject matter of the dispute is determined by the pleas in law put forward at the point in time at which the action was brought)

(2023/C 271/06)

Language of the case: English

Referring court

High Court (Ireland)

Parties to the main proceedings

Applicant: Eco Advocacy CLG

Defendant: An Bord Pleanála

Other parties: Keegan Land Holdings, An Taisce — The National Trust for Ireland, ClientEarth AISBL

Operative part of the judgment

1. EU law must be interpreted as not precluding a national procedural rule according to which, first, an application for judicial review, both under national law and under provisions of EU law such as Article 4(2) to (5) of, and Annex III to, Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014, or Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, must state precisely each ground, giving particulars where appropriate and identify in respect of each ground the facts or matters relied upon as supporting that ground and, second, an applicant may not rely upon any grounds or any relief sought at the hearing other than those set out in that statement.

2. Article 6(3) of Directive 92/43

   must be interpreted as meaning that:

   although, where a competent authority decides to authorise a plan or project likely to have a significant effect on a site protected under that directive without requiring an appropriate assessment within the meaning of that provision, that authority is not required to respond, in the statement of reasons for its decision, to all the points of law and of fact raised during the administrative procedure, it must nevertheless state to the requisite standard the reasons why it was able, prior to the granting of such authorisation, to achieve certainty, notwithstanding any opinions to the contrary and any reasonable doubts expressed therein, that there was no reasonable scientific doubt as to the possibility that that project would significantly affect that site.

3. Article 6(3) of Directive 92/43

   must be interpreted as meaning that:

   in order to determine whether it is necessary to carry out an appropriate assessment of the implications of a plan or project for a site, account may be taken of the features of that plan or project which involve the removal of contaminants and which therefore may have the effect of reducing the harmful effects of the plan or project on that site, where those features have been incorporated into that plan or project as standard features, inherent in such a plan or project, irrespective of any effect on the site.

[1] OJ C 158, 11.4.2022.

Judgment of the Court (Sixth Chamber) of 15 June 2023 (request for a preliminary ruling from the Tribunale Amministrativo Regionale per il Lazio — Italy) — BM, NP v Ministero dell'Istruzione, dell'Università e della Ricerca — MIUR

(Case C-132/22, [1] **Ministero dell'Istruzione, dell'Università e della Ricerca (Special lists))**

(Reference for a preliminary ruling — Freedom of movement for workers — Article 45 TFEU — Regulation (EU) No 492/2011 — Article 3(1) — Obstacle — Equal treatment — Procedure for compiling lists for awarding posts in certain national public institutions — Requirement for admission linked to prior professional experience gained at those institutions — National legislation not allowing professional experience gained in other Member States to be taken into account — Whether justified — Objective of combating job insecurity)

(2023/C 271/07)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per il Lazio

Parties to the main proceedings

Applicants: BM, NP

Defendant: Ministero dell'Istruzione, dell'Università e della Ricerca — MIUR

Operative part of the judgment

Article 45 TFEU and Article 3(1)(b) of Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union

must be interpreted as precluding national legislation that provides that only candidates who have gained a certain amount of professional experience at national public higher-education institutions for the fine arts, music and dance may be admitted to a procedure for inclusion on the lists compiled for the purpose of recruiting, on permanent or temporary employment contracts, staff in those institutions and that thus prevents professional experience gained in other Member States from being taken into consideration for the purpose of admission to that procedure.

[1] OJ C 207, 23.5.2022.

Judgment of the Court (Fifth Chamber) of 15 June 2023 (request for a preliminary ruling from the Conseil d'État — France) — Saint-Louis Sucre v Premier ministre, Ministre de l'Agriculture et de l'Alimentation, SICA des betteraviers d'Etrepagny

(Case C-183/22, [1] **Saint-Louis Sucre (Recognition of a producer organisation))**

(Reference for a preliminary ruling — Agriculture — Common organisation of the markets — Regulation (EU) No 1308/2013 — Statutes of producer organisations — Article 153(1)(b) — Rule that members may belong to only one producer organisation — Scope — Article 153(2)(c) — Democratic scrutiny by producer members of the producer organisation and the decisions taken within it — Control exercised by one person over certain members of a producer organisation)

(2023/C 271/08)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Saint-Louis Sucre

Defendants: Premier ministre, Ministre de l'Agriculture et de l'Alimentation, SICA des betteraviers d'Étrépagny

Operative part of the judgment

1. Article 153(1)(b) of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, as amended by Regulation (EU) No 2017/2393 of the European Parliament and of the Council of 13 December 2017,

must be interpreted as meaning that the requirement of being a member of only one producer organisation applies solely to the members of the producer organisation that are producers.

2. Article 153(2)(c) of Regulation No 1308/2013, as amended by Regulation 2017/2393

must be interpreted as meaning that in determining whether the statutes of a producer organisation lay down rules that enable its producer members to scrutinise democratically their organisation and its decisions, the national authority responsible for the recognition of that organisation must:

— examine whether one person controls certain members of the producer organisation, having regard not only to the fact that that person holds a share of the capital of those members, but also to the fact that it maintains other types of relationships with those members, such as, in the case of non-producer members, their affiliation to the same trade union confederation or, in the case of producer members, their exercise of management responsibilities within such a confederation;

— after verifying that the producer members of the producers organisation have a majority of the votes in the organisation's general assembly, also examine whether, in view of the distribution of votes among members that are not controlled by other persons, one or more non-producer members are able, by virtue of the decisive influence they may therefore be able to exert, even without a majority, to control the decisions taken by the producer organisation.

([1]) OJ C 213, 30.5.2022.

Judgment of the Court (Ninth Chamber) of 15 June 2023 (request for a preliminary ruling from the Sąd Okręgowy w Warszawie — Poland) — YQ, RJ v Getin Noble Bank S.A.

(Case C-287/22, ([1]) **Getin Noble Bank (Suspension or performance of a credit agreement))**

(Reference for a preliminary ruling — Consumer protection — Unfair terms in consumer contracts — Directive 93/13/EEC — Mortgage loan indexed to a foreign currency — Article 6(1) — Article 7(1) — Application for interim measures — Suspension of performance of the loan agreement — Ensuring full effectiveness of the restitutory effect)

(2023/C 271/09)

Language of the case: Polish

Referring court

Sąd Okręgowy w Warszawie

Parties to the main proceedings

Applicants: YQ, RJ

Defendant: Getin Noble Bank S.A.

Operative part of the judgment

Article 6(1) and Article 7(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, read in the light of the principle of effectiveness,

must be interpreted as precluding national case-law according to which a national court may dismiss an application for the grant of interim measures lodged by a consumer seeking the suspension, pending a final decision on the invalidity of the loan agreement concluded by that consumer on the ground that that loan agreement contains unfair terms, of the payment of the monthly instalments due under that loan agreement, where the grant of those interim measures is necessary to ensure the full effectiveness of that decision.

([1]) OJ C 318. 22.8.2022.

Judgment of the Court (Tenth Chamber) of 15 June 2023 (request for a preliminary ruling from the Administrativen sad — Varna — Bulgaria) — Teritorialna direktsia Mitnitsa Varna v 'NOVA TARGOVSKA KOMPANIA 2004' AD

(Case C-292/22, ([1]) **Nova Targovska Kompania 2004)**

(Reference for a preliminary ruling — Customs union — Common Customs Tariff — Classification of goods — Combined Nomenclature — Headings 1511 and 1517 — Refined palm oil, bleached and deodorised — No method laid down for analysing the consistency of a product)

(2023/C 271/10)

Language of the case: Bulgarian

Referring court

Administrativen sad — Varna

Parties to the main proceedings

Applicant: Teritorialna direktsia Mitnitsa Varna

Defendant: 'NOVA TARGOVSKA KOMPANIA 2004' AD

Intervener: Okrazhna prokuratura — Varna

Operative part of the judgment

1. The Combined Nomenclature in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, in the versions resulting from Commission Implementing Regulation (EU) 2018/1602 of 11 October 2018 and from Commission Implementing Regulation (EU) 2019/1776 of 9 October 2019, must be interpreted as meaning that a food preparation of palm oil which is not covered by heading 1516 of that nomenclature and which has undergone treatment other than refining falls under heading 1517 of that nomenclature, the question whether that preparation has been chemically modified as a result of that processing being irrelevant in that regard..

2. The Combined Nomenclature in Annex I to Regulation No 2658/87, in the versions resulting from Implementing Regulation 2018/1602 and from Implementing Regulation 2019/1776, must be interpreted as meaning that, in the absence of methods and criteria defined in that nomenclature for the purposes of determining whether such a preparation has undergone treatment other than refining, the customs authorities may choose the appropriate method for that purpose, provided that it is capable of producing results consistent with that nomenclature, which it is for the national court to verify..

([1]) OJ C 266, 11.7.2022.

Judgment of the Court (Seventh Chamber) of 15 June 2023 (request for a preliminary ruling from the Verwaltungsgerichtshof — Austria) — Thermalhotel Fontana Hotelbetriebsgesellschaft mbH

(Case C-411/22, [1] **Thermalhotel Fontana)**

(Reference for a preliminary ruling — Social security — Regulation (EC) No 883/2004 — Article 3(1)(a) — Concept of 'sickness benefits' — Scope — Freedom of movement for workers — Article 45 TFEU — Regulation (EC) No 492/2011 — Article 7(2) — Social advantages — Difference in treatment — Justifications — COVID-19 — Isolation of employees ordered by the national health authority — Compensation of those employees by the employer — Reimbursement of the employer by the competent authority — Exclusion of frontier workers required to isolate under a measure taken by the authority of their State of residence)

(2023/C 271/11)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Thermalhotel Fontana Hotelbetriebsgesellschaft mbH

Intervener: Bezirkshauptmannschaft Südoststeiermark

Operative part of the judgment

1. Article 3(1)(a) of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems

must be interpreted as meaning that compensation, financed by the State, which is due to workers for the pecuniary disadvantages caused by the impediment to their employment during their isolation as persons infected with, suspected of being infected with, or suspected of being contagious with COVID-19 does not constitute a 'sickness benefit', referred to in that provision, and does not therefore come within the scope of that regulation.

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

must be interpreted as precluding legislation of a Member State under which the granting of compensation for loss of earnings suffered by workers as a result of isolation ordered following a positive COVID-19 test result is subject to the condition that the imposition of the isolation measure be ordered by an authority of that Member State under that legislation.

[1] OJ C 359, 19.9.2022.

Order of the Court (Ninth Chamber) of 31 March 2023 (request for a preliminary ruling from the Tribunal Superior de Justicia de Aragón — Spain) — Asociación Estatal de Entidades de Servicios de Atención a Domicilio (ASADE) v Consejería de Sanidad de la Diputación General de Aragón

(Case C-676/20, [1] **ASADE)**

(Reference for a preliminary ruling — Article 53(2) and Article 99 of the Rules of Procedure of the Court of Justice — Purely internal situation — Public procurement — Directive 2014/24/EU — Articles 74 to 77 — Provision of social and health services — Use of concerted action agreements with private non-profit organisations — Services in the internal market — Directive 2006/123/EC — Scope — Article 2(2)(f) and (j))

(2023/C 271/12)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de Aragón

Parties to the main proceedings

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

Defendant: Consejería de Sanidad de la Diputación General de Aragón

Operative part of the order

Articles 76 and 77 of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC

must be interpreted as not precluding national legislation that reserves for non-profit organisations the right to conclude, in accordance with the principles of advertising, competition and transparency, agreements under which those organisations provide social or health services of general interest, in return for reimbursement of the costs they incur, irrespective of the estimated value of those services, where the purpose of those agreements is to achieve objectives of solidarity, without necessarily improving the adequacy or budgetary efficiency of the provision of those services by comparison with the regime that is generally applicable to public-procurement procedures, provided,

— first, that the legal and contractual framework within which the activity of those organisations is carried out contributes effectively to the social purpose and objectives of solidarity and budgetary efficiency on which that legislation is based, and

— secondly, that the principle of transparency, as specified in particular in Article 75 of that directive, is respected.

[1] OJ C 138, 19.4.2021.

Order of the Court (Seventh Chamber) of 24 March 2023 (request for a preliminary ruling from the Administrativen sad Veliko Tarnovo — Bulgaria) — DV v Direktor na Teritorialno podelenie na Natsionalnia osiguritelen institut — Veliko Tarnovo

(Case C-30/22, [1] **Direktor na Teritorialno podelenie na Natsionalnia osiguritelen institut — Veliko Tarnovo)**

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Migrant workers — Unemployment — Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community — Social security — Article 30 — Determination of entitlement to unemployment benefits — Regulation (EC) No 883/2004 — Article 65(2) — Member State national who has been employed in the United Kingdom — Termination of his or her employment contract after the United Kingdom's withdrawal and the end of the transition period set by that agreement — Entitlement of that national to unemployment benefit under the legislation of that Member State upon his or her return to that Member State)

(2023/C 271/13)

Language of the case: Bulgarian

Referring court

Administrativen sad Veliko Tarnovo

Parties to the main proceedings

Applicant: DV

Defendant: Direktor na Teritorialno podelenie na Natsionalnia osiguritelen institut — Veliko Tarnovo

Operative part of the order

Article 65(2) of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, as amended by Regulation (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012,

must be interpreted as not applying to a situation in which a person seeks unemployment benefits from the competent authority of a Member State in which he or she has not completed periods of insurance, employment or self-employment and to the territory of which he or she returns after a period of insurance, employment or self-employment completed in another State, in which he or she resided, within the meaning of that provision, throughout that period.

[1] OJ C 138, 28.3.2022.

Order of the Court (Sixth Chamber) of 27 March 2023 (request for a preliminary ruling from the Rechtbank van eerste aanleg Oost-Vlaanderen Afdeling Ghent, Belgium) — VN v Belgische Staat

(Case C-34/22, Belgische Staat) [1]

(Reference for a preliminary ruling — Article 53(2) and Article 99 of the Rules of Procedure of the Court of Justice — Freedom to provide services — Free movement of capital — Restrictions — Tax legislation — Income tax — Tax exemption reserved for interest paid by banks fulfilling certain legal conditions — Indirect discrimination — Credit institutions established in Belgium and credit institutions established in another Member State of the European Union or the European Economic Area)

(2023/C 271/14)

Language of the case: Dutch

Referring court

Rechtbank van eerste aanleg Oost-Vlaanderen Afdeling, Ghent

Parties to the main proceedings

Applicant: VN

Defendant: Belgische Staat

Operative part of the order

Article 56 TFEU and Article 36 of the Agreement on the European Economic Area of 2 May 1992 must be interpreted as meaning that they preclude national legislation establishing a tax exemption scheme which, although applicable without distinction to remuneration relating to savings deposits held with domestic and foreign credit institutions, subjects the exemption of income from savings deposits held with credit institutions established in other Member States of the European Union or the European Economic Area to the satisfaction of conditions which must be similar to those set out in that national legislation, which are de facto specific to the national market.

([1]) OJ C 213, 30.5.2022.

Order of the Court (Tenth Chamber) of 6 June 2023 (request for a preliminary ruling from the Okresný súd Prešov — Slovakia) — Rozhlas a televízia Slovenska v CI

(Case C-669/22, ([1]) **Rozhlas a televízia Slovenska)**

(Reference for a preliminary ruling — Article 53(2) and Article 94 of the Rules of Procedure of the Court of Justice — Directive 93/13/EEC — Unfair terms in consumer contracts — Scope — Statement of the reasons justifying the need for an interpretation of certain provisions of European Union law by the Court of Justice and of the relationship between those provisions and the national legislation applicable — Insufficient information — Manifest inadmissibility)

(2023/C 271/15)

Language of the case: Slovak

Referring court

Okresný súd Prešov

Parties to the main proceedings

Applicant: Rozhlas a televízia Slovenska

Defendant: CI

Operative part of the order

The request for a preliminary ruling made by the Okresný súd Prešov (District Court, Prešov, Slovakia), by decision of 8 September 2022, is manifestly inadmissible.

([1]) Date lodged: 24.10.2022.

Appeal brought on 13 January 2023 by Autoramiksas UAB against the order of the General Court (Eighth Chamber) delivered on 10 November 2022 in Case T-374/22, Autoramiksas v Commission

(Case C-12/23 P)

(2023/C 271/16)

Language of the case: English

Parties

Appellant: Autoramiksas UAB (represented by: G. Valantiejus, advokatas)

Other party to the proceedings: European Commission

By order of 19 June 2023, the Court of Justice (Eight Chamber) held that the appeal was dismissed as manifestly unfounded and that Autoramiksas UAB should bear its own costs.

Appeal brought on 16 February 2023 by XH against the order of the General Court (Fourth Chamber) delivered on 19 December 2022 in Case T-522/21, XH v Commission

(Case C-91/23 P)

(2023/C 271/17)

Language of the case: English

Parties

Appellant: XH (represented by: K. Górny, adwokat)

Other party to the proceedings: European Commission

Form of order sought

The applicant claims that the Court should:

— set aside the judgment under appeal;

— by consequence, give the appellant the benefit of his requests i.e.

A. Annulment of:

— the decision D/386/20 of 24 November 2020 concerning refusal to rectify the appellant's Syspers2 file, upheld by the decision No. R/125/21 issued by the Appointing Authority on 16 June 2021 in response of the complaint filed by the appellant on 22 February 2021.

— the decision of 12 November 2020 (IA nº 32-2020) concerning non-inclusion of the appellant's name in the list of the promoted officials in 2020, upheld by the decision No. R/80/21 issued by the Appointing Authority on 8 June 2021 in response of the complaint filed by the appellant on 5 February 2021.

B. . Compensate loss and damages of the appellant.

— order the Commission to pay all the costs of both the appeal and of the first instance.

Pleas in law and main arguments

In support of the appeal, the appellant relies on the following pleas in law: Manifest error of assessment, distortion of evidence and error in law — Violation of Article 91 SR ([1]) and 270 TFEU. Infringement of the Practice Rules for the Implementation of the Rules of Procedure of the General Court, the Article 102, 104 and Annex 2, breach of Articles 76 and 147, 148(9) of the Rules of the Procedure of the General Court, as regards:

— manifest error of assessment and breach of the principle of sound administration and fair trial;

— use and information of the Appellant's addresses at the Registry of the General Court;

— failure to recognise the actual permanent address of the Appellant and acknowledge its changes in the course of legal aid proceedings;

— manifest error of assessment;

— failure to rectify and/or regularise the Appellant's address;

— service of the Appellant's correspondence to the General Court;

— rejection of postal proofs of recommended letters sent by the Appellant to the General Court;

— exclusion from the Court file of Appellant's correspondence;

— content of the correspondence between the Appellant and the General Court;

— date of the suspension of the time limits for lodging an appeal;

— alleged mandate for service of the orders at the Appellant's temporary address abroad where the Appellant didn't resided (instead of the Appellant's permanent address in Belgium);

— alleged mandate for service of the orders at the Appellant's temporary address in Poland where the Appellant didn't resided (instead of the Appellant's permanent address in Belgium);

— existence of unforeseeable circumstances or force majeure;

— existence of an excusable error;

— expiry of the time limit for lodging an action.

(1) Regulation no°31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ 1962 P 45, p. 1385).

Request for a preliminary ruling from the Vrhovno sodišče Republike Slovenije (Slovenia) lodged on 9 March 2023 — KUBERA, trgovanje s hrano in pijačo, d.o.o. v Republika Slovenija

(Case C-144/23, KUBERA)

(2023/C 271/18)

Language of the case: Slovenian

Referring court

Vrhovno sodišče Republike Slovenije

Parties to the main proceedings

Appellant: KUBERA, trgovanje s hrano in pijačo, d.o.o.

Respondent: Republika Slovenija

Questions referred

1. Does the third paragraph of Article 267 TFEU preclude a provision of the Zakon o pravdnem postopku (Code of Civil Procedure) under which, in proceedings relating to the grant of leave to bring an appeal on a point of law (revizija), the Vrhovno sodišče (Supreme Court, Slovenia) is not to consider the issue of whether, as a result of a party's request that a reference for a preliminary ruling be made to the Court of Justice of the European Union, it is required to refer one or more questions to the Court of Justice for a preliminary ruling?

If Question 1 is answered in the affirmative:

2. Must Article 47 of the Charter, regarding the obligation to state the reasons for judicial decisions, be interpreted as meaning that a procedural decision refusing a party's application for leave to bring an appeal on a point of law (revizija) under the Code of Civil Procedure constitutes a 'judicial decision' which must state the reasons why the party's request that a reference for a preliminary ruling be made to the Court of Justice of the European Union should not be granted in the case at hand?

Request for a preliminary ruling from the Bayerischer Verwaltungsgerichtshof (Germany) lodged on 4 April 2023 — Hauser Weinimport GmbH v Freistaat Bayern

(Case C-216/23, Hauser Weinimport)

(2023/C 271/19)

Language of the case: German

Referring court

Bayerischer Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Hauser Weinimport GmbH

Defendant: Freistaat Bayern

Questions referred

1. Is Article 3(4)(c) of Regulation (EU) No 251/2014 ([1]) to be interpreted as meaning that the term 'alcohol' also includes a drink which contains alcohol and is not a grapevine product within the meaning of Article 3(4)(a) of Regulation (EU) No 251/2014?

2. Does 'added' within the meaning of Article 3(4)(c) of Regulation (EU) No 251/2014 mean that the alcoholic strength of the end product must have increased by comparison with the grapevine product used in accordance with Article 3(4)(a) of Regulation (EU) No 251/2014?

3. If Question 1 is answered in the affirmative, is the first sentence of Article 3(1) of Regulation (EU) No 251/2014, read in conjunction with Annex I(1)(b)(ii) thereto, to be interpreted as meaning that the term 'flavouring foodstuff' includes an alcohol-containing drink within the meaning of Question 1?

([1]) Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and repealing Council Regulation (EEC) No 1601/91 (OJ 2014 L 84, p. 14).

Request for a preliminary ruling from the Ekonomisko lietu tiesa (Latvia) lodged on 3 May 2023 — Criminal proceedings against A, B, C, Z, F, AS Latgales Invest Holding, SIA METEOR HOLDING, METEOR Kettenfabrik GmbH, SIA Tool Industry, AS Ditton pievadķēžu rūpnīca

(Case C-285/23, Linte ([1]))

(2023/C 271/20)

Language of the case: Latvian

Referring court

Ekonomisko lietu tiesa

Parties in the main criminal proceedings

A, B, C, Z, F, AS Latgales Invest Holding, SIA METEOR HOLDING, METEOR Kettenfabrik GmbH, SIA Tool Industry, AS Ditton pievadķēžu rūpnīca

Intervener: Latvijas Investīciju un attīstības aģentūra

Questions referred

1. Must Article 24(1) of Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters ([2]) be interpreted as meaning that the hearing of an accused person by videoconference includes the situation where the accused person participates in the trial in a criminal case in a different Member State by videoconference from that person's Member State of residence?

2. Must Article 8(1) of Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings ([3]) be interpreted as meaning that the right of accused persons to attend the oral procedure may also be ensured by an accused person participating in the trial in a criminal case taking place in a different Member State by videoconference from that person's Member State of residence?

3. Does participation by an accused person in the trial in a case that takes place in a different Member State by videoconference from the Member State of residence equate to that person's physical presence at the hearing before the court in the Member State which is hearing the case?

4. Where the reply to the first and/or second questions is in the affirmative, may the videoconference be arranged only via the competent authorities of the Member State?

5. Where the reply to the fourth question is in the negative, may the court in the Member State which is hearing the case enter into contact directly with an accused person who is in a different Member State and send that person the link in order to join the videoconference?

6. Is it compatible with maintenance of the single area of freedom, security and justice of the Union to arrange such a videoconference otherwise than via the competent authorities of the Member State?

(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) OJ 2014 L 130, p. 1.
(3) OJ 2016 L 65, p. 1.

Request for a preliminary ruling from the Landgericht Düsseldorf (Germany) lodged on 8 May 2023 — LS v PL

(Case C-291/23, Hantoch [1])

(2023/C 271/21)

Language of the case: German

Referring court

Landgericht Düsseldorf

Parties to the main proceedings

Applicant: LS

Defendant: PL

Question referred

Must an interpretation of Article 10 of the EU Succession Regulation [2] with regard to the question whether any estate assets existed in the Member State of the court seised be based on the time of the succession or on the time when the action was filed?

(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 Oberster Gerichtshof (Austria) lodged on 25 May 2023 — DS v Pensionsversicherungsanstalt

(Case C-323/23, Pensionsversicherungsanstalt)

(2023/C 271/22)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Applicant: DS

Defendant: Pensionsversicherungsanstalt

Question referred

Is Article 7 of Directive 2004/38/EC, ([1]) to be interpreted as meaning that an economically inactive [Union citizen] may not be a burden on the social assistance system within the meaning of that directive, if he resides in the host Member State for more than three months, but for less than five years, and derives his right of residence only from his capacity as the spouse (Article 2(2)(a) of the [directive]) of a … Union citizen employed in the host Member State (migrant worker) (Article 7(1)(d) of the [directive]), but does not himself have an original right of residence under Article 7(1)(a), (b) or (c) of the Directive?

([1]) Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004 L 158, p. 77).

Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 25 May 2023 — Sozialversicherungsanstalt der Selbständigen

(Case C-329/23, Sozialversicherungsanstalt)

(2023/C 271/23)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Appellant on a point of law: Sozialversicherungsanstalt der Selbständigen

Interested party: Dr. W M, Bundesminister für Soziales, Gesundheit, Pflege und Konsumentenschutz

Questions referred

1. Are the rules of EU law on the determination of the applicable legislation in the area of social security according to Regulation (EC) No 883/2004 ([1]) in conjunction with Regulation (EC) No 987/2009 ([2]) to be applied to a situation in which an EU citizen is simultaneously self-employed in an EU State, an EEA EFTA State (Liechtenstein) and Switzerland.

   If the answer to the first question is in the affirmative:

2. Must the application of Regulation (EC) No 883/2004 in conjunction with Regulation (EC) No 987/2009 in such a case be such that the applicability of the social security legislation must be assessed separately in the relationship between the EU Member State and the EEA-EFTA State, on the one hand, and the relationship between the EU Member State and Switzerland, on the other hand, and must, accordingly, a separate certificate regarding the applicable legislation be issued in each case?

3. Is there a change in the 'relevant situation' within the meaning of Article 87(8) of Regulation, (EC) No 883/2004 where a self-employment activity is commenced in another State to which the said regulation is applicable, even if a change in the applicable legislation would not result either under Regulation (EC) No 883/2004 or under Regulation (EEC) No 1408/71 ([3]) and the activity is so subordinate in extent that only about 3 % of total income is thereby obtained?

In that regard, does it make any difference whether, within the meaning of the second question, coordination in bilateral relations must take place separately, that is to say, on the one hand, between the States hitherto concerned and, on the other hand, between one of the States hitherto concerned and the 'other' State?

(1) Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ 2004 L 166, p. 1).
(2) Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ 2009 L 284, p. 1).
(3) Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (OJ 1971 L 149, p. 2).

Request for a preliminary ruling from the Landgericht Frankfurt am Main (Germany) lodged on 26 May 2023 — MN v Qatar Airways

(Case C-335/23, Qatar Airways)

(2023/C 271/24)

Language of the case: German

Referring court

Landgericht Frankfurt am Main

Parties to the main proceedings

Applicant and appellant: MN

Defendant and respondent: Qatar Airways

Questions referred

1. Is Regulation (EC) No 261/2004 (1) to be interpreted as meaning that the passenger travels free of charge under the first alternative in [the first sentence of] Article 3(3) of that regulation in the case where he or she is required to pay only fees and aviation taxes for the flight ticket?

2. If the first question is answered in the negative:

   Is Regulation No 261/2004 to be interpreted as meaning that it does not concern a fare available (indirectly) to the public within the meaning of the second alternative in [the first sentence of] Article 3(3) of that regulation in the case where the flight was booked as part of a special offer provided by an air carrier for a limited period and in limited quantity, and which was available only to a certain group of professions?

3. If the second question is also answered in the negative and Regulation No 261/2004 is regarded as applicable:

   (a) Is Article 8(1)(c) of that regulation to be interpreted as meaning that there must be a temporal link between, on the one hand, the original booked and cancelled flight and, on the other, the desired re-routing at a later date?

   (b) How should that temporal link, if necessary, be defined?

(1) Regulation of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ 2004 L 46, p. 1).

Action brought on 30 May 2023 — European Commission v Slovak Republic

(Case C-341/23)

(2023/C 271/25)

Language of the case: Slovak

Parties

Applicant: European Commission (represented by: M. Ioan and R. Lindenthal, Agents)

Defendant: Slovak Republic

Form of order sought

— Declare that, by failing to ensure that conditioning plans and any corrective measures were submitted for approval in respect of the 11 landfills set out in the application (Vlčie Hory, Bojná part B and part C — Phase I., Čadca –Podzávoz, Rajec — Šuja, Ružomberok — Biela Púť, Landfill TKO Zubrohlava, Hnúšťa — Kotlište, Detva — Studienec Phase II., Hontianske Tesáre, Hôrky — Pláne a Stropkov — Chotča) so that a final decision can be taken on whether the operation of the landfill can continue on the basis of a conditioning plan for the site or whether measures should be taken to close down the landfill as soon as possible, the Slovak Republic has failed to fulfil its obligations under Article 14(a) and (b) of Directive 1999/31/EC ([1]) on the landfill of waste;

— Declare that, by failing to ensure that measures were taken to close down as soon as possible the ten landfill sites set out in the application (Stupava — Žabáreň, Bobogdány, Prietrž, Veronika Dežerice, Landfill KO Duslo, Šahy — Holá Stráž, Židová — Vráble, Smutná, Hnúšťa — Branzová, Veľká Ves), the Slovak Republic has failed to fulfil its obligations under Article 14(b) of Directive 1999/31/EC on the landfill of waste

— Order the Slovak Republic to pay the costs.

Pleas in law and main arguments

Under Article 14 of Directive 1999/31, the Slovak Republic was required to take measures in order that existing landfills, that is to say, 'landfills which [had] been granted a permit or which [were] already in operation at the time of transposition of [that] directive', were assessed on the basis of the requirements of the directive and were either closed down as soon as possible or were brought into compliance with the Directive over an eight-year transitional period, which expired on 16 July 2009.

Under Article 14(a) of the Directive, the Slovak Republic was required, within a period of one year from the entry into force of the legislation implementing the Directive, to ensure that the operator of the landfill prepare and present to the competent authorities, for their approval, a conditioning plan for the site including the particulars listed in Article 8 and any corrective measures needed in order to comply with the requirements of that directive. Under Article 14(b) of the Directive, following the presentation of that conditioning plan for the site, the competent authorities were to take, on the basis of that plan and the directive, a definite decision on whether the operation of the site could continue. Under the last sentence of Article 14(b) of the Directive, the Slovak Republic was also required to adopt, in accordance with Article 7(g) and Article 13, the necessary measures to close down as soon as possible sites which were not granted, in accordance with Article 8, a permit to continue to operate.

The Slovak Republic has failed to fulfil those obligations.

([1]) Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ 1999 L 182, p. 1)

Appeal brought on 8 June 2023 by Compagnie industrielle de la matière végétale (CIMV) against the judgment of the General Court (Eighth Chamber) delivered on 29 March 2023 in Case T-26/22, CIMV v Commission

(Case C-366/23 P)

(2023/C 271/26)

Language of the case: French

Parties

Appellant: Compagnie industrielle de la matière végétale (CIMV) (represented by: B. Le Bret, R. Rard and P. Renié, avocats)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— declare the present appeal admissible and well founded;

— set aside the judgment under appeal; and

— give a final ruling on the substance in accordance with Article 61 of the Statute of the Court of Justice and, primarily, grant the form of order sought by CIMV at first instance or, in the alternative, annul Article 3 of the Commission's decision in so far as it provides for enforcement;

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

— order the Commission to pay all the costs.

Grounds of appeal and main arguments

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

First, the General Court erred in law and distorted the facts in its assessment of the breach of the principle of the protection of legitimate expectations, in that it should have found that the Commission breached that principle, in view of the legitimate expectation created by the Commission's response to CIMV.

Secondly, the General Court erred in law and distorted the facts in that it should have held that the decision was adopted in breach of the rights of defence and of the right to be heard, in view of the considerable time that elapsed between the examination of the file, the last communication with the appellant and the adoption of the decision.

Order of the President of the Court of 17 March 2023 (request for a preliminary ruling from the Oberlandesgericht Stuttgart — Germany) — Paypal (Europe) Sarl and Cie, SCA v PQ

(Case C-190/21, [1] **Paypal)**

(2023/C 271/27)

Language of the case: German

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

[1] OJ C 278, 12.7.2021.

Order of the President of the Second Chamber of the General Court of 16 March 2023 (Request for a preliminary ruling from the Verwaltungsgericht Cottbus — Germany) — Stadt Frankfurt (Oder), FWA Frankfurter Wasser- und Abwassergesellschaft mbH v Landesamt für Bergbau, Geologie und Rohstoffe

(Case T-723/21, [1] **Stadt Frankfurt (Oder) and FWA)**

(2023/C 271/28)

Language of the case: German

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

[1] OJ C 95, 28.2.2022.

Order of the President of the Court of 17 March 2023 — European Commission v Portuguese Republic

(Case C-651/22) [1]

(2023/C 271/29)

Language of the case: Portuguese

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

[1] OJ C 463, 5.12.2022.

Order of the President of the Court of 16 March 2023 — European Commission v Slovak Republic

(Case C-668/22) [1]

(2023/C 271/30)

Language of the case: Slovak

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

[1] OJ C 463, 5.12.2022.

GENERAL COURT

Judgment of the General Court of 21 June 2023 — UG v Commission

(Case T-571/17 RENV) [1]

(Civil service — Contract staff — Contract of indefinite duration — Termination of contract — Article 47(c)(i) of the CEOS — Incompetence — Conduct in the service and attitude at work incompatible with the interests of the service — Obligation to state reasons — Right to be heard — Entitlement to parental leave — Article 42a of the Staff Regulations — Application of the minimum requirements of Directives 2010/18/EU and 2002/14/EC to officials and other servants of the European Union — Articles 27, 30 and 33 of the Charter of Fundamental Rights — Workers' right to information and consultation — Article 24b of the Staff Regulations — Manifest error of assessment — Protection in the event of unjustified dismissal — Indirect challenge to definitive acts — Inadmissibility — Principle of proportionality — Misuse of powers — Liability)

(2023/C 271/31)

Language of the case: French

Parties

Applicant: UG (represented by: M. Richard, lawyer)

Defendant: European Commission (represented by: L. Radu-Bouyon, acting as Agent)

Re:

By her action under Article 270 TFEU, the applicant seeks, in essence, first, the annulment of the decision of 17 October 2016 by which the European Commission terminated her contract as a member of the contract staff and, secondly, compensation for the material and non-material harm she claims to have suffered as a result of that decision.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders UG and the European Commission to bear their own costs in the cases registered under numbers T-571/17 and C-249/20 P;

3. Orders UG to bear her own costs and to pay a third of the costs incurred by the Commission in the case registered under the number T-571/17 RENV.

[1] OJ C 357, 23.10.2017.

Judgment of the General Court of 14 June 2023 — Stone Brewing v EUIPO — Molson Coors Brewing Company (UK) (STONE BREWING)

(Case T-200/20) [1]

(EU trade mark — Opposition proceedings — Application for EU word mark STONE BREWING — Earlier EU word mark STONES — Relative ground for refusal — Genuine use of the earlier mark — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

(2023/C 271/32)

Language of the case: English

Parties

Applicant: Stone Brewing Co. LLC (Escondido, California, United States) (represented by: M. Kloth, R. Briske and D. Habel, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Molson Coors Brewing Company (UK) Ltd (Burton Upon Trent, United Kingdom) (represented by G. Orchison, Solicitor, and J. Abrahams KC)

Re:

By its action under Article 263 TFEU, the applicant seeks the annulment of the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 31 January 2020 (Case R 1524/2018-4).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Stone Brewing Co. LLC to bear its own costs and to pay the costs incurred by Molson Coors Brewing Company (UK) Ltd;

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

([1]) OJ C 201, 15.6.2020.

Judgment of the General Court of 14 June 2023 — Polwax v Commission

(Case T-585/20) ([1])

(Competition — Concentrations — Upstream market for slack wax — Downstream market for paraffin waxes — Decision declaring the concentration compatible with the internal market and the EEA Agreement — Absence of commitment to supply slack wax — Vertical effects — Foreclosure of the input market)

(2023/C 271/33)

Language of the case: Polish

Parties

Applicant: Polwax S.A. (Jasło, Poland) (represented by: E. Nessmann and G. Duda, lawyers)

Defendant: European Commission (represented by: N. Khan, G. Meessen and J. Szczodrowski, acting as Agents)

Intervener in support of the defendant: Polski Koncern Naftowy Orlen S.A. (Płock, Poland) (represented by: M. Mataczyński, lawyer)

Re:

By its action under Article 263 TFEU, the applicant seeks the annulment of the Commission Decision of 14 July 2020 (case M.9014), adopted under Article 8(2) of Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (OJ 2004 L 24, p. 1), by which the European Commission declared a concentration between Polski Koncern Naftowy Orlen S.A. ('Orlen') and Grupa Lotos S.A. to be compatible with the internal market and with Article 57 of the Agreement on the European Economic Area (EEA), subject to Orlen's compliance with certain commitments.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Polwax S.A. to pay the costs.

([1]) OJ C 399, 23.11.2020.

Judgment of the General Court of 14 June 2023 — Ryanair and Airport Marketing Services v Commission

(Case T-79/21) [1]

(State aid — Agreements concluded with the airline Ryanair and its subsidiary Airport Marketing Services — Marketing services — Decision declaring the aid incompatible with the internal market and ordering its recovery — Advantage — 'Real need' test — Articles 41 and 47 of the Charter of Fundamental Rights — Right of access to the file — Right to be heard)

(2023/C 271/34)

Language of the case: English

Parties

Applicants: Ryanair DAC (Swords, Ireland), Airport Marketing Services Ltd (Dublin, Ireland) (represented by: E. Vahida, F.-C. Laprévote, V. Blanc, S. Rating, I.-G. Metaxas-Maranghidis and D. Pérez de Lamo, lawyers)

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

Intervener in support of the defendant: Council of the European Union (represented by: A. Maceroni and A.-L. Meyer, acting as Agents)

Re:

By their action based on Article 263 TFEU, the applicants, Ryanair DAC and Airport Marketing Services Ltd, seek annulment of Commission Decision (EU) 2020/1671 of 2 August 2019 on State aid SA.47867 2018/C (ex 2017/FC) granted by France to Ryanair and Airport Marketing Services (OJ 2020 L 388, p. 1).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Ryanair DAC and Airport Marketing Services Ltd to bear their own costs and to pay those incurred by the European Commission;

3. Orders the Council of the European Union to bear its own costs.

[1] OJ C 110, 29.3.2021.

Judgment of the General Court of 14 June 2023 — Covington & Burling and Van Vooren v Commission

(Case T-201/21) [1]

(Access to documents — Regulation (EC) No 1049/2001 — Standing Committee for Plants, Animals, Food and Feed — Individual positions of the Member States — Refusal to grant access — Article 4(3) of Regulation No 1049/2001 — Exception relating to protection of the decision-making process — Comitology — Regulation (EC) No 1925/2006)

(2023/C 271/35)

Language of the case: English

Parties

Applicants: Covington & Burling LLP (Saint-Josse-ten-Noode, Belgium), Bart Van Vooren (Meise, Belgium) (represented by: P. Diaz Gavier, lawyer)

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

Re:

By their action based on Article 263 TFEU, the applicants seek the annulment of the implied decision of the European Commission of 12 March 2021 and of confirmatory decision C(2021) 2541 final of the Commission of 7 April 2021, by which their application for access to the documents relating to the voting of the Member States in a comitology procedure concerning the amendment of Annex III to Regulation (EC) No 1925/2006 of the European Parliament and of the Council as regards botanical species containing hydroxyanthracene derivatives was refused.

Operative part

The Court:

1. Declares that there is no longer any need to adjudicate on the claim for annulment of the implied decision refusing access of 12 March 2021;

2. Annuls decision C(2021) 2541 final of the European Commission of 7 April 2021 to the extent that it refuses access to the individual votes of the representatives of the Member States on the basis of the second subparagraph of Article 4(3) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents;

3. Dismisses the action as to the remainder;

4. Orders the Commission to pay the costs.

(1) OJ C 217, 7.6.2021.

Judgment of the General Court of 14 June 2023 — Instituto Cervantes v Commission

(Case T-376/21) (1)

(Public service contracts — Tendering procedure — Provision of language training services for the institutions, bodies and agencies of the European Union — Classification of a tenderer in the cascade procedure — Obligation to state reasons — Parts of the tender accessible via a hypertext link — Manifest errors of assessment — Misuse of powers)

(2023/C 271/36)

Language of the case: French

Parties

Applicant: Instituto Cervantes (Madrid, Spain) (represented by: E. van Nuffel d'Heynsbroeck, lawyer)

Defendant: European Commission (represented by: M. Ilkova, acting as Agent)

Intervener in support of the applicant: Kingdom of Spain (represented by: I. Herranz Elizade, acting as Agent)

Re:

By its action under Article 263 TFEU, the applicant seeks the annulment of the decision of the European Commission of 19 April 2021 by which it awarded Lot No 3 (Language Learning in Spanish) of the contract relating to Framework Contracts for Language Training for the Institutions, Bodies and Agencies of the European Union (HR/2020/OP/0014) in first place to the consortium CLL Centre de Langues-Allingua and in second place to the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Instituto Cervantes to bear its own costs and to pay the costs incurred by the European Commission;

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

(1) OJ C 338, 23.8.2021.

Judgment of the General Court of 21 June 2023 — Hangzhou Dingsheng Industrial Group and Others v Commission

(Case T-748/21) ([1])

(Dumping — Extension of the definitive anti-dumping duty imposed on imports of certain aluminium foil originating in China to imports of certain aluminium foil consigned from Thailand — Anti-circumvention investigation — Circumvention — Article 13 of Regulation (EU) 2016/1036 — Sufficient evidence — Manifest error of assessment — Obligation to state reasons)

(2023/C 271/37)

Language of the case: English

Parties

Applicants: Hangzhou Dingsheng Industrial Group Co., Ltd, (Hangzhou, China), Dingheng New Materials Co., Ltd, (Rayong, Thailand), Thai Ding Li New Materials Co., Ltd, (Rayong), (represented by G. Coppo and G. Pregno, lawyers)

Defendant: European Commission, (represented by P. Němečková, Agent),

Re:

By their action pursuant to Article 263 TFEU, the applicants seek the annulment of Commission Implementing Regulation (EU) 2021/1474 of 14 September 2021 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) 2015/2384 and Implementing Regulation (EU) 2017/271 on imports of certain aluminium foil originating in the People's Republic of China to imports of certain aluminium foil consigned from Thailand, whether declared as originating in Thailand or not (OJ 2021 L 325, p. 6).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Hangzhou Dingsheng Industrial Group Co., Ltd, Dingheng New Materials Co., Ltd and Thai Ding Li New Materials Co., Ltd to bear their own costs and to pay those incurred by the European Commission.

([1]) OJ C 84, 21.2.2022.

Judgment of the General Court of 21 June 2023 — Ioulia and Irene Tseti Pharmaceutical Laboratories v EUIPO — Arbora & Ausonia (InterMed Pharmaceutical Laboratories eva intima)

(Joined Cases T-197/22 and T-198/22) ([1])

(EU trade mark — Opposition proceedings — Application for the EU figurative marks InterMed Pharmaceutical Laboratories eva intima — Earlier EU and national word marks EVAX — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2023/C 271/38)

Language of the case: English

Parties

Applicant: Ioulia and Irene Tseti Pharmaceutical Laboratories SA (Athens, Greece) (represented by: C. Chrysanthis, P.-V. Chardalia and A. Vasilogamvrou, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Arbora & Ausonia, SL (Madrid, Spain) (represented by: J. Mora Cortés, lawyer)

Re:

By its actions under Article 263 TFEU, the applicant seeks the annulment of the decisions of the First Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 1 March 2022 in Case R 1244/2021-1 and in Case R 1245/2021-1.

Operative part of the judgment

The Court:

1. Annuls the decision of the First Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 1 March 2022 in Case R 1244/2021-1 in so far as the 'toiletries; body cleaning preparations; cleaning preparations' in Class 3 and the 'hygienic preparations; sanitary preparations for medical purposes' in Class 5 are concerned;

2. Dismisses the action in Case T-197/22 as to the remainder;

3. Annuls the decision of the First Board of Appeal of EUIPO of 1 March 2022 in Case R 1245/2021-1;

4. Orders the parties to bear their own costs in Case T-197/22;

5. Orders EUIPO and Arbora & Ausonia, SL to pay the costs incurred by Ioulia and Irene Tseti Pharmaceutical Laboratories SA in Case T-198/22.

([1]) OJ C 222, 7.6.2022.

Judgment of the General Court of 21 June 2023 — Rauch Furnace Technology v EUIPO — Musto et Bureau (melting crucible)

(Case T-347/22) ([1])

(Community design — Invalidity proceedings — Community design representing a melting crucible — Prior design — Ground for invalidity — Lack of individual character — No different overall impression — Disclosure of prior design — Articles 6, 7 and Article 25(1)(b) of Regulation (EC) No 6/2002 — Evidence filed in a language other than the language of the proceedings — Article 29(1) and (5), and Article 81(2) of Regulation (EC) No 2245/2002 — Facts or evidence relied on for the first time before the Board of Appeal — Article 63 of Regulation No 6/2002)

(2023/C 271/39)

Language of the case: German

Parties

Applicant: Rauch Furnace Technology GmbH (Gmunden, Austria) (represented by: M. Traxler, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Musto et Bureau Srl (Osteria Grande, Italy) (represented by: F. De Sanzuane, lawyer)

Re:

By its action under Article 263 TFEU, the applicant seeks the annulment of the decision of the Third Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 29 March 2022 (Case R 1697/2021-3).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Rauch Furnace Technology GmbH to bear its own costs and to pay those incurred by Musto et Bureau Srl;

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

(1) OJ C 294, 1.8.2022.

Judgment of the General Court of 21 June 2023 — International British Education XXI v EUIPO — Saint George's School (IBE ST. GEORGE'S)

(Case T-438/22) (1)

(EU trade mark — Opposition proceedings — Application for the EU figurative mark IBE ST. GEORGE'S — Earlier national figurative mark ST. GEORGE'S SCHOOL — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2023/C 271/40)

Language of the case: Spanish

Parties

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

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Saint George's School SL (Fornells de la Selva, Spain) (represented by: R. Guerras Mazón, lawyer)

Re:

By its action under Article 263 TFEU, the applicant seeks annulment of the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 11 May 2022 (R 2226/2020-4).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders International British Education XXI SL to bear its own costs and to pay those incurred by Saint George's School SL;

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

(1) OJ C 340, 5.9.2022.

Judgment of the General Court of 14 June 2023 — Corver v EUIPO (CHR ME)

(Case T-446/22) (1)

(EU trade mark — Invalidity proceedings — Application for the EU figurative mark CHR ME — Absolute ground for invalidity — Descriptive character — Article 7(1)(c) of Regulation (EU) 2017/1001)

(2023/C 271/41)

Language of the case: German

Parties

Applicant: Serge-Paul Corver (Lanaken, Belgium) (represented by: C. König, lawyer)

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

Re:

By his action under Article 263 TFEU, the applicant seeks the partial annulment of the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 28 March 2022 (Case R 2082/2021-2).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr Serge-Paul Corver and the European Union Intellectual Property Office (EUIPO) to bear their own costs.

([1]) OJ C 326, 29.8.2022.

Judgment of the General Court of 21 June 2023 — Vitromed v EUIPO — Vitromed Healthcare (VITROMED Germany)

(Case T-514/22) ([1])

(EU trade mark — Opposition proceedings — Application for the EU figurative mark VITROMED Germany — International registration of the earlier figurative mark VITROMED — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2023/C 271/42)

Language of the case: German

Parties

Applicant: Vitromed GmbH (Jena, Germany) (represented by: M. Linß, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Vitromed Healthcare (Jaipur, India) (represented by: S. Eble, lawyer)

Re:

By its action under Article 263 TFEU, the applicant seeks the annulment and alteration of the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 2 June 2022 (Case R 1670/2021-2).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Vitromed GmbH to bear its own costs and to pay those incurred by Vitromed Healthcare;

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

([1]) OJ C 380, 3.10.2022.

Order of the General Court of 6 June 2023 — Spreewood Distillers v EUIPO — Radgonske gorice (STORK)

(Case T-433/22) ([1])

(EU trade mark — Opposition proceedings — Application for EU word mark STORK — Earlier national word mark GOLDEN STORK — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001 — Action manifestly lacking any foundation in law)

(2023/C 271/43)

Language of the case: English

Parties

Applicant: Spreewood Distillers GmbH (Schlepzig, Germany) (represented by: O. Spieker and D. Mienert, lawyers)

Defendant: European Union Intellectual Property Office (represented by: N. Lamsters and T. Frydendahl, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO: Radgonske gorice d.o.o. (Gornja Radgona, Slovenia)

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 10 May 2022 (Case R 1782/2021-5).

Operative part of the order

1. The action is dismissed.

2. Each party shall bear its own costs.

([1]) OJ C 326, 29.8.2022.

Action brought on 13 March 2023 — Institut Jožef Stefan v Commission

(Case T-134/23)

(2023/C 271/44)

Language of the case: English

Parties

Applicant: Institut Jožef Stefan (Ljubljana, Slovenia) (represented by: A. Bochon, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare the action admissible;

— annul the decision of 3 January 2023 adopted by the Review Committee of the European Commission rejecting the applicant's proposal with reference EDF-2021-MCBRN-R-CBRNDIM-101075036-PANDORA, submitted in the context of the call for proposals EDF-2021-MCBRN-R under the European Defence Fund's programme, on the grounds that the European Commission committed a manifest error of assessment, infringed the obligation to state reasons under Article 296 TFEU, infringed the principle of sound administration and infringed the right to be heard;

— order the European Commission to pay the applicant's legal costs and expenses of this procedure.

Pleas in law and main arguments

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

1. First plea in law, alleging a manifest error of assessment:

   — the General Court has the power to examine whether the exercise by the European Commission of its powers is vitiated by a manifest error of assessment;

   — the defendant committed a manifest error of assessment of the five documents submitted as Annex 6 for the entire PANDORA consortium, including the Applicant, and therefore wrongly came to the conclusion of the incompleteness of the proposal and that it should be declared inadmissible for that reason

2. Second plea in law, alleging an infringement of the obligation to state reasons:

   — under Article 296 TFEU, legal acts shall state the reasons on which they are based and shall refer to any proposals, initiatives, recommendations, requests or opinions required by the Treaties;

   — the reasons provided in the contested decision are insufficient to allow the applicant to understand the defendant's reasoning. The contested decision stating the reasons for the rejection of the application is only made of three phrases to entirely reject a proposal;

   — by failing to provide reasons in a clear and unequivocal fashion, the contested decision infringed Article 296 TFEU.

3. Third plea in law, alleging an infringement of the principle of sound administration:

   — the rights guaranteed by the EU legal order in administrative procedures include, in particular, the principle of sound administration which entails the duty of the competent institution to examine carefully and impartially all the relevant aspects of the individual case;

   — under the principle of sound administration, the defendant, before adopting the contested decision, could have asked the applicant to provide further clarification. This is furthermore strengthened by the fact that, even if some clarification were needed, all the required documents have been submitted in duly time by the applicant;

   — In accordance with the process described in its own guide for submissions, the defendant should have contacted the PANDORA consortium if the information provided in Annex 6 of the call for proposal was deemed insufficient;

   — by failing to comply with its own guidelines, the defendant undoubtedly breached the principle of sound administration.

4. Fourth plea in law, alleging a violation of the right to be heard:

   — the right to be heard arises from the old general principle of EU law according to which a person whose interests are perceptibly affected by a decision taken by a public authority must be given the opportunity to make his point of view known;

   — in the present case, the contested decision raises the question about the violation of the right to be heard. Indeed, it is only with the contested decision that the applicant was able to partially understand that the alleged issue at stake was the lack of details provided in Annex 6 of the call for proposal. The contested decision was however not eligible for an admissibility review, which did not allow the applicant to defend itself;

   — by ignoring its own guidelines concerning Annex 6 of the call for proposal as mentioned above and misusing the review process, the contested decision infringed the applicant's right to be heard.

Action brought on 16 May 2023 — WT v Commission

(Case T-282/23)

(2023/C 271/45)

Language of the case: Italian

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the decision rejecting the application for transfer of pension rights under Article 11(2) and (3) of Annex VIII to the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union issued by the Office for the Administration and Payment of Individual Entitlements PMO/2 — Pensions on 4 August 2022 with reference 'PMO 2, TFT IN, 2833610500, Pers. Nr: 336105';

— annul the decision of the AECC (Authority empowered to conclude contracts of employment) of 13 February 2023, notified the same day, with which the appeal (No R/496/22) brought pursuant to Article 90(2) of the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union against the decision of 4 August 2022 was dismissed;

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Article 11(2) of Annex VIII of the Staff Regulations of Officials of the European Union in so far as the six-month time limit is provided for exclusively by implementing provisions and is not imposed by any provision in the Staff regulations. The applicant also raises a plea of illegality under Article 277 TFEU regarding the general implementing provisions inasmuch as they infringe higher-ranking legal provisions.

2. Second plea in law, alleging an error of law in the interpretation of the concept of force majeur and of the financial provisions as well as a failure to observe the duty of care and the principle of proportionality. It cannot be denied that the Covid pandemic was both an anomalous and unpredictable event that had exogenous and disruptive effects on the management and planning of individuals' daily activities including, in the case of the applicant, making an application for transfer of pension rights, which was done after the six-month time limit. Indeed it should be noted that in the present case both the objective and subjective elements which allow for force majeure to be invoked are present.

Action brought on 24 May 2023 — Sber v SRB

(Case T-290/23)

(2023/C 271/46)

Language of the case: English

Parties

Applicant: Sber Vermögensverwaltungs AG (Vienna, Austria) (represented by: O. Behrends, lawyer)

Defendant: Single Resolution Board (SRB)

Form of order sought

The applicant claims that the Court should:

— annul, first, the SRB's decision of 28 July 2022 with respect to the applicant's request for access to documents;

— annul, second, the decision of 8 March 2023 of the SRB's Appeal Panel in case 4/2022, to the extent that this decision contains adverse findings for the applicant;

— annul, third, the negative reply, pursuant to Article 8(3) of Regulation (EC) 1049/2001, ([1]) fifteen working days after the Appeal Panel Decision;

— order the defendant to bear the applicant's costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the SRB's decision dated 28 July 2022 with respect to the applicant's request for access to documents ('the original decision') is illegal.

   — The illegality of the original decision has been determined by the Appeal Panel decision in a manner that is binding for the SRB. It is also illegal because of the further grounds set out below.

2. Second plea in law, alleging that the Appeal Panel Decision is illegal for the following reasons.

   — The Appeal Panel exceeds its competence and violates Article 85(8) of Regulation (EU) 806/2014 ([2]) because it purports to be able to uphold parts of the SRB's original decision in a binding and final manner despite its decision to remit the case to the SRB;

   — The Appeal Panel erroneously failed to grant access to the file and disclosure of documents by means of a procedural order because of its erroneous view that such steps would circumvent the rules on public access;

   — The SRB Appeal Panel errs by not excluding categorically any reliance on Article 4(1)(a), fourth indent, of Regulation (EC) 1049/2001.

   — The SRB Appeal Panel errs by not excluding categorically any reliance on the exception under Article 4(2) of Regulation (EC) 1049/2001.

3. Third plea in law, alleging the illegality of the implied negative reply.

   — The SRB failed to comply with its obligation to take a decision within the time limit prescribed in Article 8(1) of Regulation (EC) 1049/2001. This constitutes a denial of access pursuant to Article 8(3) of Regulation (EC) 1049/2001. The denial is illegal because of the binding nature of the SRB's Appeal Panel Decision. It is illegal, moreover, because of the failure to provide any reasoning.

   The applicant also submits pleas of illegality with respect to Articles 20 and 21(4) of the Rules of Procedure of the Appeal Panel and Articles 85(8) and 86(1) of Regulation (EU) No 806/2014, as interpreted by the SRB.

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

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

Action brought on 13 June 2023 — Meta Platforms Ireland v EDPB

(Case T-325/23)

(2023/C 271/47)

Language of the case: English

Parties

Applicant: Meta Platforms Ireland Ltd (Dublin, Ireland) (represented by: H.-G. Kamann, F. Louis, M. Braun and A. Vallery, lawyers, P. Nolan, B. Johnston, C. Monaghan, L. Joyce and D. Breatnach, Solicitors, D. McGrath, SC, and E. Egan McGrath, Barrister)

Defendant: European Data Protection Board

Form of order sought

The applicant claims that the Court should:

— annul the EDPB's 'Binding Decision 1/2023 on the dispute submitted by the Irish SA on data transfers by Meta Platforms Ireland Limited for its Facebook service (Art. 65 GDPR)' adopted on 13 April 2023, in total or, in the alternative, in its relevant parts; and

— 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 nine pleas in law.

1. First plea in law, alleging that Article 65(1)(a) GDPR violates the rule of law, Articles 41 and 47 of the Charter of Fundamental Rights of the European Union (Charter), and Article 6 of the European Convention of Human Rights (ECHR) and, as such, is unlawful and invalid.

2. Second plea in law, alleging that the EDPB exceeded its competence under Article 65 GDPR.

3. Third plea in law, alleging that the EDPB infringed the right to good administration as enshrined in Article 41 Charter.

4. Fourth plea in law, alleging that the EDPB failed to act as an impartial body in violation of Article 41 Charter.

5. Fifth plea in law, alleging that the EDPB's instruction to the DPC to order Meta Ireland to bring processing operations into compliance with Chapter V of the GDPR (i) violates the principles impossibilium nulla obligatio est and ultra posse nemo obligatur; (ii) violates the principle of legal certainty; (iii) lacks a lawful legal basis; (iv) violates Articles 45(5) GDPR and 288(4) TFEU; and (v) violates the principle of proportionality.

6. Sixth plea in law, alleging that the EDPB violated Meta Ireland's freedom to conduct a business under Article 16 Charter.

7. Seventh plea in law, alleging that the EDPB violated Meta Ireland's right to property under Article 17 Charter.

8. Eights plea in law, alleging that the EDPB violated Meta Ireland's freedom to provide services under Article 56 TFEU.

9. Ninth plea in law, alleging that the EDPB violated Article 83 GDPR and various underlying principles governing the determination of fines under the GDPR.

Action brought on 16 June 2023 — Tyczka v EUIPO (READYPACK)

(Case T-330/23)

(2023/C 271/48)

Language of the case: German

Parties

Applicant: Tyczka GmbH (Geretsried, Germany) (represented by: M. Knitter, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for European Union word mark READYPACK — Application for registration No 18 512 637

Contested decision: Decision of the First Board of Appeal of EUIPO of 17 April 2023 in Case R 2274/2022-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Pleas in law

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

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

Action brought on 19 June 2023 — MPM-Quality v EUIPO — Elton Hodinářská (PRIM)

(Case T-333/23)

(2023/C 271/49)

Language in which the application was lodged: Czech

Parties

Applicant: MPM-Quality v.o.s. (Frýdek-Místek, Czech Republic) (represented by: M. Kyjovský, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Elton Hodinářská a.s. (Nové Město nad Metují, Czech Republic)

Details of the proceedings before EUIPO

Applicant for the trade mark at issue: Applicant

Trade mark at issue: EU figurative mark PRIM — Application No 12 030 441

Proceedings before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 27 March 2023 in Joined Cases R 1308/2022-2 and R 1325/2022-2

Form of order sought

The applicant claims that the Court should:

— annul operative parts I., II., IV. and V. of the contested decision;

— order EUIPO to pay the costs.

Plea in law

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

Action brought on 19 June 2023 — Next Media Project v EFCA

(Case T-338/23)

(2023/C 271/50)

Language of the case: English

Parties

Applicant: Next Media Project, SLU (Barcelona, Spain) (represented by: R. Simar and L. Trefon, lawyers)

Defendant: European Fisheries Control Agency

Form of order sought

The applicant claims that the Court should:

— annul the decision of the European Fisheries Control Agency of 8 June 2023, by which it decided to reject Next Media Project's offer;

— order the European Fisheries Control Agency to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant alleges that the defendant failed to comply with points 12.2 and 29.3 of Annex 1 to Regulation 2018/1046, ([1]) with its tender specifications (Article 3.4.2. of the special specifications of tender EFCA/2022/OP/0004) and with its duties of diligence and meticulousness; it is further argued that the defendant committed a manifest error of assessment.

— The legal ground seeks to demonstrate that the opposite party was required to take into consideration the applicant's offer, since that offer is not tainted by an irregularity, within the meaning of point 12.2 of Annex 1 to the said Regulation 2018/1046.

([1]) 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 1296/2013, (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).

Order of the General Court of 12 June 2023 — Argyraki v Commission

(Case T-679/19) ([1])

(2023/C 271/51)

Language of the case: French

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

([1]) OJ C 399, 25.11.2019.

Order of the General Court of 14 June 2023 — D&G Laboratoires v EUIPO Holpindus (aleva NATURALS)

(Case T-28/23) [1]

(2023/C 271/52)

Language of the case: English

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

[1] OJ C 104, 20.3.2023

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