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Information and Notices

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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Grand Chamber) of 3 December 2019 — Czech Republic v European Parliament, Council of the European Union

(Case C-482/17) ([1])

(Action for annulment — Approximation of laws — Directive (EU) 2017/853 — Control of the acquisition and possession of weapons — Validity — Legal basis — Article 114 TFEU — Amendment of an existing directive — Principle of proportionality — Absence of impact assessment — Interference with the right to property — Proportionality of the measures adopted — Measures creating barriers in the internal market — Principle of legal certainty — Principle of the protection of legitimate expectations — Measures obliging Member States to adopt legislation with retroactive effect — Principle of non-discrimination — Derogation for the Swiss Confederation — Discrimination affecting Member States of the European Union or Member States of the European Free Trade Association (EFTA) other than that State)

(2020/C 36/02)

Language of the case: Czech

Parties

Applicant: Czech Republic (represented by: M. Smolek, O. Serdula and J. Vláčil, acting as Agents)

Interveners in support of the applicant: Hungary (represented by: M.Z. Fehér, G. Koós and G. Tornyai, acting as Agents), Republic of Poland (represented by: B. Majczyna, M. Wiącek and D. Lutostańska, acting as Agents)

Defendants: European Parliament (represented by: O. Hrstková Šolcová and R. van de Westelaken, acting as Agents), Council of the European Union (represented by: initially by A. Westerhof Löfflerová, E. Moro and M. Chavrier, subsequently by A. Westerhof Löfflerová and M. Chavrier, acting as Agents)

Interveners in support of the defendants: French Republic (represented by: A. Daly, E. de Moustier, R. Coesme and D. Colas, acting as Agents), European Commission, (represented by: M. Šimerdová, Y.G. Marinova and E. Kružíková, acting as Agents)

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders the Czech Republic to pay, in addition to its own costs, the costs incurred by the European Parliament and the Council of the European Union;

3. Orders the French Republic, Hungary, the Republic of Poland and the European Commission to bear their own costs.

([1]) OJ C 357, 23.10.2017.

Judgment of the Court (Fourth Chamber) of 5 December 2019 (requests for a preliminary ruling from the Rayonen sad Asenovgrad, Sofiyski rayonen sad — Bulgaria) — 'EVN Bulgaria Toplofikatsia' EAD v Nikolina Stefanova Dimitrova (C-708/17), 'Toplofikatsia Sofia' EAD v Mitko Simeonov Dimitrov (C-725/17)

(Joined Cases C-708/17 and C-725/17) ([1])

(References for a preliminary ruling — Consumer protection — Directive 2011/83/EU — Consumer law — Article 2(1) — Concept of 'consumer' — Article 3(1) — Contract concluded between a trader and a consumer — Contract for the supply of district heating — Article 27 — Inertia selling — Directive 2005/29/EC — Unfair business-to-consumer commercial practices in the internal market — Article 5 — Prohibition of unfair commercial practices — Annex I — Unsolicited supply — National law requiring each owner of a property in a building in co-ownership connected to a district heating network to contribute to the costs of thermal energy consumption by the common areas and internal installation of the building — Energy efficiency — Directive 2006/32/EC — Article 13(2) — Directive 2012/27/EU — Article 10(1) — Billing information — National law providing that, in a building in co-ownership, bills for the consumption of thermal energy by the internal installation are calculated, for each owner of an apartment in the building, in proportion to the heated volume of his or her apartment)

(2020/C 36/03)

Language of the case: Bulgarian

Referring court

Rayonen sad Asenovgrad, Sofiyski rayonen sad

Parties to the main proceedings

Applicants: 'EVN Bulgaria Toplofikatsia' EAD C-708/17), 'Toplofikatsia Sofia' EAD (C-725/17)

Defendants: Nikolina Stefanova Dimitrova (C-708/17), Mitko Simeonov Dimitrov (C-725/17)

Intervenir: 'Termokomplekt' OOD (C-725/17)

Operative part of the judgment

1. Article 27 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 read in conjunction with Article 5(1) and (5) of Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive'), must be interpreted as not precluding a national law that provides that the owners of an apartment in a building in co-ownership connected to a district heating network are required to contribute to the costs of the consumption of thermal energy by the common parts and the internal installation of the building, even though they did not individually request the supply of that thermal energy and they do not use it in their apartment.

2. Article 13(2) of Directive 2006/32/EC of the European Parliament and of the Council of 5 April 2006 on energy end-use efficiency and energy services and repealing Council Directive 93/76/EEC and Article 10(1) of Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC must be interpreted as not precluding a national law that provides that in a building held in co-ownership the bills for thermal energy consumption by the internal installation are calculated for each property owner in the building in proportion to the heated volume of his or her apartment.

([1]) OJ C 94, 12.3.2018.

Judgment of the Court (Fifth Chamber) of 4 December 2019 — PGNiG Supply & Trading GmbH v European Commission

(Case C-117/18 P) ([1])

(Appeal — Internal market in natural gas — Directive 2009/73/EC — Article 32 — Third-party access — Article 41(6), (8) and (10) — Rules on tariffs — Article 36 — Application for an exemption — Rules governing the operation of the OPAL pipeline — National regulatory authority — Exemption decision — Request for modification — European Commission Decision — Action for annulment — Fourth paragraph of Article 263 TFEU — Admissibility — Decision of no direct concern to the appellant)

(2020/C 36/04)

Language of the case: Polish

Parties

Appellant: PGNiG Supply & Trading GmbH (represented by: M. Jeżewski, O. Waluśkiewicz, adwokaci, E. Buczkowska and M. Trepka, radcowie prawni)
Other party to the proceedings: European Commission (represented by: K. Herrmann and O. Beynet, acting as Agents),

Intervener in support of the Commission: Federal Republic of Germany (represented initially by T. Henze, and subsequently by J. Möller, acting as Agents)

Operative part of the judgment

The Court:

1. Dismisses the appeal;

2. Orders PGNiG Supply & Trading GmbH to pay its own costs and bear those incurred by the European Commission;

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

([1]) OJ C 161, 7.5.2018.

Judgment of the Court (Fifth Chamber) of 4 December 2019 — Polskie Górnictwo Naftowe i Gazownictwo S.A. v European Commission, Federal Republic of Germany

(Case C-342/18 P) ([1])

(Appeal — Internal market in natural gas — Directive 2009/73/EC — Article 32 — Third-party access — Article 41(6), (8) and (10) — Rules on tariffs — Article 36 — Application for an exemption — Rules governing the operation of the OPAL pipeline — National regulatory authority — Exemption decision — Request for modification — European Commission Decision — Action for annulment — Fourth paragraph of Article 263 TFEU — Admissibility — Decision of no direct concern to the appellant)

(2020/C 36/05)

Language of the case: Polish

Parties

Appellant: Polskie Górnictwo Naftowe i Gazownictwo S.A. (represented initially by M. Jeżewski, adwokat, and subsequently E. Buczkowska, radca prawny and W. Sadowski, adwokat)

Other parties to the proceedings: European Commission (represented by: K. Herrmann and O. Beynet, acting as Agents), Federal Republic of Germany (represented initially by T. Henze, and subsequently by J. Möller, acting as Agents)

Operative part of the judgment

The Court:

1. Dismisses the appeal;

2. Orders Polskie Górnictwo Naftowe i Gazownictwo S.A. to pay its own costs and bear those incurred by the European Commission;

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

([1]) OJ C 276, 6.8.2018.

Judgment of the Court (Eighth Chamber) of 5 December 2019 (requests for a preliminary ruling from the Tribunal Superior de Justicia de Galicia — Spain) — Antonio Bocero Torrico (C-398/18), Jörg Paul Konrad Fritz Bode (C-428/18) v Instituto Nacional de la Seguridad Social, Tesorería General de la Seguridad Social

(Joined Cases C-398/18 and C-428/18) ([1])

(References for a preliminary ruling — Social security for migrant workers — Regulation (EC) No 883/2004 — Early retirement pension — Eligibility — Requirement for the pension to be received to be higher than the statutory minimum — Account taken only of pension acquired in the Member State concerned — No account taken of the retirement pension acquired in another Member State — Difference in treatment of workers who have exercised their right to freedom of movement)

(2020/C 36/06)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de Galicia

Parties to the main proceedings

Applicants: Antonio Bocero Torrico (C-398/18), Jörg Paul Konrad Fritz Bode (C-428/18)

Defendants: Instituto Nacional de la Seguridad Social, Tesorería General de la Seguridad Social

Operative part of the judgment

Article 5(a) of Regulation 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 precluding legislation of a Member State which requires, as a condition for a worker to be eligible for an early retirement pension, that the amount of the pension to be received must be higher than the minimum pension that would be due to that worker upon reaching the statutory retirement age under that legislation, where the term 'pension to be received' is interpreted as referring only to the pension from that Member State, and not including the pension which that worker may receive through equivalent benefits payable by one or more other Member States

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([1]) OJ C 294, 20.8.2018.
OJ C 364, 8.10.2018.

Judgment of the Court (Fifth Chamber) of 27 November 2019 (request for a preliminary ruling from the Consiglio di Stato — Italy) — Tedeschi Srl, acting on its own account and as agent of a temporary association of undertakings, Consorzio Stabile Istant Service, acting on its own account and as principal of a temporary association of undertakings v C.M. Service Srl, Università degli Studi di Roma La Sapienza

(Case C-402/18) ([1])

(Reference for a preliminary ruling — Articles 49 and 56 TFEU — Public procurement — Directive 2004/18/EC — Article 25 — Subcontracting — National legislation limiting the possibility of subcontracting to 30 % of the total amount of the contract and preventing the prices which apply to subcontracted services from being reduced by more than 20 % by comparison with the prices stipulated in the decision awarding the contract)

(2020/C 36/07)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicants: Tedeschi Srl, acting on its own account and as agent of a temporary association of undertakings, Consorzio Stabile Istant Service, acting on its own account and as principal of a temporary association of undertakings

Defendants: C.M. Service Srl, Università degli Studi di Roma La Sapienza

Operative part of the judgment

Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts must be interpreted as:

— precluding national legislation, such as that at issue in the main proceedings, which limits to 30 % the share of the contract which the tenderer is permitted to subcontract to third parties;

— precluding national legislation, such as that at issue in the main proceedings, which limits the possibility of reducing the prices which apply to subcontracted services by more than 20 % by comparison with the prices stipulated in the decision awarding the contract.

([1]) OJ C 301, 27.8.2018.

Judgment of the Court (Fifth Chamber) of 4 December 2019 — H v Council of the European Union

(Case C-413/18 P) ([1])

(Appeal — Common Foreign and Security Policy (CFSP) — Composition of the Chamber of the General Court of the European Union — Regularity — Decision 2009/906/CFSP — European Union Police Mission in Bosnia and Herzegovina (EUPM) — National staff member on secondment — Redeployment to a regional office of that mission — Powers of the Head of Mission — Misuse of powers — Claim for damages — Principle of audi alteram partem)

(2020/C 36/08)

Language of the case: English

Parties

Appellant: H (represented by: M. Velardo, avvocatessa)
Other party to the proceedings: Council of the European Union (represented by: A. Vitro and A. De Elera San Miguel Hurtado, acting as Agents)

Operative part of the judgment

The Court:

1. Sets aside the judgment of the General Court of the European Union of 11 April 2018, H v Council (T-271/10 RENV, EU:T:2018:180);

2. Refers the case back to the General Court of the European Union for a ruling on the third, fourth and fifth pleas of the action for annulment and on the claim for compensation;

3. Orders that the costs be reserved.

([1]) OJ C 341, 24.9.2018.

Judgment of the Court (Grand Chamber) of 3 December 2019 (request for a preliminary ruling from the Tribunale Amministrativo Regionale per il Lazio — Italy) — Iccrea Banca SpA Istituto Centrale del Credito Cooperativo v Banca d'Italia

(Case C-414/18) ([1])

(Reference for a preliminary ruling — Directive 2014/59/EU — Banking Union — Recovery and resolution of credit institutions and investment firms — Annual contributions — Calculation — Regulation (EU) No 806/2014 — Implementing Regulation (EU) 2015/81 — Uniform procedure for the resolution of credit institutions and investment firms — Administrative procedure involving national authorities and an EU body — Exclusive decision-making power of the Single Resolution Board — Procedure before the national courts — Failure to bring an action for annulment before the EU Courts in due time — Delegated Regulation (EU) 2015/63 — Exclusion of certain liabilities from the calculation of contributions — Interconnectedness of a number of banks)

(2020/C 36/09)

Language of the case: Italian

Referring court

Tribunale amministrativo regionale per il Lazio

Parties to the main proceedings

Applicant: Iccrea Banca SpA Istituto Centrale del Credito Cooperativo

Defendant: Banca d'Italia

Operative part of the judgment

Article 103(2) of Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012 of the European Parliament and of the Council, and Article 5(1)(a) and (f) of Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to ex ante contributions to resolution financing arrangements must be interpreted as meaning that liabilities that arise from transactions between a second-tier bank and the members of a grouping that comprises it and the cooperative banks to which it supplies various services, but where it does not control those banks, and that do not match loans granted on a non-competitive, not for profit basis, in order to promote the public policy objectives of central or regional governments in a Member State, are not excluded from the calculation of the contributions to a national resolution fund that are the subject of Article 103(2) of Directive 2014/59/EU.

([1]) OJ C 311, 3.9.2018.

Judgment of the Court (First Chamber) of 5 December 2019 (request for a preliminary ruling from the Tribunal de première instance de Namur — Belgium) — Ordre des avocats du barreau de Dinant v JN

(Case C-421/18) ([1])

(Reference for a preliminary ruling — Judicial cooperation in civil matters — Regulation (EU) No 1215/2012 — Jurisdiction and the recognition and enforcement of judgments in civil and commercial matters — Article 7(1)(a) — Special jurisdiction in matters relating to a contract — Concept of 'matters relating to a contract' — Claim for payment of annual fees payable by a lawyer to a bar association)

(2020/C 36/10)

Language of the case: French

Referring court

Tribunal de première instance de Namur

Parties to the main proceedings

Applicant: Ordre des avocats du barreau de Dinant

Defendant: JN

Operative part of the judgment

Article 1(1) of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that a dispute concerning a lawyer's obligation to pay annual professional fees for which he or she is liable to the bar association to which he or she belongs comes within the scope of that regulation only if, in calling on that lawyer to perform that obligation, the bar association is not acting, under the national law applicable, in the exercise of public powers, which it is for the referring court to ascertain.

Article 7(1)(a) of Regulation No 1215/2012 must be interpreted as meaning that an action by which a bar association seeks an order that one of its members pay the annual professional fees for which he or she is liable and which are essentially intended to finance services, such as insurance services, must be regarded as constituting an action in 'matters relating to a contract', within the meaning of that provision, provided that those fees constitute consideration for services provided by that bar association to its members and those services are freely consented to by the member concerned, which it is for the referring court to ascertain.

(1) OJ C 301, 27.8.2018.

Judgment of the Court (Fifth Chamber) of 4 December 2019 (request for a preliminary ruling from the Bundesgerichtshof — Germany) — Consorzio Tutela Aceto Balsamico di Modena v Balema GmbH

(Case C-432/18) (1)

(Reference for a preliminary ruling — Protection of geographical indications and designations of origin for agricultural products and foodstuffs — Regulations (EC) No 510/2006 and (EU) No 1151/2012 — Article 13(1) — Regulation (EC) No 583/2009 — Article 1 — Registration of the name 'Aceto Balsamico di Modena (PGI)' — Protection of the non-geographical components of that name — Scope)

(2020/C 36/11)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Consorzio Tutela Aceto Balsamico di Modena

Defendant: Balema GmbH

Operative part of the judgment

Article 1 of Commission Regulation (EC) No 583/2009 of 3 July 2009 entering a name in the register of protected designations of origin and protected geographical indications [Aceto Balsamico di Modena (PGI)] must be interpreted as meaning that the protection of the name 'Aceto Balsamico di Modena' does not extend to the use of the individual non-geographical terms of that name.

(1) OJ C 427, 26.11.2018.

Judgment of the Court (Ninth Chamber) of 4 December 2019 (request for a preliminary ruling from the Cour de cassation — France) — UB v VA, Tiger SCI, WZ, acting as UB's trustee in bankruptcy, Banque patrimoine et immobilier SA

(Case C-493/18) ([1])

(Reference for a preliminary ruling — Judicial cooperation in civil matters — Insolvency proceedings — Regulation (EC) No 1346/2000 — Article 3(1) — Actions which derive directly from insolvency proceedings and which are closely connected with such proceedings — Sale of immovable property and creation of a mortgage — Action brought by the trustee in bankruptcy seeking a declaration that the transactions concerned are ineffective — Article 25(1) — Exclusive jurisdiction of the courts of the Member State in which the insolvency proceedings were opened)

(2020/C 36/12)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicant: UB

Defendants: VA, Tiger SCI, WZ, acting as UB's trustee in bankruptcy, Banque patrimoine et immobilier SA

Operative part of the judgment

1. Article 3(1) of Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings must be interpreted as meaning that an action brought by the trustee in bankruptcy appointed by a court of the Member State within the territory of which the insolvency proceedings were opened seeking a declaration that the sale of immovable property situated in another Member State and the mortgage granted over it are ineffective as against the general body of creditors falls within the exclusive jurisdiction of the courts of the first Member State.

2. Article 25(1) of Regulation No 1346/2000 must be interpreted as meaning that a judgment by which a court of the Member State in which the insolvency proceedings were opened authorises the trustee in bankruptcy to bring an action in another Member State, even if that action falls within the exclusive jurisdiction of that court, cannot have the effect of conferring international jurisdiction on the courts of that other Member State.

([1]) OJ C 364, 8.10.2018.

Judgment of the Court (Seventh Chamber) of 28 November 2019 — Brugg Kabel AG, Kabelwerke Brugg AG Holding v European Commission

(Case C-591/18 P) [1]

(Appeal — Competition — Agreements, decisions and concerted practices — European market for underground and submarine power cables — Market allocation in connection with projects — Fines — Rights of the defence — Access to the file — Principle of the presumption of innocence — Distortion of the evidence)

(2020/C 36/13)

Language of the case: German

Parties

Appellants: Brugg Kabel AG, Kabelwerke Brugg AG Holding (represented by: A. Rinne, M. Lichtenegger and S. Schricker, Rechtsanwälte)
Other party to the proceedings: European Commission (represented by: H. Leupold, H. van Vliet and C. Vollrath, acting as Agents)

Operative part of the judgment

The Court:

1. Dismisses the appeal;

2. Brugg Kabel AG and Kabelwerke Brugg AG Holding to pay the costs.

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[1] OJ C 399, 5.11.2018.

Judgment of the Court (Seventh Chamber) of 28 November 2019 — ABB Ltd, ABB AB v European Commission

(Case C-593/18 P) [1]

(Appeal — Competition — Agreements, decisions and concerted practices — European market for underground and submarine power cables — Market allocation in connection with projects — Burden of proof — Presumption of innocence — Principle of equal treatment)

(2020/C 36/14)

Language of the case: English

Parties

Appellants: ABB Ltd, ABB AB (represented by: I. Vandenborre, M. Frese, advocaten, and S. Dionnet, advocat)
Other party to the proceedings: European Commission (represented by: H. van Vliet, I. Zaloguin and I. Rogalski, acting as Agents)

Operative part of the judgment

The Court:

1. Sets aside point 1 of the operative part of the judgment of the General Court of the European Union of 12 July 2018, ABB v Commission (T-445/14, not published, EU:T:2018:449), in so far as the General Court dismissed ABB Ltd and ABB AB's actions for the annulment of Commission Decision C(2014) 2139 final of 2 April 2014 relating to a proceeding under Article 101 [TFEU] and Article 53 of the EEA Agreement (Case AT.39610 — Power cables), in so far as that decision finds those companies liable for an infringement of Article 101 TFEU and of Article 53 of the Agreement on the European Economic Area of 2 May 1992 in respect of a collective refusal to supply accessories for underground power cables with voltages from 110 kV and below 220 kV, as well as point 2 of the operative part of that judgment;

2. Dismisses the appeal as to the remainder;

3. Annuls Decision C(2014) 2139 final in so far as it finds ABB Ltd and ABB AB liable for an infringement of Article 101 TFEU and of Article 53 of the Agreement on the European Economic Area of 2 May 1992 in respect of a collective refusal to supply accessories for underground power cables with voltages from 110 kV and below 220 kV;

4. Orders ABB Ltd, ABB AB and the European Commission to bear their own costs at first instance and on appeal.

(1) OJ C 436, 3.12.2018.

Judgment of the Court (Seventh Chamber) of 28 November 2019 — LS Cable & System Ltd v European Commission

(Case C-596/18 P) (1)

(Appeal — Competition — Agreements, decisions and concerted practices — European market for underground and submarine power cables — Market allocation in connection with projects — Fines — Burden of proof — Distortion of the evidence — Public distancing from the cartel)

(2020/C 36/15)

Language of the case: English

Parties

Appellant: LS Cable & System Ltd (represented by: S. Spinks and S. Kinsella, Solicitors)

Other party to the proceedings: European Commission (represented by: N. Khan and H. van Vliet, acting as Agents)

Operative part of the judgment

The Court:

1. Dismisses the appeal;

2. Orders LS Cable & System Ltd to pay the costs.

(1) OJ C 427, 26.11.2018.

Judgment of the Court (Eighth Chamber) of 5 December 2019 — European Commission v Kingdom of Spain

(Case C-642/18) ([1])

(Failure of a Member State to fulfil obligations — Directive 2008/98/EC — Articles 30 and 33 — Waste management plans — Autonomous Communities of the Balearic Islands and the Canary Islands (Spain) — Obligation to revise — Obligation to notify the Commission — No proper formal notice — Letter of formal notice sent prematurely — Inadmissibility)

(2020/C 36/16)

Language of the case: Spanish

Parties

Applicant: European Commission (represented by: S. Pardo Quintillán and E. Sanfrutos Cano and F. Thiran, acting as Agents)

Defendant: Kingdom of Spain (represented by: L. Aguilera Ruiz, acting as Agent)

Operative part of the judgment

The Court:

1. Dismisses the action as inadmissible;

2. Orders the European Commission to pay the costs.

([1]) OJ C 445, 10.12.2018.

Judgment of the Court (First Chamber) of 5 December 2019 (request for a preliminary ruling from the Sąd Rejonowy w Chełmnie — Poland) — proceedings initiated by Centraal Justitieel Incassobureau, Ministerie van Veiligheid en Justitie (CJIB)

(Case C-671/18) ([1])

(Reference for a preliminary ruling — Area of freedom, security and justice — Judicial cooperation in criminal matters — Mutual recognition — Financial penalties — Grounds for non-recognition and non-execution — Framework Decision 2005/214/JHA — Decision by an authority of the issuing Member State based on vehicle registration data — Notification of the penalties and the appeal procedures to the person concerned — Right to effective judicial protection)

(2020/C 36/17)

Language of the case: Polish

Referring court

Sąd Rejonowy w Chełmnie

Parties to the main proceedings

Applicant: Centraal Justitieel Incassobureau, Ministerie van Veiligheid en Justitie (CJIB)

Interested parties: Z.P., Prokuratura Rejonowa w Chełmnie

Operative part of the judgment

1. Article 7(2)(g) and Article 20(3) of Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties, as amended by Council Framework Decision 2009/299/JHA of 26 February 2009, must be interpreted as meaning that where a decision requiring payment of a financial penalty has been notified in accordance with the national legislation of the issuing Member State, indicating the right to contest the case and the time limit for such a legal remedy, the authority of the Member State of execution may not refuse to recognise and execute that decision provided that the person concerned has had sufficient time to contest that decision, which is for the national court to verify, and the fact that the procedure imposing the financial penalty in question is administrative in nature is not relevant in that regard;

2. Article 20(3) of Framework Decision 2005/214, as amended by Framework Decision 2009/299 must be interpreted as meaning that the competent authority of the Member State of execution may not refuse to recognise and execute a decision requiring payment of a financial penalty in respect of road traffic offences where such a penalty has been imposed on the person in whose name the vehicle in question is registered on the basis of a presumption of liability laid down in the national legislation of the issuing Member State, provided that that presumption may be rebutted.

([1]) OJ C 65, 18.2.2019.

Judgment of the Court (Ninth Chamber) of 28 November 2019 (Request for a preliminary ruling from the Sąd Okręgowy w Warszawie, XXIII Wydział Gospodarczy Odwoławczy, Poland) — KROL — Zakład Robót Wodno-Kanalizacyjnych Sp. z o.o., sp.k. v Porr S.A.

(Case C-722/18) ([1])

(Reference for a preliminary ruling — Combating late payment in commercial transactions — Directive 2000/35/EC — Article 1 and Article 6(3) — Scope — National legislation — Commercial transactions financed by the EU Structural Funds and by the EU Cohesion Fund — Exclusion)

(2020/C 36/18)

Language of the case: Polish

Referring court

Sąd Okręgowy w Warszawie, XXIII Wydział Gospodarczy Odwoławczy

Parties to the main proceedings

Applicant: KROL — Zakład Robót Wodno-Kanalizacyjnych Sp. z o.o., sp.k.

Defendant: Porr S.A.

Operative part of the judgment

Article 1 and Article 6(3) of Directive 2000/35/EC of the European Parliament and of the Council of 29 June 2000 on combating late payment in commercial transactions must be interpreted as precluding national legislation, such as that at issue in the main proceedings, pursuant to which commercial transactions financed in whole or in part by resources from the EU Structural Funds and the EU Cohesion Fund are excluded from the benefit of the compensation for late payment provided for by that directive.

([1]) OJ C 164, 13.5.2019.

Judgment of the Court (First Chamber) of 28 November 2019 (request for a preliminary ruling from the Spetsializiran nakazatelen sad — Bulgaria) — Criminal proceedings against DK

(Case C-653/19 PPU) ([1])

(Reference for a preliminary ruling — Urgent preliminary ruling procedure — Judicial cooperation in criminal matters — Directive (EU) 2016/343 — Strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings — Article 6 — Burden of proof — Continuation of the detention on remand pending trial of an accused person)

(2020/C 36/19)

Language of the case: Bulgarian

Referring court

Spetsializiran nakazatelen sad

Party in the main proceedings

DK

Interested party: Spetsializirana prokuratura

Operative part of the judgment

Article 6 of Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings, and Articles 6 and 47 of the Charter of Fundamental Rights of the European Union do not apply to a national law that makes the release of a person held in detention on remand pending trial conditional on that person establishing the existence of new circumstances justifying that release.

([1]) OJ C 399, 25.11.2019.

Appeal brought on 30 September 2019 by Guy Steifer against the judgment of the General Court (Fifth Chamber) delivered on 12 July 2019 in Case T-331/17, Steifer v EESC

(Case C-727/19 P)

(2020/C 36/20)

Language of the case: French

Parties

Appellant: Guy Steifer (represented by: M.-A. Lucas, lawyer)

Other party to the proceedings: European Economic and Social Committee

By order of 12 December 2019, the Court (Eighth Chamber) dismissed the appeal.

Request for a preliminary ruling from the Cour constitutionnelle (Belgium) lodged on 31 October 2019 — Ligue des droits humains v Conseil des ministres

(Case C-817/19)

(2020/C 36/21)

Language of the case: French

Referring court

Cour constitutionnelle

Parties to the main proceedings

Applicant: Ligue des droits humains

Defendant: Conseil des ministres

Questions referred

1. Is Article 23 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016'on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC' (the General Data Protection Regulation — GDPR), ([1]) read in conjunction with Article 2(2)(d) of that regulation, to be interpreted as applying to national legislation such as the Law of 25 December 2016'on the processing of passenger data', which transposes Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016'on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime', ([2]) as well as Council Directive 2004/82/EC of 29 April 2004'on the obligation of carriers to communicate passenger data' ([3]) and Directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010'on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC'? ([4])

2. Is Annex I of Directive (EU) 2016/681 compatible with Articles 7, 8 and 52(1) of the Charter of Fundamental Rights of the European Union, given that the data it refers to are very wide in scope — particularly the data referred to in paragraph 18 of Annex I to Directive (EU) 2016/681, which go beyond the data referred to in Article 3(2) of Directive 2004/82/EC — and also given that, taken together, they may reveal sensitive information, and thus go beyond what is 'strictly necessary'?

3. Are paragraphs 12 and 18 of Annex I to Directive (EU) 2016/681 compatible with Articles 7, 8 and 52(1) of the Charter of Fundamental Rights of the European Union, given that, having regard to the word 'including', the data referred to in those paragraphs is given by way of example and not exhaustively, such that the requirement for precision and clarity in rules which interfere with the right to respect for private life and the right to protection of personal data is not satisfied?

4. Are Article 3(4) of Directive (EU) 2016/681 and Annex I of the that directive compatible with Articles 7, 8 and 52(1) of the Charter of Fundamental Rights of the European Union, given that the system of generalised collection, transfer and processing of passenger data established by those provisions relates to any person using the mode of transport concerned, regardless of whether there is any objective ground for considering that that person may present a risk to public security?

5. Is Article 6 of Directive (EU) 2016/681, read in conjunction with Articles 7, 8 and 52(1) of the Charter of Fundamental Rights of the European Union, to be interpreted as precluding national legislation such as the contested law, which includes, among the purposes for which PNR data is processed, furthering activities within the remit of the intelligence and security services, thus treating that purpose as an integral part of the prevention, detection, investigation and prosecution of terrorist offences and serious crime?

6. Is Article 6 of Directive (EU) 2016/681 compatible with Articles 7, 8 and 52(1) of the Charter of Fundamental Rights of the European Union, given that the advance assessment for which it provides, which is made by comparing passenger data against databases and predetermined criteria, applies to such data in a systematic and generalised manner, regardless of whether there is any objective ground for considering that the passengers concerned may present a risk to public security?

7. Can the expression 'another national authority competent under national law' in Article 12(3) of Directive (EU) 2016/681 be interpreted as including the PIU created by the Law of 25 December 2016, which would then have power to authorise access to PNR data after six months had passed, for the purposes of ad hoc searches?

8. Is Article 12 of Directive (EU) 2016/681, read in conjunction with Articles 7, 8 and 52(1) of the Charter of Fundamental Rights of the European Union, to be interpreted as precluding national legislation such as the contested law which provides for a general data retention period of five years, without making any distinction in terms of whether the advance assessment indicated that the passengers might present a risk to public security?

9. (a) Is Directive 2004/82/EC compatible with Article 3(2) of the Treaty on European Union and Article 45 of the Charter of Fundamental Rights of the European Union, given that the obligations for which it provides apply to flights within the European Union?

   (b) Is Directive 2004/82/EC, read in conjunction with Article 3(2) of the Treaty on European Union and Article 45 of the Charter of Fundamental Rights of the European Union, to be interpreted as precluding national legislation such as the contested law which, for the purposes of combating illegal immigration and improving border controls, authorises a system of collection and processing of data relating to passengers 'travelling to or from Belgium, or transiting through Belgian territory', which may indirectly involve a re-establishment of internal border controls?

10. If, on the basis of the answers to the preceding questions, the Cour constitutionnelle (Constitutional Court) concludes that the contested law, which transposes, inter alia, Directive (EU) 2016/681, fails to fulfil one or more of the obligations arising under the provisions referred to in those questions, would it be open to it to maintain the effects of the Law of 25 December 2016'on the processing of passenger data', on a temporary basis, in order to avoid legal uncertainty and enable the data hitherto collected and retained to continue to be used for the purposes envisaged by the law?

([1]) OJ 2016 L 119, p. 1.

([2]) OJ 2016 L 119, p. 132.

([3]) OJ 2004 L 261, p. 24.

([4]) OJ 2010 L 283, p. 1.

Request for a preliminary ruling from the Tribunale di Milano (Italy) lodged on 14 November 2019 — Banco di Desio e della Brianza SpA and Others v YX, ZW

(Case C-831/19)

(2020/C 36/22)

Language of the case: Italian

Referring court

Tribunale di Milano

Parties to the main proceedings

Applicants: Banco di Desio e della Brianza SpA, Banca di Credito Cooperativo di Carugate e Inzago SC, Intesa Sanpaolo SpA, Banca Popolare di Sondrio SCpA, Cerved Credit Management SpA

Defendants: YX, ZW

Questions referred

1. Under what conditions, if any, do the combined provisions of Articles 6 and 7 of Directive 93/13/EEC ([1]) and Article 47 of the Charter of Fundamental Rights of the European Union preclude a national rule, such as that under consideration, which prevents the court hearing enforcement proceedings from carrying out a review of the content of an enforceable judicial instrument that has acquired the force of *res judicata*, when the consumer, having become aware of his status (an awareness not previously possible under the law as applied at the relevant time), requests such a review?

2. Under what conditions, if any, do the combined provisions of Articles 6 and 7 of Directive 93/13/EEC and Article 47 of the Charter of Fundamental Rights of the European Union preclude a legal system, such as the national system under consideration, which, in the light of an implicit decision that a contractual term is fair, a decision having acquired the force of *res judicata*, prevents the court hearing enforcement proceedings, called upon to rule on the consumer's objection to the enforcement, from finding the term to be unfair? Moreover, can such a court be so precluded where — under the law as it was applied at the time that decision acquired the force of *res judicata* — it was not possible to consider whether the term was unfair because the guarantor could not be classified as a consumer?

([1]) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).

Request for a preliminary ruling from the Okresný súd Poprad (Slovakia) lodged on 22 November 2019 — IM v Sting Reality s.r.o.

(Case C-853/19)

(2020/C 36/23)

Language of the case: Slovak

Referring court

Okresný súd Poprad

Parties to the main proceedings

Applicant: IM

Defendant: Sting Reality s.r.o.

Questions referred

1. Must Directive 2005/29/EC ([1]) of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council be interpreted to the effect that factual circumstances, such as those in the present case, in which a natural person who finds himself in financial difficulties and under time pressure and whose intention is to obtain credit for retaining his ownership of immovable property, which constitutes his sole residence, is presented with a contract by a business providing credit which permanently deprives him of ownership of immovable property, even when the wish of that person was to transfer immovable property to the creditor only temporarily for the purposes of securing a credit contract, constitute an unfair commercial practice?

2. Is Council Directive 93/13/EEC ([2]) of 5 April 1993 on unfair terms in consumer contracts ('Directive 93/13') to be interpreted to the effect that, in the factual circumstances described in question 1, a sales contract on the transfer of immovable property is subject to review by the court despite the credit business's argument concerning individually negotiated contractual terms if the business refuses to present to the court contracts in other cases for the purposes of ascertaining whether they are pre-formulated standard contracts used by the business in other cases?

3. If the case is covered under Directive 93/13, is the situation prior to the conclusion of the contract also to be considered a relevant circumstance for the purposes of Article 4(1) of that Directive in such circumstances where the defendant business obtained personal data of the applicant without the applicant's agreement?

([1]) OJ 2005 L 149, p. 22.
([2]) OJ 1993 L 95, p. 29.

Request for a preliminary ruling from the Najvyšší súd Slovenskej republiky (Slovakia) lodged on 26 November 2019 — Slovak Telekom a.s. v Protimonopolný úrad Slovenskej republiky

(Case C-857/19)

(2020/C 36/24)

Language of the case: Slovak

Referring court

Najvyšší súd Slovenskej republiky

Parties to the main proceedings

Applicant: Slovak Telekom a.s.

Defendant: Protimonopolný úrad Slovenskej republiky

Questions referred

A question concerning the interpretation of the first sentence of Article 11(6) of Council Regulation (EC) No 1/2003 ([1]) of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty:

1. Does the phrase 'shall relieve the competition authorities of the Member States of their competence to apply Articles 81 and 82 of the Treaty' ([2]) mean that the authorities of the Member States lose their powers to apply Articles 81 and 82 of the Treaty?

2. Does Article 50 (Right not to be tried or punished twice in criminal proceedings for the same criminal offence) of the Charter of Fundamental Rights of the European Union, proclaimed in Nice on 7 December 2000, also apply to administrative offences consisting of the abuse of a dominant position within the meaning of Article 102 of the Treaty on the Functioning of the European Union for which the Commission and the authority of a Member State have imposed sanctions separately and independently in the exercise of their powers under Article 11(6) of Council Regulation (EC) No 1/2003 of 16 December 2002?

([1]) OJ 2003 L 1, p. 1.
([2]) [in the first sentence of Article 11(6) of Council Regulation (EC) No 1/2003]

GENERAL COURT

Judgment of the General Court of 28 November 2019 — Banco Cooperativo Español v SRB

(Case T-323/16) ([1])

(Economic and Monetary Union — Banking union — Single Resolution Mechanism for credit institutions and certain investment firms (SRM) — Single Resolution Fund (SRF) — Decision of the SRB on the 2016 ex-ante contributions — Action for annulment — Direct and individual concern — Admissibility — Essential procedural requirements — Authentication of the decision — Procedure for the adoption of the decision)

(2020/C 36/25)

Language of the case: Spanish

Parties

Applicant: Banco Cooperativo Español, SA (Madrid, Spain) (represented by: D. Sarmiento Ramírez-Escudero and J. Beltrán de Lubiano Sáez de Urabain, lawyers)

Defendant: Single Resolution Board (represented by: F. Málaga Diéguez, F. Fernández de Trocóniz Robles, B. Meyring, S. Schelo, T. Klupsch and S. Ianc, lawyers)

Intervener in support of the defendant: European Commission (represented by: J. Rius, A. Steiblytė and K.-P. Wojcik, Agents)

Re:

Application based on Article 263 TFEU seeking annulment of the decision of the SRB in its executive session of 15 April 2016 on the 2016 ex-ante contributions to the Single Resolution Fund (SRB/ES/SRF/2016/06) to the extent that it concerns the applicant.

Operative part of the judgment

The Court:

1. *annuls the decision of the Single Resolution Board (SRB) in its executive session of 15 April 2016 on the 2016 ex-ante contributions to the Single Resolution Fund (SRB/ES/SRF/2016/06) to the extent that it concerns Banco Cooperativo Español, SA;*

2. *orders Banco Cooperativo Español and the SRB to bear their own costs;*

3. *orders the European Commission to bear its own costs.*

([1]) OJ C 296, 16.8.2016.

Judgment of the General Court of 28 November 2019 — Portigon v SRB

(Case T-365/16) [1]

(Economic and Monetary Union — Banking union — Single Resolution Mechanism for credit institutions and certain investment firms (SRM) — Single Resolution Fund (SRF) — Decision of the SRB on the 2016 ex-ante contributions — Action for annulment — Direct and individual concern — Admissibility — Essential procedural requirements — Authentication of the decision — Procedure for the adoption of the decision — Obligation to state reasons)

(2020/C 36/26)

Language of the case: German

Parties

Applicant: Portigon AG (Düsseldorf, Germany) (represented by: D. Bliesener, V. Jungkind and F. Geber, lawyers)

Defendant: Single Resolution Board (represented by: B. Meyring, T. Klupsch and S. Ianc, lawyers)

Intervener in support of the defendant: European Commission (represented by: A. Steiblytė and K.-P. Wojcik, Agents)

Re:

Application based on Article 263 TFEU seeking the annulment, first, of the decision of the SRB in its executive session of 15 April 2016 on the 2016 ex-ante contributions to the Single Resolution Fund (SRB/ES/SRF/2016/06) and, second, of the decision of the SRB in its executive session of 20 May 2016 on the adjustment of the 2016 ex-ante contributions to the Single Resolution Fund, supplementing the decision of the SRB in its executive session of 15 April 2016 on the 2016 ex-ante contributions to the Single Resolution Fund (SRB/ES/SRF/2016/13), to the extent that they concern the applicant.

Operative part of the judgment

The Court:

1. *annuls the decision of the Single Resolution Board (SRB) in its executive session of 15 April 2016 on the 2016 ex-ante contributions to the Single Resolution Fund (SRB/ES/SRF/2016/06) and the decision of the SRB in its executive session of 20 May 2016 on the adjustment of the 2016 ex-ante contributions to the Single Resolution Fund, supplementing the decision of the SRB in its executive session of 15 April 2016 on the 2016 ex-ante contributions to the Single Resolution Fund (SRB/ES/SRF/2016/13), to the extent that they concern Portigon AG;*

2. *orders the SRB to bear its own costs and to pay those incurred by Portigon;*

3. *orders the European Commission to bear its own costs.*

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[1] OJ C 343, 19.9.2016.

Judgment of the General Court of 28 November 2019 — Hypo Vorarlberg Bank v SRB

(Joined Cases T-377/16, T-645/16 and T-809/16) ([1])

(Economic and Monetary Union — Banking union — Single Resolution Mechanism for credit institutions and certain investment firms (SRM) — Single Resolution Fund (SRF) — Decision of the SRB on the 2016 ex-ante contributions — Action for annulment — Direct and individual concern — Admissibility — Essential procedural requirements — Authentication of the decision — Procedure for the adoption of the decision — Obligation to state reasons — Limitation in time of the effects of the judgment)

(2020/C 36/27)

Language of the case: German

Parties

Applicant: Hypo Vorarlberg Bank AG, formerly Vorarlberger Landes- und Hypothekenbank AG (Bregenz, Austria) (represented by: G. Eisenberger and A. Brenneis, lawyers)

Defendant: Single Resolution Board (represented by: B. Meyring, S. Schelo, T. Klupsch and S. Ianc, lawyers)

Intervener in support of the applicant: Italian Republic (represented by: G. Palmieri, Agent)

Re:

Application based on Article 263 TFEU seeking the annulment, first, of the decision of the SRB in its executive session of 15 April 2016 on the 2016 ex-ante contributions to the Single Resolution Fund (SRB/ES/SRF/2016/06) and, second, of the decision of the SRB in its executive session of 20 May 2016 on the adjustment of the 2016 ex-ante contributions to the Single Resolution Fund, supplementing the decision of the SRB in its executive session of 15 April 2016 on the 2016 ex-ante contributions to the Single Resolution Fund (SRB/ES/SRF/2016/13), to the extent that they concern the applicant.

Operative part of the judgment

The Court:

1. *in Cases T-645/16 and T-809/16, dismisses the actions as inadmissible;*

2. *in Case T-377/16, annuls the decision of the Single Resolution Board (SRB) in its executive session of 15 April 2016 on the 2016 ex-ante contributions to the Single Resolution Fund (SRB/ES/SRF/2016/06) and the decision of the SRB in its executive session of 20 May 2016 on the adjustment of the 2016 ex-ante contributions to the Single Resolution Fund, supplementing the decision of the SRB in its executive session of 15 April 2016 on the 2016 ex-ante contributions to the Single Resolution Fund (SRB/ES/SRF/2016/13), to the extent that they concern Hypo Vorarlberg Bank AG;*

3. *orders the SRB to bear its own costs and to pay those incurred by Hypo Vorarlberg Bank in Case T-377/16;*

4. *orders Hypo Vorarlberg Bank to bear its own costs and to pay those incurred by the SRB in Cases T-645/16 and T-809/16, and in Case T-645/16 R;*

5. *orders the Italian Republic to bear its own costs.*

([1]) OJ C 343, 19.9.2016.

Judgment of the General Court of 12 December 2019 — Tàpias v Council

(Case T-527/16) ([1])

(Civil Service — Reform of the Staff Regulations and of the CEOS that entered into force on 1 January 2014 — Regulation (EC, Euratom) No 1023/2013 — Solidarity levy applicable from 1 January 2014 — Suspension of application of the method for updating remuneration for 2013 and 2014)

(2020/C 36/28)

Language of the case: French

Parties

Applicant: Margarita Tàpias (Wavre, Belgium) (represented by: L. Levi and N. Flandin, lawyers)
Defendant: Council of the European Union (represented by: M. Bauer and R. Meyer, acting as Agents)
Intervener in support of the defendant: European Parliament (represented by: E. Taneva and M. Ecker, acting as Agents)

Re:

Application under Article 270 TFEU seeking annulment of the decision fixing the applicant's remuneration for January 2014, as given specific expression in the salary slip for that month sent to her on 14 January 2014, which is the first salary slip to apply, with regard to the applicant, Article 65(4) and Article 66a of the Staff Regulations stemming from Article 1(44) and (46) of Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 (OJ 2013 L 287, p.15) providing, respectively, for the suspension of the application of the method for updating remuneration for 2013 and 2014 and the introduction of a solidarity levy from 1 January 2014.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Ms Margarita Tàpias to pay the costs;*

3. *Orders the European Parliament to bear its own costs.*

([1]) OJ C 7, 12.1.2015 (case initially registered before the Civil Service Tribunal of the European Union under number F-121/14 and transferred to the General Court of the European Union on 1 September 2016).

Judgment of the General Court of 12 December 2019 — OS v Commission

(Case T-528/16) ([1])

(Civil Service — Reform of the Staff Regulations and of the CEOS that entered into force on 1 January 2014 — Regulation (EU, Euratom) No 1023/2013 — Solidarity levy applicable from 1 January 2014 — Suspension of application of the method for updating remuneration for 2013 and 2014)

(2020/C 36/29)

Language of the case: French

Parties

Applicant: OS (represented by: J.-N. Louis, R. Metz and D. Verbeke, lawyers)

Defendant: European Commission (represented by: G. Gattinara and L. Radu Bouyon, acting as Agents)

Interveners in support of the defendant: European Parliament (represented by: E. Taneva and M. Ecker, acting as Agents), Council of the European Union (represented by: M. Bauer and R. Meyer, acting as Agents)

Re:

Application under Article 270 TFEU seeking annulment of the decision fixing the applicant's remuneration for January 2014, as given specific expression in the salary slip for that month sent to him on 13 January 2014, which is the first salary slip to apply, with regard to the applicant, Article 65(4) and Article 66a of the Staff Regulations stemming from Article 1(44) and (46) of Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 (OJ 2013 L 287, p.15) providing, respectively, for the suspension of the application of the method for updating remuneration for 2013 and 2014 and the introduction of a solidarity levy from 1 January 2014.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders OS to pay the costs;*

3. *Orders the European Parliament and the Council of the European Union to bear their own costs.*

([1]) OJ C 7, 12.1.2015 (case initially registered before the Civil Service Tribunal of the European Union under number F-122/14 and transferred to the General Court of the European Union on 1 September 2016).

Judgment of the General Court of 12 December 2019 — Feral v Committee of the Regions

(Case T-592/16) ([1])

(Civil Service — Reform of the Staff Regulations and of the CEOS that entered into force on 1 January 2014 — Regulation (EU, Euratom) No 1023/2013 — Solidarity levy applicable from 1 January 2014 — Suspension of application of the method for updating remuneration for 2013 and 2014)

(2020/C 36/30)

Language of the case: French

Parties

Applicant: Pierre-Alexis Feral (Brussels, Belgium) (represented by: J.-N. Louis, R. Metz and D. Verbeke, lawyers)

Defendant: Committee of the Regions (represented by: J. C. Cañoto Argüelles and S. Bachotet, acting as Agents, and by B. Wägenbaur, lawyer)

Interveners in support of the defendant: European Parliament (represented by: E. Taneva and M. Ecker, acting as Agents), Council of the European Union (represented by: M. Bauer and R. Meyer, acting as Agents)

Re:

Application under Article 270 TFEU seeking annulment of the decision fixing the applicant's remuneration for January 2014, as given specific expression in the salary slip for that month sent to him on 13 January 2014, which is the first salary slip to apply, with regard to the applicant, Article 65(4) and Article 66a of the Staff Regulations stemming from Article 1(44) and (46) of Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 (OJ 2013 L 287, p.15) providing, respectively, for the suspension of the application of the method for updating remuneration for 2013 and 2014 and the introduction of a solidarity levy from 1 January 2014.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Pierre-Alexis Feral to pay the costs;*

3. *Orders the European Parliament and the Council of the European Union to bear their own costs.*

([1]) OJ C 7, 12.1.2015 (case initially registered before the Civil Service Tribunal of the European Union under number F-123/14 and transferred to the General Court of the European Union on 1 September 2016).

Judgment of the General Court of 4 December 2019 — Billa v EUIPO — Boardriders IP Holdings (Billa)

(Case T-524/18) ([1])

(EU trade mark — Opposition proceedings — Application for the EU word mark Billa — Earlier EU word marks BILLABONG — Relative ground for refusal — Likelihood of confusion — Similarity of the signs — Comparison of the goods and services — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2020/C 36/31)

Language of the case: English

Parties

Applicant: Billa AG (Wiener Neudorf, Austria) (represented by: J. Rether, M. Kinkeldey, J. Rosenhäger and S. Brandstätter, lawyers)

Defendant: European Union Intellectual Property Office (represented by: J. Ivanauskas and H. O'Neill, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Boardriders IP Holdings LLC (Huntington Beach, California, United States) (represented by: J. Fish, Solicitor, and A. Bryson, Barrister)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 21 June 2018 (Case R 2235/2017-4), as rectified on 4 October 2018, relating to opposition proceedings between Boardriders IP Holdings and Billa.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 21 June 2018 (Case R 2235/2017-1) as regards the goods 'games' in Class 28 of the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, as revised and amended, covered by the mark applied for;*

2. *Dismisses the action as to the remainder;*

3. *Orders each party to bear its own costs.*

([1]) OJ C 399, 5.11.2018.

Judgment of the General Court of 12 December 2019 — Super bock group v EUIPO — Agus (Crystal)

(Case T-648/18) ([1])

(EU trade mark — Opposition proceedings — Application for the EU word mark Crystal — Earlier national word mark CRISTAL — Relative ground for refusal — No similarity between the goods — No likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2020/C 36/32)

Language of the case: English

Parties

Applicant: Super bock group, SGPS SA (Leça do Balio, Portugal) (represented by: J.P. Mioludo, lawyer)

Defendant: European Union Intellectual Property Office (represented by: L. Rampini and H. O'Neill, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO: Agus sp. z o.o. (Warsaw, Poland)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 23 July 2018 (Case R 299/2018-2), relating to opposition proceedings between Unicer-Bebidas de Portugal, SGPS SA and Agus.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Super bock group, SGPS SA to pay the costs.*

([1]) OJ C 16, 14.1.2019.

Order of the General Court of 28 November 2019 — Pinto Teixeira v EEAS

(Case T-667/18) (([1]))

(Civil service — Rights and obligations of officials — Declaration of intention to engage in an occupational activity after leaving the service — Article 16 of the Staff Regulations — Risk of incompatibility with the legitimate interests of the institution — Deadline for responding to the declaration of intention — Implicit acceptance — Prohibition on engaging in an occupational activity after leaving the service — Non-material damage)

(2020/C 36/33)

Language of the case: French

Parties

Applicant: José Manuel Pinto Teixeira (Oeiras, Portugal) (represented by: S. Orlandi and T. Martin, lawyers)

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

Re:

Action based on Article 270 TFEU seeking, first, annulment of the decision of the EEAS of 21 February 2018 prohibiting the applicant from engaging in an outside activity pursuant to Article 16 of the Staff Regulations of Officials of the European Union and, secondly, compensation for the damage that the applicant claims to have suffered as a result of that decision.

Operative part

1) *The decision of the European External Action Service (EEAS) of 21 February 2018 prohibiting Mr José Manuel Pinto Teixeira from engaging in an outside activity, pursuant to Article 16 of the Staff Regulations of Officials of the European Union, is annulled.*

2) *The action is dismissed as to the remainder.*

3) *Each party shall pay its own costs.*

([1]) OJ C 16, 14.1.2019.

Judgment of the General Court of 12 December 2019 — Conte v EUIPO (CANNABIS STORE AMSTERDAM)

(Case T-683/18) ([1])

(EU trade mark — Application for EU figurative mark CANNABIS STORE AMSTERDAM — Absolute ground for refusal — Trade mark contrary to public policy — Article 7(1)(f) of Regulation (EU) 2017/1001 — Article 7(2) of Regulation 2017/1001)

(2020/C 36/34)

Language of the case: Italian

Parties

Applicant: Santa Conte (Naples, Italy) (represented by: C. Demichelis, E. Ortaglio and G. Iorio Fiorelli, lawyers)

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

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 31 August 2018 (Case R 2181/2017-2), concerning an application for registration of the figurative sign CANNABIS STORE AMSTERDAM as an EU trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Ms Santa Conte to pay the costs.*

([1]) OJ C 25, 21.1.2019.

Judgment of the General Court of 12 December 2019 — Montanari v EEAS

(Case T-692/18) ([1])

(Access to documents — Regulation (EC) No 1049/2001 — Ad hoc inspection report — Refusal of access — Article 4(1)(b) of Regulation No 1049/2001 — Exception relating to the protection of the privacy and integrity of the individual — Regulation (EC) No 45/2001 — Article 8(b) of Regulation No 45/2001 — Transfer of personal data — Article 4(2), third indent, of Regulation No 1049/2001 — Exception relating to the protection of the purpose of investigations — Article 4(3) of Regulation No 1049/2001 — Exception relating to the protection of the decision-making process — Obligation to state reasons)

(2020/C 36/35)

Language of the case: French

Parties

Applicant: Marco Montanari (Reggio Emilia, Italy) (represented by: A. Champetier and S. Rodrigues, lawyers)

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

Re:

Application under Article 263 TFEU seeking annulment of the decision of EEAS of 24 October 2018 by which EEAS refused to grant the applicant access to the report of 29 July 2017 drawn up by A.

Operative part of the judgment

The Court:

1. *Annuls the decision of 24 October 2018 by which the European External Action Service (EEAS) rejected the confirmatory application for access to documents made by Mr Marco Montanari on 13 September 2018;*

2. *Orders EEAS to pay the costs.*

([1]) OJ C 35, 28.1.2019.

Judgment of the General Court of 12 December 2019 — Refan Bulgaria v EUIPO (Shape of a flower)

(Case T-747/18) ([1])

(EU trade mark — Application for a three-dimensional EU trade mark — Shape of a flower — Absolute ground for refusal — Descriptiveness — Article 7(1)(c) of Regulation (EU) 2017/1001 — Rights of the defence — Obligation to state reasons)

(2020/C 36/36)

Language of the case: English

Parties

Applicant: Refan Bulgaria OOD (Trud, Bulgaria) (represented by: A. Ivanova, lawyer)

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

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 6 September 2018 (Case R 2518/2017-1), regarding an application for registration of a three-dimensional sign consisting of the shape of a flower as an EU trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Refan Bulgaria OOD to bear its own costs and to pay those incurred by the European Union Intellectual Property Office (EUIPO).*

([1]) OJ C 72, 25.2.2019.

Judgment of the General Court of 5 December 2019 — Idea Groupe v EUIPO — The Logistical Approach (Idealogistic Verhoeven Greatest care in getting it there)

(Case T-29/19) ([1])

(EU trade mark — Opposition proceedings — Application for EU figurative mark Idealogistic Verhoeven Greatest care in getting it there — Earlier national word marks idéa logistique, IDEA and groupe idea — Earlier national figurative mark iDÉA — International registrations designating the European Union — Earlier figurative mark iDÉA and earlier word mark IDEA — Relative grounds for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001 — Use of a sign in the course of trade of more than mere local significance — Article 8(4) of Regulation 2017/1001)

(2020/C 36/37)

Language of the case: French

Parties

Applicant: Idea Groupe (Montoir-de-Bretagne, France) (represented by: P. Langlais, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: The Logistical Approach BV (Uden, Netherlands) (represented by: R. Milchior and S. Charbonnel, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 12 November 2018 (Case R 2064/2017-4), relating to opposition proceedings between Idea Groupe and The Logistical Approach.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 12 November 2018 (Case R 2064/2017-4);*

2. *Orders EUIPO and The Logistical Approach BV to bear their own costs and each to pay half of the costs incurred by Idea Groupe.*

([1]) OJ C 93, 11.3.2019.

Judgment of the General Court of 12 December 2019 — Baustoffwerke Gebhart & Söhne v EUIPO (BOITON)

(Case T-255/19) ([1])

(EU trade mark — Application for EU word mark BIOTON — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EU) 2017/1001 — No distinctive character — Article 7(1)(b) of Regulation (EU) 2017/1001)

(2020/C 36/38)

Language of the case: German

Parties

Applicant: Baustoffwerke Gebhart & Söhne GmbH & Co. KG (Aichstetten, Germany) (represented by: E. Strauß, lawyer)

Defendant: European Union Intellectual Property Office (represented by: J. Schäfer and A. Söder, acting as Agents)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 20 February 2019 (Case R 1887/2018-4), relating to an application for registration of the word sign BOITON as an EU trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Baustoffwerke Gebhart & Söhne GmbH & Co. KG to pay the costs.*

([1]) OJ C 187, 3.6.2019.

Judgment of the General Court of 12 December 2019 — gastivo portal v EUIPO — La Fourchette (Depiction of a fork on a green background)

(Case T-266/19) ([1])

(EU trade mark — Opposition proceedings — Application for EU figurative mark depicting a fork on a green background — Earlier EU figurative mark gastivo — Relative ground for refusal — No likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2020/C 36/39)

Language of the case: English

Parties

Applicant: gastivo portal GmbH (Bremen, Germany) (represented by: O. Spieker, A. Schönfleisch, N. Willich and N. Achilles, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO: La Fourchette SAS (Paris, France)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 20 February 2019 (Case R 1213/2018-4), relating to opposition proceedings between gastivo portal and La Fourchette.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders gastivo portal GmbH to pay the costs.*

([1]) OJ C 187, 3.6.2019.

Judgment of the General Court of 12 December 2019 — gastivo portal v EUIPO — La Fourchette (Depiction of a fork on a green background)

(Case T-267/19) ([1])

(EU trade mark — Opposition proceedings — Application for EU figurative mark depicting a fork on a green background — Earlier EU figurative mark gastivo — Relative ground for refusal — No likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2020/C 36/40)

Language of the case: English

Parties

Applicant: gastivo portal GmbH (Bremen, Germany) (represented by: O. Spieker, A. Schönfleisch, N. Willich and N. Achilles, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO: La Fourchette SAS (Paris, France)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 20 February 2019 (Case R 1211/2018-4), relating to opposition proceedings between gastivo portal and La Fourchette.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders gastivo portal GmbH to pay the costs.*

([1]) OJ C 230, 8.7.2019.

Action brought on 5 November 2019 – GY v ECB

(Case T-746/19)

(2020/C 36/41)

Language of the case: English

Parties

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

Defendant: European Central Bank (ECB)

Form of order sought

The applicant claims that the Court should:

— annul the ECB's decision of 28 January 2019 refusing the applicant the household allowance for the year 2019;

— annul further, if need be, the decisions of 24 April 2019 and 26 August 2019 respectively rejecting the applicant's request for administrative review and the applicant's grievance procedure;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging violation of the principle of non-discrimination.

2. Second plea in law, alleging violation of the principle of acquired rights.

3. Third plea in law, alleging violation of the '*effet utile*' of the household allowance and of Article 15 of the Conditions of Employment of the ECB.

4. Fourth plea in law, alleging violation of the principle of the duty of care.

Action brought on 8 November 2019 – Imperial Brands and Others v Commission

(Case T-760/19)

(2020/C 36/42)

Language of the case: English

Parties

Applicants: Imperial Brands plc (Bristol, United Kingdom), Imperial Tobacco Ltd (Bristol), Imperial Tobacco Overseas Holdings Ltd (Bristol), Imperial Tobacco Holdings Ltd (Bristol), Imperial Tobacco Overseas Holdings (2) Ltd (Bristol) (represented by: D. Slater, lawyer, and E. Burrows, N. Gardner and S. Mardell, Solicitors)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul the contested decision C(2019) 2526 Final of 2 April 2019 on the State aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption;

— in any event, order the Commission to pay the applicants' costs and expenses in connection with these proceedings.

Pleas in law and main arguments

In support of the action, the applicants rely on ten pleas in law:

1. First plea in law, alleging that the Commission has failed to state adequate reasons and has erred in law and/or made a manifest error of appraisal in the application of Article 107(1) TFEU by finding that the UK's controlled foreign companies (CFC) rules are the relevant reference system. The Commission should have treated the reference framework as the UK's corporation tax regime.

2. Second plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU and/or made a manifest error of appraisal by adopting a flawed approach to the analysis of the CFC rules. The Commission wrongly treated the provisions of Chapter 9 of Part 9A of the Taxation (International and Other Provisions) Act 2010 – which contains the Group Financing Exemption – as a form of derogation from a general charge to tax found in Chapter 5 of Part 9A of the Taxation (International and Other Provisions) Act 2010.

3. Third plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU in finding that the Group Financing Exemption was selective in that undertakings in factually and legally comparable positions were treated differently.

4. Fourth plea in law, alleging that the Commission erred in law in finding that the Group Financing Exemption gives rise to an advantage within the meaning of Article 107(1) TFEU.

5. Fifth Plea in law, alleging that the Commission has failed to state adequate reasons in finding that the Group Financing Exemption was partially not justified and has therefore breached Article 296 TFEU.

6. Sixth plea in law, alleging that the 'full' exemption under section 371IB of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

7. Seventh plea in law, alleging that the 75 % exemption under section 371ID of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

8. Eighth plea in law, alleging that the imposition of a tax burden on CFCs meeting the conditions for the Group Financing Exemption would breach the applicants' freedom of establishment contrary to Article 49 TFEU.

9. Ninth plea in law, alleging that the Commission erred in law in applying by analogy or placing undue reliance upon the terms of the Council Directive (EU) 2016/1164, [1] which was not applicable *ratione temporis*.

10. Tenth plea in law, alleging that in adopting the contested decision the Commission encroached on the United Kingdom's exclusive sovereignty in the area of direct taxation and thereby breached Articles 4 and 5 TEU and Article 114 TFEU.

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[1] Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ 2016 L 193, p. 1).

Action brought on 8 November 2019 – Willis Europe v Commission

(Case T-761/19)

(2020/C 36/43)

Language of the case: English

Parties

Applicant: Willis Europe BV (Amsterdam, Netherlands) (represented by: N. Niejahr and B. Hoorelbeke, lawyers, and A. Stratakis and P. O'Gara, Solicitors)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Decision (EU) 2019/1352 of 2 April 2019 on the State aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption (OJ 2019 L 216, p. 1) in so far as it holds that the alleged aid measure constitutes aid in the sense of Article 107(1) TFEU and orders its recovery with interest, including from the applicant;

— in the alternative, annul Article 2, 3 and 4 of the contested decision to the extent that it orders the recovery of incompatible aid with interest, including from the applicant;

— order the Commission to bear its own costs and the applicant's costs in connection with these 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, alleging that the Commission violated Article 107(1) TFEU by holding that the alleged aid measure provides a selective advantage to the companies making use of the 75 % exemption for low-risk qualifying loan relationships, because the Commission;

   — has wrongly identified the UK Controlled Foreign Companies (CFC) regime as the reference system;

   — has erred in law by concluding that the 75 % exemption constitutes a derogation from the reference tax system, on the basis that:

      (i) the finding of a derogation is based erroneously on the regulatory technique;

      (ii) the significant people functions test is not the central test for the UK CFC regime; and

      (iii) qualifying and non-qualifying loan relationships are not in the same legal and factual situation and, in any event, erred in law in applying by analogy or placing undue reliance upon the terms of Council Directive (EU) 2016/1164. ([1])

   — has erred in fact and in law by concluding that the 75 % exemption is not justified by the nature and the overall structure of the tax system in the same way as the Group Financing Exemption that applies to non-trading finance profits falling within section 371EC of the Taxation (International and Other Provisions) Act 2010 (capital investments from the UK).

2. Second plea in law, alleging that the Commission violated Article 107(1) TFEU by failing to demonstrate that the alleged aid measure was liable to affect trade between Member States and threatened to distort competition.

3. Third plea in law, alleging, alternatively, that the Commission violated Article 49 TFEU by qualifying the alleged aid measure as incompatible State aid that does not breach the freedom of establishment as guaranteed by Article 49 TFEU.

4. Fourth plea in law, alleging that the Commission violated the fundamental principle of equal treatment/non-discrimination:

   — by treating non-trading finance profits derived from qualifying loans in the same way as non-trading finance profits derived from non-qualifying loans; and

   — by treating the Group Financing Exemption differently depending on whether the non-trading finance profits fall within sections 371EB or 371EC of the Taxation (International and Other Provisions) Act 2010.

5. Fifth plea in law, alleging, in the alternative, that even if the alleged aid measure falls within the ambit of Article 107(1) TFEU, the Commission violated Article 16(1) of Council Regulation (EU) 2015/1589 ([2]) by ordering the recovery of amounts of alleged incompatible aid from the beneficiaries of the alleged aid measure, because such recovery infringes general principles of EU law, namely the principle of legitimate expectations and legal certainty.

([1]) Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ 2016, L 193, p. 1).

([2]) Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ 2015 L 248, p. 9).

Action brought on 22 November 2019 — Enoport — Producão de Bebidas v EUIPO — Miguel Torres, SA (CABEÇA DE TOIRO)

(Case T-811/19)

(2020/C 36/44)

Language in which the application was lodged: Portuguese

Parties

Applicant: Enoport — Producão de Bebidas Lda (Rio Maior, Portugal) (represented by: R. Milhões, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Miguel Torres, SA (Vilafranca del Penedés, Spain)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union figurative mark CABEÇA DE TOIRO — Application for registration No 15 626 286

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 9 September 2019 in Case R 394/2019-5

Form of order sought

The applicant claims that the General Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Pleas in law

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

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

Action brought on 2 December 2019 — RY v Commission

(Case T-824/19)

(2020/C 36/45)

Language of the case: French

Parties

Applicant: RY (represented by J.-N. Louis, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul the Commission's decision of 10 April 2019 to terminate the applicant's contract as a member of the temporary staff pursuant to Article 2(c) of the Conditions of Employment of Other Servants ('CEOS');

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Article 266 TFEU. The applicant claims in that regard that the Commission ought to have reinstated him further to the judgment of 10 January 2019, *RY* v *Commission* (T-160/17, EU:T:2019:1).

2. Second plea in law, alleging infringement of the right to be heard, in that the applicant was not able to submit his comments effectively and influence the decision-making process in question.

3. Third plea in law, alleging misuse of power, on the ground that the contested decision was taken for the sole purpose of giving a semblance of lawfulness to the purely confirmatory decision to terminate the applicant's contract.

4. Fourth plea in law, alleging infringement of the right of access to the file. The applicant claims in that respect that no follow-up was given to his repeated requests that he be sent the documents exchanged between the office of the Commission member concerned and the Directorate General for Human Resources and Security further to the judgment of 10 January 2019, *RY* v *Commission* (T-160/17, EU:T:2019:1)

Action brought on 6 December 2019 – CrossFit v EUIPO – Hochwarter (CROSSBOX)

(Case T-835/19)

(2020/C 36/46)

Language of the case: English

Parties

Applicant: CrossFit Inc. (Scotts Valley, California, United States) (represented by: D. Mărginean, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Marlis Hochwarter (Vienna, Austria)

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 figurative mark CROSSBOX – European Union trade mark No 12 503 471

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 4 October 2019 in Case R 1832/2018-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs incurred before the General Court.

Pleas in law

— Infringement of Article 8(2)(a)(i) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 53(1)(a) corroborated with Article 8(1)(b) of Regulation No 207/2009 of the Council;

— Infringement of Article 53(1)(a) corroborated with Article 8(5) of Regulation No 207/2009 of the Council.

Order of the General Court of 3 December 2019 — Eutelsat v GSA

(Case T-99/17) ([1])

(2020/C 36/47)

Language of the case: English

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

([1]) OJ C 144, 8.5.2017.

Order of the General Court of 27 November 2019 — Scandlines Danmark and Scandlines Deutschland v Commission

(Case T-566/19) ([1])

(2020/C 36/48)

Language of the case: English

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

([1]) OJ C 348, 14.10.2019.

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