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Information and Notices

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(2020/C 77/01)

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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Grand Chamber) of 21 January 2020 (request for a preliminary ruling from the Tribunal Económico-Administrativo Central — Spain) — Proceedings brought by Banco de Santander SA

(Case C-274/14) ([1])

(Reference for a preliminary ruling — Article 267 TFEU — Definition of 'court or tribunal of a Member State' — Criteria — Independence of the national body concerned — Irremovability of the members — Inadmissibility of the request for a preliminary ruling)

(2020/C 77/02)

Language of the case: Spanish

Referring court
Tribunal Económico-Administrativo Central

Party to the main proceedings
Banco de Santander SA

Operative part of the judgment
The request for a preliminary ruling from the Tribunal Económico-Administrativo Central (Central Tax Tribunal, Spain), made by decision of 2 April 2014, is inadmissible.

([1]) OJ C 303, 8.9.2014.

Judgment of the Court (Fourth Chamber) of 22 January 2020 — PTC Therapeutics International Ltd v European Medicines Agency, European Confederation of Pharmaceutical Entrepreneurs (Eucope)

(Case C-175/18 P) ([1])

(Appeal — Access to documents of EU institutions, bodies, offices or agencies — Regulation (EC) No 1049/2001 — First indent of Article 4(2) — Exception relating to the protection of commercial interests — Article 4(3) — Protection of the decision-making process — Documents submitted to the European Medicines Agency in the context of a marketing authorisation application for a medicinal product for human use — Decision to grant a third party access to the documents — General presumption of confidentiality — No obligation for an EU institution, body, office or agency to apply a general presumption of confidentiality)

(2020/C 77/03)

Language of the case: English

Parties
Appellant: PTC Therapeutics International Ltd (represented by: G. Castle, B. Kelly, and K. Ewert, Solicitors, and by C. Thomas, Barrister, and M. Demetriou QC)

Other parties to the proceedings: European Medicines Agency (initially represented by: T. Jabłoński, S. Marino, S. Drosos, A. Spina and A. Rusanov, and subsequently by T. Jabłoński, S. Marino and S. Drosos, acting as Agents), European Confederation of Pharmaceutical Entrepreneurs (Eucope) (represented by: S. Cowlishaw, Solicitor, and D. Scannell, Barrister)

Operative part of the judgment

The Court:

1. Dismisses the appeal;

2. Orders PTC Therapeutics International Ltd to bear its own costs and to pay those incurred by the European Medicines Agency (EMA);

3. Orders the European Confederation of Pharmaceutical Entrepreneurs to bear its own costs.

([1]) OJ C 231, 2.7.2018.

Judgment of the Court (Second Chamber) of 22 January 2020 (request for a preliminary ruling from the Juzgado de lo Contencioso-Administrativo No 14 de Madrid — Spain) — Almudena Baldonedo Martín v Ayuntamiento de Madrid

(Case C-177/18) ([1])

(Reference for a preliminary ruling — Social policy — Directive 1999/70/EC — Framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP — Clause 4 — Principle of non-discrimination — Clause 5 — Measures to prevent abuse arising from the use of successive fixed-term employment contracts or relationships — Compensation if the employment relationship is terminated — Articles 151 and 153 TFEU — Articles 20 and 21 of the Charter of Fundamental Rights of the European Union — Applicability — Difference of treatment based on whether a public or private regime, within the meaning of national law, governs the employment relationship)

(2020/C 77/04)

Language of the case: Spanish

Referring court

Juzgado de lo Contencioso-Administrativo No 14 de Madrid

Parties to the main proceedings

Applicant: Almudena Baldonedo Martín

Defendant: Ayuntamiento de Madrid

Operative part of the judgment

1. Clause 4(1) of the framework agreement on fixed-term work concluded on 18 March 1999, which is set out in the annex to Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, must be interpreted as not precluding a national law that does not provide for the payment of any compensation either for fixed-term workers employed as interim civil servants or for established civil servants who have an employment relationship of indefinite duration, upon the termination of their employment, whereas it provides for the payment of such compensation to contract workers employed for an indefinite duration upon the termination of their contract of employment on an objective ground;

2. Articles 151 and 153 of the TFEU and Clause 4(1) of the framework agreement on fixed-term work set out in the annex to Directive 1999/70 must be interpreted as not precluding a national law that does not provide for payment of any compensation to fixed-term workers employed as interim civil servants upon the termination of their employment, whereas compensation is granted to fixed-term contract workers upon the expiry of their contract of employment.

(1) OJ C 211, 18.6.2018.

Judgment of the Court (Fourth Chamber) of 22 January 2020 — MSD Animal Health Innovation GmbH, Intervet International BV v European Medicines Agency (EMA)

(Case C-178/18 P) (1)

(Appeal — Access to documents of EU institutions, bodies, offices or agencies — Regulation (EC) No 1049/2001 — First indent of Article 4(2) — Exception relating to the protection of commercial interests — Article 4(3) — Protection of the decision-making process — Documents submitted to the European Medicines Agency in the context of a marketing authorisation application for a veterinary medicinal product — Decision to grant a third party access to the documents — General presumption of confidentiality — No obligation for an EU institution, body, office or agency to apply a general presumption of confidentiality)

(2020/C 77/05)

Language of the case: English

Parties

Appellants: MSD Animal Health Innovation GmbH, Intervet International BV (represented by: C. Thomas, Barrister, J. Stratford QC, B. Kelly, Solicitor, and P. Bogaert, advocaat)

Other party to the proceedings: European Medicines Agency (initially represented by: T. Jabłoński, S. Marino, S. Drosos and A. Rusanov, subsequently by T. Jabłoński, S. Marino and S. Drosos, acting as Agents)

Operative part of the judgment

The Court:

1. Dismisses the appeal;

2. Orders MSD Animal Health Innovation GmbH and Intervet International BV to bear their own costs and to pay those incurred by the European Medicines Agency (EMA).

(1) OJ C 231, 2.7.2018.

Judgment of the Court (Fifth Chamber) of 23 January 2020 (request for a preliminary ruling from the Korkein hallinto-oikeus — Finland) — Proceedings brought by Energiavirasto

(Case C-578/18) ([1])

(Reference for a preliminary ruling — Internal market in electricity — Directive 2009/72/EC — Article 3 — Consumer protection — Article 37 — Tasks and powers of the regulatory authority — Out-of-court dispute settlement — Concept of 'party' — Right to appeal against a decision of the regulatory authority — Complaint made by a household customer against an electricity distribution system operator)

(2020/C 77/06)

Language of the case: Finnish

Referring court

Korkein hallinto-oikeus

Parties to the main proceedings

Energiavirasto

Intervener: A, Caruna Oy

Operative part of the judgment

Article 37 of Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC must be interpreted as meaning that it does not require Member States to confer competence on the regulatory authority to settle disputes between household customers and system operators and, consequently, to grant household customers who have lodged a complaint with the regulatory authority against a system operator the status of 'party' within the meaning of that provision, and the right to appeal against the decision taken by that authority following that complaint.

([1]) OJ C 427, 26.11.2018.

Judgment of the Court (Seventh Chamber) of 22 January 2020 (request for a preliminary ruling from the College van Beroep voor het bedrijfsleven — Netherlands) — Ursa Major Services BV v Minister van Landbouw, Natuur en Voedselkwaliteit

(Case C-814/18) ([1])

(Reference for a preliminary ruling — Common fisheries policy — Regulation (EC) No 1198/2006 — Article 55(1) — Financial contribution by the European Fisheries Fund (EFF) — Eligibility of expenditure — Condition — Expenditure actually paid by the beneficiaries — Meaning)

(2020/C 77/07)

Language of the case: Dutch

Referring court

College van Beroep voor het bedrijfsleven

Parties to the main proceedings

Applicant: Ursa Major Services BV

Defendant: Minister van Landbouw, Natuur en Voedselkwaliteit

Operative part of the judgment

1. Article 55(1) of Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund must be interpreted as being applicable to the relationship between the managing authority of an operational programme and the beneficiary of a subsidy granted under the European Fisheries Fund, so that that provision can be invoked against that beneficiary;

2. Article 55(1) of Regulation No 1198/2006 must be interpreted as meaning that an amount invoiced to the beneficiary of a subsidy granted under the European Fisheries Fund and paid by him may be regarded as expenditure actually paid, as referred to in that provision, even if the third party who invoiced that amount has also made a financial contribution to the subsidised project, either by a set-off of the debt owed to him by the beneficiary against that beneficiary's claim against him, stemming from his commitment to make a contribution, or by issuing a separate invoice, provided that the expenditure and the contribution concerned are duly supported by receipted invoices or accounting documents of equivalent probative value, which it is for the referring court to ascertain.

([1]) OJ C 122, 1.4.2019.

Judgment of the Court (Eighth Chamber) of 23 January 2020 (request for a preliminary ruling from the Bundessozialgericht — Germany) — ZP v Bundesagentur für Arbeit

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

(Reference for a preliminary ruling — Social security — Migrant workers — Regulation (EC) No 883/2004 — Unemployment benefits — Calculation — Failure to take account of the final salary received in the Member State of residence — Reference period not of sufficient duration — Salary received following the employment relationship coming to an end — Person having previously been active as an employed person in Switzerland)

(2020/C 77/08)

Language of the case: German

Referring court

Bundessozialgericht

Parties to the main proceedings

Applicant: ZP

Defendant: Bundesagentur für Arbeit

Operative part of the judgment

1. Article 62(1) and (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 must be interpreted as precluding legislation of a Member State which, while providing that the calculation of unemployment benefits is to be based on the amount of the previous salary, does not allow — where the period during which the person concerned was in receipt of a salary in respect of his or her last activity as an employed person pursued under that legislation is shorter than the reference period laid down by that legislation for determining the salary to be used as the basis for calculating unemployment benefits — for account to be taken of the salary received by the person concerned in respect of that activity.

2. Article 62(1) and (2) of Regulation (EC) No 883/2004 must be interpreted as precluding legislation of a Member State which, while providing that the calculation of unemployment benefits is to be based on the amount of the previous salary, does not allow — where the salary received by the person concerned in respect of the last activity pursued as an employed person under that legislation was not calculated or paid until after his or her employment relationship came to an end — for account to be taken of the salary received by the person concerned for that activity.

(1) OJ C 103, 18.3.2019.

Judgment of the Court (Tenth Chamber) of 22 January 2020 (request for a preliminary ruling from the Oberster Gerichtshof — Austria) — AT v Pensionsversicherungsanstalt

(Case C-32/19) (1)

(Reference for a preliminary ruling — Freedom of movement for persons — Citizenship of the Union — Right to move and reside freely in the territory of the Member States — Directive 2004/38/EC — Article 17(1)(a) — Right of permanent residence — Acquisition before completion of a continuous period of five years of residence — Workers who, at the time they stop working, have reached the age for entitlement to an old age pension)

(2020/C 77/09)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Applicant: AT

Defendant: Pensionsversicherungsanstalt

Operative part of the judgment

Article 17(1)(a) of 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 must be interpreted as meaning that, for the purpose of acquiring the right of permanent residence in the host Member State before completion of a continuous period of 5 years of residence, the conditions that a person must have been working in that Member State at least for the preceding 12 months and must have resided in that Member State continuously for more than 3 years apply to workers who, at the time they stop working, have reached the age laid down by the law of that Member State for entitlement to an old age pension.

(1) OJ C 131, 8.4.2019.

Order of the Court (Eighth Chamber) of 21 January 2020 — European Parliament v Erik Josefsson

(Case C-506/18 P) ([1])

(Appeal — Civil service — Temporary staff — European Parliament — Termination of the contract — Agreement intended to resolve the dispute between the parties — Appeal which has become devoid of purpose — No need to adjudicate)

(2020/C 77/10)

Language of the case: English

Parties

Appellant: European Parliament (represented by: I. Ní Riagáin Düro and V. Montebello-Demogeot and by J. Steele, acting as Agents)

Other party to the proceedings: Erik Josefsson (represented by: T. Bontinck, A. Guillerme and M. Forgeois, avocats)

Operative part of the order

1. There is no need to adjudicate on the appeal.

2. The European Parliament and Mr Erik Josefsson shall bear their own costs.

([1]) OJ C 445, 10.12.2018.

Order of the Court (Sixth Chamber) of 21 January 2020 (request for a preliminary ruling from the Tribunal Tributário de Lisboa — Portugal) — State of Canada v Autoridade Tributária e Aduaneira

(Case C-613/18) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Restrictions on the free movement of capital to or from a third country — Direct taxation — Tax on the revenue of legal persons — Profits distributed by companies resident in the territory of Portugal — Reduction in the tax base)

(2020/C 77/11)

Language of the case: Portuguese

Referring court

Tribunal Tributário de Lisboa

Parties to the main proceedings

Applicant: State of Canada

Defendant: Autoridade Tributária e Aduaneira

Operative part of the order

Articles 63 and 65 TFEU must be interpreted as precluding the legislation of a Member State, such as that at issue in the main proceedings, under which the dividends distributed by a resident company are subject to a tax the effective rate of which is higher where those dividends are received by an entity resident in a third country which does not principally carry out activities of a commercial, industrial or agricultural nature than where such dividends are received by such an entity resident in that State. The situation is different only if the application of the tax convention signed on 14 June 1999 for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income allows the effects of the difference in treatment under the legislation of that Member State to be completely neutralised, which it is for the referring court to ascertain.

([1]) OJ C 445, 10.12.2018.

Order of the Court (Ninth Chamber) of 7 October 2019 (request for a preliminary ruling from the Finanzgericht Hamburg — Germany) — HA v Finanzamt Hamburg-Barmbek-Uhlenhorst

(Case C-47/19) ([1])

(Reference for a preliminary ruling — Common system of value added tax (VAT) — Directive 2006/112/EC — Article 132(1)(h) to (j) — Various exemptions connected with children or young persons, school or university education — Surfing and sailing courses for schools and universities — Class trip)

(2020/C 77/12)

Language of the case: German

Referring court

Finanzgericht Hamburg

Parties to the main proceedings

Applicant: HA

Defendant: Finanzamt Hamburg-Barmbek-Uhlenhorst

Operative part of the order

1. The concept of 'school and university education' for the purpose of Article 132(1)(i) and (j) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as not including surfing and sailing tuition provided by surf and sailing schools, such as those at issue in the main proceedings, for schools or universities in which that tuition may, respectively, form part of the sporting activities programme or the training for physical education teachers and count towards the grade given to such pupils or students.

2. The concept of a supply of services 'closely linked to the protection of children and young persons' for the purpose of Article 132(1)(h) of Directive 2006/112 must be interpreted as not including surfing and sailing tuition provided by surf and sailing schools, such as those at issue in the main proceedings, regardless of whether that tuition is provided in the context of a class trip.

(1) OJ C 131, 8.4.2019.

Order of the Court (Third Chamber) of 21 January 2020 (request for a preliminary ruling from the Cour d'appel d'Aix-en-Provence — France) — execution of a European arrest warrant in respect of MN

(Case C-813/19 PPU) (1)

(Reference for a preliminary ruling — Urgent preliminary ruling procedure — Article 99 of the Rules of Procedure of the Court — Judicial cooperation in criminal matters — European arrest warrant — Framework Decision 2002/584/JHA — Article 6(1) — Concept of 'issuing judicial authority' — Effective judicial protection)

(2020/C 77/13)

Language of the case: French

Referring court

Cour d'appel d'Aix-en-Provence

Parties to the main proceedings

MN

In the presence of: RJA, RJO, FD, BG, PG, KL, LK, MJ, NI, OH

Operative part of the order

Article 6(1) of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States must be interpreted as meaning that the concept of 'issuing judicial authority', for the purposes of that provision, covers French prosecutors, managed and supervised by their hierarchical superiors and under the authority of the Minister of Justice in accordance with the statutory rules and institutional framework to which they are subject, since their statute grants them a guarantee of independence, in particular vis-à-vis the executive, in the context of the issue of a European arrest warrant.

Framework Decision 2002/584 must be interpreted as meaning that the requirements inherent in effective judicial protection to be provided to a person against whom a European arrest warrant is issued with a view to criminal prosecution are satisfied where, in accordance with the legislation of the issuing Member State, the conditions for the issue of that warrant and, in particular, the proportionality thereof are subject to judicial review in that ember State.

(1) OJ C 19, 20.1.2020.

Appeal brought on 25 January 2019 by Mykola Yanovych Azarov against the judgment of the General Court (Sixth Chamber) delivered on 13 December 2018 in Case T-247/17, Mykola Yanovych Azarov v Council of the European Union

(Case C-58/19 P)

(2020/C 77/14)

Language of the case: German

Parties

Appellant: Mykola Yanovych Azarov (represented by: A. Egger and G. Lansky, Rechtsanwälte)

Other party to the proceedings: Council of the European Union

By order of 22 October 2019, the Court of Justice of the European Union (Seventh Chamber) ordered as follows:

1. The appeal is manifestly well founded.

2. The judgment of the General Court of the European Union of 13 December 2018, *Azarov* v *Council* (T-247/17, not published, EU:T:2018:931) is set aside.

3. Council Decision (CFSP) 2017/381 of 3 March 2017 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine und Council Implementing Regulation (EU) 2017/374 of 3 March 2017 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine are annulled to the extent to which they concern Mr Mykola Yanovych Azarov.

4. The Council of the European Union shall pay the costs of the proceedings both at first instance and on appeal.

Appeal brought on 15 March 2019 by István Szécsi and Nóra Somossy against the order of the General Court (Third Chamber) made on 16 January 2019 in Case T-331/18, István Szécsi und Nóra Somossy v European Commission

(Case C-236/19 P)

(2020/C 77/15)

Language of the case: German

Parties

Appellants: István Szécsi and Nóra Somossy (represented by: D. Lázár, Rechtsanwalt)

Other party to the proceedings: European Commission

By order of 1 October 2019, the Court of Justice of the European Union (Sixth Chamber) dismissed the appeal as manifestly unfounded and ordered Mr István Szécsi and Ms Nóra Somossy to bear their own costs.

Request for a preliminary ruling from the Gericht Erster Instanz Eupen (Belgium) lodged on 16 April 2019 — YU v Wallonische Region

(Case C-315/19)

(2020/C 77/16)

Language of the case: German

Referring court

Gericht Erster Instanz Eupen

Parties to the main proceedings

Applicant: YU

Defendant: Wallonische Region

By order of 26 September 2019, the Court of Justice of the European Union (Sixth Chamber) gives the following ruling:

Article 45 TFEU is to be interpreted as precluding legislation of a Member State pursuant to which an employee residing in that Member State can rely on an exception to the obligation to register in the employee's Member State of residence a vehicle, which has been made available to the employee by an employer established in a different Member State where the vehicle is registered, only if the documents proving that the condition for the exception is met are at all times carried by the employee in the vehicle.

Appeal brought on 7 June 2019 by All Star CV against the judgment of the General Court (Second Chamber) delivered on 29 March 2019 in Case T-611/17 All Star v EUIPO — Carrefour Hypermarchés

(Case C-461/19 P)

(2020/C 77/17)

Language of the case: French

Parties

Appellant: All Star CV (represented by: S. Malynicz, A. Newnes and A. Artinian, avocats)

Other party to the proceedings: European Union Intellectual Property Office

By order of 30 September 2019, the Court (Chamber determining whether appeals may proceed) found that the appeal was not allowed to proceed.

Request for a preliminary ruling from the Sąd Rejonowy dla Warszawy-Woli w Warszawie (Poland) lodged on 5 July 2019 — P. J. v (X) S.A.

(Case C-513/19)

(2020/C 77/18)

Language of the case: Polish

Referring court

Sąd Rejonowy dla Warszawy-Woli w Warszawie

Parties to the main proceedings

Applicant: P.J.

Defendant: (X) S.A.

By order of 7 November 2019, the Court of Justice (Ninth Chamber) ruled that the request for a preliminary ruling is manifestly inadmissible.

Appeal brought on 17 July 2019 by Laurence Bonnafous against the judgment of the General Court (Third Chamber) delivered on 6 June 2019 in Case T-614/17 Bonnafous v EACEA

(Case C-548/19 P)

(2020/C 77/19)

Language of the case: French

Parties

Appellant: Laurence Bonnafous (represented by: S. Rodrigues and A. Blot, avocats)

Other party to the proceedings: Education, Audiovisual and Culture Executive Agency

By order of 27 November 2019, the Court (Seventh Chamber) dismissed the appeal as being manifestly unfounded.

Request for a preliminary ruling from the Juzgado de lo Social de Madrid (Spain) lodged on 17 July 2019 — EV v Obras y Servicios Públicos, S.A. and Acciona Agua, S.A.

(Case C-550/19)

(2020/C 77/20)

Language of the case: Spanish

Referring court

Juzgado de lo Social de Madrid

Parties to the main proceedings

Applicant: EV

Defendants: Obras y Servicios Públicos, S.A.,

Acciona Agua, S.A.

Questions referred

1. Must Clause 4(1) of the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, incorporated into EU law by Council Directive 1999/70 ([1]) and Directive 2001/23, be interpreted to the effect that there is no objective ground to justify the collective agreement for the construction sector (Article 24(2) of which provides that the first paragraph of Article 15(1)(a) of the Estatuto de los Trabajadores ('Workers' Statute') is not to apply, irrespective of the length of the general project contract for a given construction project, and that workers are to retain the status of 'workers on a fixed-term contract for a specific construction project', both in the circumstances referred to in that provision and where one undertaking succeeds another, as provided for in Article 44 of the Workers' Statute, or in the case of the transfer of workers under Article 27 of the collective agreement) contravening Spanish national legislation (under which, pursuant to Article 15(1)(a) of the Workers' Statute, '*such contracts may not be for a period of more than 3 years, which may be extended by up to 12 months by a national sectoral collective agreement or, if there is no such agreement, by a lower-level sectoral collective agreement. On the expiry of those periods, workers shall acquire the status of permanent workers of the employer*')?

2. Must Clause 4(1) of the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, incorporated into EU law by Council Directive 1999/70 and Directive 2001/23, be interpreted to the effect that there is no objective ground to justify the collective agreement for the construction sector (Article 24(5) of which provides that where a worker is hired for different work positions on two or more fixed-term contracts for a specific construction project with the same undertaking or group of undertakings within the period and for the duration laid down in Article 15(5) of the Workers' Statute, the said worker is not to acquire the status provided for in Article 15(5) of the Workers' Statute, both in the circumstances referred to in that provision and where one undertaking succeeds another, as provided for in Article 44 of the Workers' Statute, or in the case of the transfer of workers under Article 27 of the collective agreement) contravening Spanish national legislation (under which Article 15(5) of the Workers' Statute provides that '*Without prejudice to the provisions of paragraphs 1(a), 2 and 3, workers who have been engaged, with or without interruption, for longer than 24 months over a period of 30 months in the same or a different work position with the same undertaking or group of undertakings on two or more temporary contracts, regardless of whether the workers have entered into the contracts directly or have been supplied by temporary employment agencies or whether the same or different fixed-term conditions apply to the said contracts, shall acquire the status of permanent workers. The provisions of the previous paragraph shall also apply where one undertaking succeeds another or in the case of the transfer of workers in accordance with provisions laid down by statute or in collective agreements*')?

3. Must Article 3(1) of Directive 2001/23 ([2]) be interpreted as precluding a situation in which, under the collective agreement for the construction sector, the rights and obligations that are to be respected by the new employing undertaking or entity that is taking on the contracted activities **are to be restricted solely to those arising under the last contract** concluded by the worker with the outgoing undertaking, and as meaning that that does not constitute an objective ground that justifies the

collective agreement for the construction sector contravening Spanish national legislation, under which, pursuant to Article 44 of the Workers' Statute, all rights and obligations of the previous employer are transferred, not merely those arising under the most recent contract?

(1) Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP (OJ 1999 L 175, p. 43).
(2) Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (OJ 2001 L 82, p. 16).

Appeal brought on 1 August 2019 by L'Oréal against the judgment of the General Court (First Chamber) delivered on 19 June 2019 in Case T-179/16 RENV, L'Oréal v EUIPO — Guinot

(Case C-586/19 P)

(2020/C 77/21)

Language of the case: French

Parties
Appellant: L'Oréal (represented by T. de Haan and P. Péters, avocats)

Other parties to the proceedings: European Union Intellectual Property Office and Guinot

By order of 7 October 2019, the Court of Justice (Chamber determining whether appeals may proceed) ruled that the appeal should not be allowed to proceed.

Appeal brought on 1 August 2019 by L'Oréal against the judgment of the General Court (First Chamber) delivered on 19 June 2019 in Case T-180/16 RENV, L'Oréal v EUIPO — Guinot

(Case C-587/19 P)

(2020/C 77/22)

Language of the case: French

Parties
Appellant: L'Oréal (represented by T. de Haan and P. Péters, avocats)

Other parties to the proceedings: European Union Intellectual Property Office and Guinot

By order of 7 October 2019, the Court of Justice (Chamber determining whether appeals may proceed) ruled that the appeal should not be allowed to proceed.

Appeal brought on 1 August 2019 by L'Oréal against the judgment of the General Court (First Chamber) delivered on 19 June 2019 in Case T-181/16 RENV, L'Oréal v EUIPO — Guinot

(Case C-588/19 P)

(2020/C 77/23)

Language of the case: French

Parties

Appellant: L'Oréal (represented by T. de Haan and P. Péters, avocats)

Other parties to the proceedings: European Union Intellectual Property Office and Guinot

By order of 7 October 2019, the Court of Justice (Chamber determining whether appeals may proceed) ruled that the appeal should not be allowed to proceed.

Appeal brought on 1 August 2019 by L'Oréal against the judgment of the General Court (First Chamber) delivered on 19 June 2019 in Case T-182/16 RENV, L'Oréal v EUIPO — Guinot

(Case C-589/19 P)

(2020/C 77/24)

Language of the case: French

Parties

Appellant: L'Oréal (represented by T. de Haan and P. Péters, avocats)

Other parties to the proceedings: European Union Intellectual Property Office and Guinot

By order of 7 October 2019, the Court of Justice (Chamber determining whether appeals may proceed) ruled that the appeal should not be allowed to proceed.

Appeal brought on 1 August 2019 by L'Oréal against the judgment of the General Court (First Chamber) delivered on 19 June 2019 in Case T-183/16 RENV, L'Oréal v EUIPO — Guinot

(Case C-590/19 P)

(2020/C 77/25)

Language of the case: French

Parties
Appellant: L'Oréal (represented by T. de Haan and P. Péters, avocats)

Other parties to the proceedings: European Union Intellectual Property Office and Guinot

By order of 7 October 2019, the Court of Justice (Chamber determining whether appeals may proceed) ruled that the appeal should not be allowed to proceed.

Appeal brought on 4 September 2019 by Agencja Wydawnicza Technopol sp. z o. o. against the judgment of the General Court (Eighth Chamber) delivered on 26 June 2019 in Case T-117/18 Agencja Wydawnicza Technopol v EUIPO

(Case C-664/19 P)

(2020/C 77/26)

Language of the case: Polish

Parties
Appellant: Agencja Wydawnicza Technopol sp. z o. o. (represented by: C. Rogula, lawyer)

Other party to the proceedings: European Union Intellectual Property Office

By order of 5 December 2019, the Court (Chamber determining whether appeals may proceed) decided that the appeal is not allowed to proceed.

Action brought on 17 October 2019 — European Commission v Hungary

(Case C-761/19)

(2020/C 77/27)

Language of the case: Hungarian

Parties
Applicant: European Commission (represented by: C. Cattabriga and Zs. Teleki, acting as Agents)

Defendant: Hungary

Form of order sought

The Commission claims that the Court should:

— declare that Hungary has failed to fulfil its obligations under Article 11(1)(a) of Directive 2003/109/EC ([1]) by not admitting third-country nationals who are long-term residents as members of the College of Veterinary Surgeons, which prevents those third country nationals *ab initio* from working as employed veterinarians or exercising that profession on a self-employed basis.

— order Hungary to pay the costs.

Pleas in law and main arguments

1. The Commission received a complaint on 3 January 2017 concerning a requirement laid down in the Magyar Állatorvosi Kamaráról valamint az állatorvosi szolgáltatói tevékenység végzéséről szóló 2012. évi CXXVII. törvény (Law CXXVII of 2012, on the College of Veterinary Surgeons of Hungary and the provision of veterinary services), in accordance with which, only a person who fulfils, inter alia, the requirement of being a national of a State which is part of the Agreement on the European Economic Area may be a member of the College of Veterinary Surgeons. The complainant is a third-country national who, since 2007, has held a long-term residence permit in Hungary and who in 2014 graduated from the Állatorvostudományi Egyetem (University of Veterinary Medicine) of Budapest. The complainant's request to be admitted to the College of Veterinary Surgeons was rejected on the basis of non-compliance with the abovementioned legal requirement. In Hungary it is necessary to be a member of the College of Veterinary Surgeons in order to exercise the profession of veterinarian whether on an employed or self-employed basis.

2. On 20 July 2018, the Commission initiated infringement proceedings against Hungary in relation to the abovementioned provision of the Law on the College of Veterinary Surgeons, alleging that Hungary had failed to fulfill the obligation under Article 11(1)(a) of Directive 2003/109/EC.

3. The Hungarian Government, in its reply, claimed that the veterinary profession is covered by the exception laid down in Article 11(1)(a) of Directive 2003/109/EC, since it may, not only occasionally, entail the exercise of public authority.

4. As it did not consider the claims put forward by the Hungarian Government persuasive, on the 25 January 2019, the Commission gave a reasoned opinion in which it maintained its position.

5. On 29 March 2019, the Hungarian Government sent the Commission a reply to the reasoned opinion, in which it restated its position.

6. The Commission concluded that the exercise of the activity of veterinarian on an employed or self-employed basis in Hungary was not covered by the exception in Article 11(1)(a) of Directive 2003/109/EC. In its view, the activities of veterinarians which Hungary considers to be an exercise of public authority do not entail direct and specific participation in the exercise of public authority and are not necessarily and inseparably inherent in that profession, since, they are only preparatory and additional, or are activities which are carried out pursuant to a special agreement or under supervision of the public authority.

7. In the light of the foregoing, on 25 July 2019, the Commission decided to refer the case to the Court of Justice for a declaration that Hungary has failed to fulfil its obligations under Directive 2003/109/EC.

([1]) Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ 2004 L 16, p. 44).

Request for a preliminary ruling from the Landesgericht Salzburg (Austria) lodged on 31 October 2019 — CT v VINI GmbH

(Case C-805/19)

(2020/C 77/28)

Language of the case: German

Referring court

Landesgericht Salzburg

Parties to the main proceedings

Applicant: CT

Defendant: VINI GmbH

Question referred

Are Article 31 of the Charter of Fundamental Rights of the European Union and Article 7(2) of Directive 2003/88/EC [1] (the Working Time Directive) to be interpreted as meaning that the rule of national law laid down in Paragraph 10(2) of the Urlaubsgesetz (Austrian Law on Annual Leave, 'the UrlG'), under which a payment in lieu of annual leave in respect of the current (last) working year is not payable if the worker resigns prematurely, is not applicable?

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[1] Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ 2003 L 299, p. 9).

Request for a preliminary ruling from the Landgericht Frankfurt am Main (Germany) lodged on 4 November 2019 — Flightright GmbH v Qatar Airways

(Case C-810/19)

(2020/C 77/29)

Language of the case: German

Referring court

Landgericht Frankfurt am Main

Parties to the main proceedings

Applicant: Flightright GmbH

Defendant: Qatar Airways

Questions referred

1. Is there a 'directly connecting flight' within the meaning of Article 2(h) of Regulation (EC) No 261/2004 [1] also where, in the case of flights comprising a single booking, which provide for a stopover at a connecting airport outside the territory of the European Union, a longer stay at the stopover location is planned and the onward flight booked is not the next possible available flight?

2. In the event that the first question is answered in the negative:

   Must Article 3(1)(a) of Regulation (EC) No 261/2004 be interpreted as meaning that that regulation also applies to passenger transport by a flight which is not operated from an airport located in the territory of a Member State but forms part of single booking which also includes a flight from an airport located in the territory of a Member State, even if that former flight is not a directly connecting flight?

(1) Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ 2004 L 46, p. 1).

Request for a preliminary ruling from the Bundesverwaltungsgericht (Germany) lodged on 6 November 2019 — Natumi GmbH v Land Nordrhein-Westfalen

(Case C-815/19)

(2020/C 77/30)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: Natumi GmbH

Defendant: Land Nordrhein-Westfalen

Other party: The Representative of the Federal Interest before the Federal Administrative Court

Questions referred

1. Is Article 28 of Regulation No 889/2008, (1) read in conjunction with point 1.3 of Annex IX thereto, to be interpreted as meaning that the alga *Lithothamnium calcareum* may be used as an ingredient in the processing of organic food?

2. In the event that that question is to be answered in the affirmative:

   Is the use of dead algae also permitted?

3. In the event that the second question is also to be answered in the affirmative:

   For a product that contains the (dead) alga *Lithothamnium calcareum* as an ingredient and is labelled with the indication 'Organic', is the use of the indications 'contains calcium', 'contains calcium-rich sea alga' or 'contains high-quality calcium from the sea alga *Lithothamnium*' permitted?

(1) Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control (OJ 2008 L 250, p. 1).

Request for a preliminary ruling from the Thüringer Finanzgericht (Germany) lodged on 12 November 2019 — Beeren-, Wild-, Feinfrucht GmbH v Hauptzollamt Erfurt

(Case C-825/19)

(2020/C 77/31)

Language of the case: German

Referring court

Thüringer Finanzgericht

Parties to the main proceedings

Applicant: Beeren-, Wild-, Feinfrucht GmbH

Defendant: Hauptzollamt Erfurt

Questions referred

1. Is Article 211(2) of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ 2013 L 269, p. 1, 'the UCC') ([1])to be interpreted as applying only to applications whose retroactive authorisation period would be valid as from 1 May 2016?

2. If Question 1 is answered in the negative: In the case of applications for retroactive authorisation whose authorisation period is before 1 May 2016, is Article 211 of the UCC to be applied only if the retroactive authorisation was applied for before the new law entered into force, but the customs authorities refused such applications for the first time after 1 May 2016?

3. If Question 2 is answered in the negative: In the case of applications for retroactive authorisation whose authorisation period is before 1 May 2016, is Article 211 of the UCC to be applied even if the customs authorities refused such applications both before and after 1 May 2016 (with different reasoning)?

4. If Questions 1 and 2 are answered in the affirmative and Question 3 is answered in the negative: Is Article 294(2) of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Regulation (EEC) No 2913/92 (OJ 1993 L 253, p. 1) ([2]) to be interpreted as meaning that

   (a) an authorisation could be granted with retroactive effect from the date the original authorisation expired, as provided for in Article 294(3), for a maximum retroactive period of one year before the date the application was submitted and

   (b) the proof of economic need provided for in Article 294(3) must also exist and attempted deception or obvious negligence be excluded in the case of the successive authorisation under Article 294(2)?

([1]) OJ 2013 L 269, p. 1.

([2]) OJ 1993 L 253, p. 1.

Request for a preliminary ruling from the Landesgericht Korneuburg (Austria) lodged on 13 November 2019 — WZ v Austrian Airlines AG

(Case C-826/19)

(2020/C 77/32)

Language of the case: German

Referring court

Landesgericht Korneuburg

Parties to the main proceedings

Applicant: WZ

Defendant: Austrian Airlines AG

Questions referred

1. Is Article 8(3) of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 ('the Air Passenger Rights Regulation') ([1]) to be interpreted as meaning that it is applicable to two airports which are both located in the immediate vicinity of a city centre, but only one of them is located in the territory of the city and the other is located in a neighbouring federal *Land*?

2. Are Article 5(1)(c), Article 7(1) and Article 8(3) of the Air Passenger Rights Regulation to be interpreted as meaning that, in the event that a flight lands at an alternative airport of destination in the same town, city or region, there is a right to compensation owing to cancellation of the flight?

3. Are Article 6(1), Article 7(1) and Article 8(3) of the Air Passenger Rights Regulation to be interpreted as meaning that, in the event that a flight lands at an alternative airport in the same town, city or region, there is a right to compensation owing to a long delay?

4. Are Articles 5, 7 and 8(3) of the Air Passenger Rights Regulation to be interpreted as meaning that, in order to determine whether a passenger has suffered a loss of time equal to or in excess of three hours within the meaning of the judgment … of 19 November 2009 in Joined Cases C-402/07 and C-432/07, *Sturgeon and Others*, ([2]) the delay must be calculated on the basis of the point in time at which the flight lands at the alternative airport of destination or the point in time at which the passenger is transferred to the airport of destination for which the booking was made or to another close-by destination agreed with the passenger?

5. Is Article 5(3) of the Air Passenger Rights Regulation to be interpreted as meaning that an air carrier which operates flights as part of a flight rotation system may rely on an incident — specifically on a reduction of the arrival rate brought about by stormy weather conditions — which occurred in relation to the flight three flights back in the rotation sequence of the flight concerned?

6. Is Article 8(3) of the Air Passenger Rights Regulation to be interpreted as meaning that, in the event that a flight lands at an alternative airport of destination, the air carrier must take the initiative to offer transport to a different location, or the passenger must request the transport?

7. Are Article 7(1), Article 8(3) and Article 9(1)(c) of the Air Passenger Rights Regulation to be interpreted as meaning that the passenger has a right to compensation owing to a breach of the obligations to provide assistance and care provided for in Articles 8 and 9 thereof?

([1]) OJ 2004 L 46, p. 1.
([2]) OJ 2010 C 24, p. 4.

Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 15 November 2019 — CS v Finanzamt Graz-Stadt

(Case C-844/19)

(2020/C 77/33)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Appellants on a point of law: CS, Finanzamt Graz-Stadt

Interveners: Finanzamt Judenburg Liezen, technoRent International GmbH

Questions referred

1. Is there a rule with direct effect under EU law that grants a taxpayer to whom the tax office, in circumstances such as those in the main proceedings, has not refunded a turnover tax credit in good time entitlement to interest for late payment, with the result that he can claim that entitlement before the tax office or before the administrative courts, even though national law does not provide for such a rule on interest?

   If Question 1 is answered in the affirmative:

2. Is it permissible also in the case of a turnover tax claim made by the taxable person as a result of a subsequent reduction of consideration under Article 90(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ([1]) that interest begins to accrue only after expiry of a reasonable period for the tax office to assess the lawfulness of the entitlement claimed by the taxable person?

3. Does the fact that the national law of a Member State does not provide for any rule on interest in respect of the late crediting of turnover tax credits mean that the national courts must, when calculating interest, apply the legal consequence laid down by the second subparagraph of Article 27(2) of Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State, ([2]) even though the main proceedings do not fall within the scope of that directive?

([1]) OJ 2006 L 347, p. 1.
([2]) OJ 2008 L 44, p. 23.

Request for a preliminary ruling from the Finanzgericht Berlin-Brandenburg (Germany) lodged on 27 November 2019 — M-GmbH v Finanzamt für Körperschaften

(Case C-868/19)

(2020/C 77/34)

Language of the case: German

Referring court

Finanzgericht Berlin-Brandenburg

Parties to the main proceedings

Applicant: M-GmbH

Defendant: Finanzamt für Körperschaften

Questions referred

1. Is the first paragraph of Article 11 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax — the VAT Directive ([1])— to be interpreted as precluding the rule set out in point 2 of Paragraph 2(2) of the Umsatzsteuergesetz (German Law on turnover tax) — the UStG — in so far as that rule prohibits a partnership (in this case: a GmbH & Co. KG (a limited partnership in which the general partner is a limited liability company)) the partners of which, apart from the controlling company, are not exclusively persons financially integrated into the controlling company's undertaking pursuant to point 2 of Paragraph 2(2) of the UStG, from being a controlled company within the scope of a tax-group arrangement for turnover-tax purposes?

2. If Question 1 is answered in the affirmative:

   (a) Is the second paragraph of Article 11 of the VAT Directive — regard being had to the principles of proportionality and neutrality — to be interpreted as being capable of justifying an exclusion of partnerships of the type mentioned in Question 1 from a tax-group arrangement for turnover-tax purposes because, in the case of partnerships, there is no obligation to comply with a required form for the conclusion and amendment of partnership agreements under national law and there may, in the event of merely verbal agreements, be difficulties in proving the existence of the financial integration of the controlled company in individual cases?

   (b) Is application of the second paragraph of Article 11 of the VAT Directive precluded if the national legislature did not have the intention of preventing tax evasion or avoidance already at the time when it adopted the measure?

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

Appeal brought on 28 November 2019 by FV against the judgment of the General Court (Eighth Chamber) of 19 September 2019 in Case T-27/18 RENV, FV v Council

(Case C-875/19 P)

(2020/C 77/35)

Language of the case: French

Parties

Appellant: FV (represented by: É. Boigelot, avocat)

Other party to the proceedings: Council of the European Union

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of 19 September 2019 (T-27/18 RENV) and, consequently, grant the appellant the order sought at first instance and therefore annul the appellant's 2013 staff report;

— order the Council to pay the costs of the proceedings at first instance and in the appeal.

Grounds of appeal and main arguments

The judgment under appeal dismissed the action for the annulment of the appellant's 2013 staff report. In the appellant's ground of appeal, he claims, first, that the General Court infringed the duty to review and the obligation to state reasons and distorted the file and, second, that it infringed the Guide to staff reports, the obligation to state reasons and the duty to care for staff, and manifestly erred in its assessment.

The appellant claims that, by requiring the existence and disclosure of medical certificates and subsequently taking the view that those absences were not justified and could validly be regarded as capable of being taken into account in the assessment period, the General Court misconstrued the Guide to staff reports. In addition, the decision to take account necessarily, or even automatically, of absences and/or late arrivals in assessing the appellant negatively is unlawful. Lastly, the Council did not challenge the medical nature of those absences and/or late arrivals or criticise the justification of the absences through the adoption of administrative measures and approved applications for regularisation of the late arrivals *ex post*. The General Court therefore contradicted itself and distorted the evidence in the file.

Furthermore, a lack of regular presence at the workplace does not mean *ipso facto* a lack of continuous effort. Moreover, no individually tailored timetable was registered in the programme relating to the appellant's working times. In addition, a general comment considering that the appellant's sense of responsibility is remarkable can be expressed only by an excellent evaluation. As regards the assessment of quality of work, the reasons given in the staff report do not relate to the actual quality of work delivered by the appellant. Lastly, as far as concerns the assessment of team working and human skills, the General Court failed to take into consideration several pieces of evidence in the file. The appellant claims that the General Court therefore distorted the evidence in the file, erred in its interpretation and statement of reasons, breached the Guide to staff reports and failed to conduct a lawful and accurate review of a manifest error of assessment.

Lastly, the appellant claims that the situation of professional mistreatment and psychological harassment suffered by him was overlooked in the judgment under appeal. The General Court also breached the duty to care for staff by overlooking the appellant's interests and taking into account only the alleged interests of the service.

Appeal brought on 28 November 2019 by FV against the judgment of the General Court (Eighth Chamber) of 19 September 2019 in Case T-153/17, FV v Council

(Case C-877/19 P)

(2020/C 77/36)

Language of the case: French

Parties

Appellant: FV (represented by: É. Boigelot, avocat)

Other party to the proceedings: Council of the European Union

Conclusions

The appellant claims that the Court should:

— set aside the judgment of 19 September 2019 (T-153/17);

— consequently, grant the order sought at first instance and therefore annul the 2014 and 2015 staff reports adopted definitively on 5 December 2016;

— order the respondent to pay the entire costs of the proceedings at first instance and in the appeal.

Grounds of appeal and main arguments

The judgment under appeal dismissed the action for the annulment of the 2014 and 2015 staff reports.

In the appellant's ground of appeal, he claims, first, that the General Court infringed the duty to review and the obligation to state reasons and distorted the file and, second, that it infringed the Guide to staff reports, the obligation to state reasons and the duty to care for staff, and manifestly erred in its assessment.

The appellant claims that the General Court manifestly erred in its assessment and distorted the facts in taking the view that his allegedly inappropriate conduct was the only reason why the administration had granted him a passable assessment for sense of responsibility, despite the fact that that section is defined by the Guide to staff reports as the individual's engagement with his or her work and availability to complete his or her tasks in an active and constructive spirit.

In addition, the appellant claims that the General Court did not review the decrease in the appellant's tasks correctly. His state of health and part-time work for medical reasons cannot justify reducing part of an official's tasks, in particular, without his consent.

Furthermore, the appellant contests the General Court's assessment of his change of office and position and of his conduct during the 2014 assessment period, claiming that they constitute distortion of the file.

Lastly, the appellant claims that the judgment under appeal failed to criticise the failure to care for staff, in particular in respect of an official suffering from mental health problems, and to apply the third subparagraph Article 59(1) of the Staff Regulations.

Appeal brought on 3 December 2019 by the European Parliament against the judgment of the General Court (Fifth Chamber) of 20 September 2019 in Case T-47/18, UZ v Parliament

(Case C-894/19 P)

(2020/C 77/37)

Language of the case: French

Parties

Appellant: European Parliament (represented by: V. Montebello-Demogeot, I. Lázaro Betancor, acting as Agents)

Other party to the proceedings: UZ

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal;

— consequently, dismiss the action at first instance;

— order each party to pay its own costs relating to the appeal;

— order UZ to pay the costs of the proceedings at first instance.

Grounds of appeal and main arguments

By its first ground of appeal, alleging an error of law, distortion of the facts and a failure to state reasons, the Parliament submits that the General Court erred in finding that the investigations carried out were vitiated by a lack of objective impartiality. One of the investigators' limited and prior knowledge was not capable of supporting legitimate doubt in respect of his objective impartiality since such doubt could have been dispelled by the involvement of several investigators in the same investigation. That essential point was not even taken into account in the General Court's findings of fact. Lastly, the General Court did not examine or explain how the alleged lack of objective impartiality in that context could have led to another outcome, as required by the case-law.

The second ground of appeal alleges an error of law, distortion of the facts and a failure to state reasons in respect of the finding of infringement of the principle of equality of arms during the disciplinary council's proceedings. The Parliament claims that the General Court misconstrued the facts by wrongly holding that the Appointing Authority was represented by two individuals whereas the applicant at first instance, in the presence of his lawyer, had equivalent rights. The Parliament considers that the General Court failed to justify departing from its case-law on the application of the principal of equality of arms in administrative matters and failed to examine whether, in the absence of that alleged irregularity, the procedure could have had a different outcome.

By its third ground of appeal, alleging an error of law, distortion of the facts and a failure to state reasons in respect of the finding by which it held that the applicant at first instance's right to be heard had been infringed, the Parliament claims that the applicant at first instance had been duly heard, first, orally, on the basis of a delegation from the Appointing Authority and, second, by the submission of his written observations following the hearing. Since a delegation is provided for by internal rules and operates only where, in the interests of the service, the delegating Appointing Authority is prevented from acting itself, the General Court erred in law by holding that Article 22 of Annex IX to the Staff Regulations had not been complied with. Furthermore, the Parliament claims that the General Court erred in regarding the demotion from Grade AD 13 to Grade AD 12 as a serious measure in so far as it involves the loss of a management position. Lastly, the Parliament claims that the General Court did not examine whether, in the event that the applicant at first instance had been heard directly by the Appointing Authority, he could have adduced evidence in addition to that contained in the file and the extent to which the Appointing Authority's decision could have been different.

Request for a preliminary ruling from the Qorti Ċivili Prim'Awla — Ġurisdizzjoni Kostituzzjonali (Malta) lodged on 5 December 2019 — Repubblika v Il-Prim Ministru

(Case C-896/19)

(2020/C 77/38)

Language of the case: Maltese

Referring court

Qorti Ċivili Prim'Awla — Ġurisdizzjoni Kostituzzjonali

Parties to the main proceedings

Applicant: Repubblika

Defendant: Il-Prim Ministru

Questions referred

1. Should the second [subparagraph] of Article 19(1) TEU and Article 47 of the Charter of Fundamental Rights of the European Union, read separately or together, be considered to be applicable with respect to the legal validity of Articles 96, 96A and 100 of the Constitution of Malta?

2. If the first question elicits an affirmative answer, should the power of the Prime Minister in the process of the appointment of members of the judiciary in Malta be considered to be in conformity with Article 19(1) TEU and with Article 47 of the Charter of Fundamental Rights, considered as well in the light of Article 96A of the Constitution, which entered into effect in 2016?

3. If the power of the Prime Minister is found to be incompatible, should this fact be taken into consideration with regard to future appointments or should it affect previous appointments as well?

Request for a preliminary ruling from the Verwaltungsgericht Darmstadt (Germany) lodged on 11 December 2019 — EP v Kreis Groß-Gerau

(Case C-905/19)

(2020/C 77/39)

Language of the case: German

Referring court

Verwaltungsgericht Darmstadt

Parties to the main proceedings

Applicant: EP

Defendant: Kreis Groß-Gerau

Questions referred

Can it be inferred from the prohibition of discrimination in Article 64 of the Euro-Mediterranean Agreement with Tunisia ([1]) that a curtailment of the period of validity of a residence permit because the conditions for the grant of that residence permit are no longer satisfied is prohibited if

— the Tunisian national was in employment at the time when the retroactive curtailment of the period of validity of the residence permit was notified,

— the decision to curtail the period of validity is not based on grounds relating to the protection of a legitimate national interest, such as public policy, public security or public health, and

— the Tunisian national did not possess authorisation to take up employment (work permit) that was independent of the residence permit, but was entitled by law to take up employment during the period of validity of the residence permit?

Does the legal status of a foreign national arising from the prohibition of discrimination in Article 64 of the Euro-Mediterranean Agreement with Tunisia require, in addition to the residence permit, the grant of an administrative authorisation to take up employment?

What is the relevant point in time for the assessment of legal status under the law on residence and work permits? Is the relevant point in time the date of adoption of the administrative decision withdrawing the right of residence or the date of the judicial decision?

([1]) Euro-Mediterranean Agreement of 17 July 1995 establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part (OJ 1998 L 97, p. 1).

Request for a preliminary ruling from the Lietuvos Aukščiausiasis Teismas (Lithuania) lodged on 18 December 2019 — 'Klaipėdos regiono atliekų tvarkymo centras' UAB, other parties: 'Ecoservice Klaipėda' UAB, 'Klaipėdos autobusų parkas' UAB, 'Parsekas' UAB, 'Klaipėdos transportas' UAB

(Case C-927/19)

(2020/C 77/40)

Language of the case: Lithuanian

Referring court

Lietuvos Aukščiausiasis Teismas

Parties to the main proceedings

Appellant on a point of law: 'Klaipėdos regiono atliekų tvarkymo centras' UAB

Other parties: 'Ecoservice Klaipėda' UAB, 'Klaipėdos autobusų parkas' UAB, 'Parsekas' UAB, 'Klaipėdos transportas' UAB

Questions referred

1. Does a tender condition under which suppliers are required to demonstrate a certain level of average annual operating income derived from carrying out activities relating only to specific services (mixed municipal waste management) fall within the scope of Article 58(3) or (4) of Directive 2014/24? ([1])

2. Does the method of assessment of the supplier's capacity, which is set out by the Court of Justice in its judgment of 4 May 2017, *Esaprojekt* (C-387/14), ([2]) depend on the answer to the first question?

3. Does a tender condition under which suppliers are required to demonstrate that the vehicles necessary for the provision of [refuse management] services comply with the specific technical requirements, including polluting emissions (EURO 5), installation of a GPS transmitter, appropriate capacity and so forth, fall within the scope of (a) Article 58(4), (b) Article 42 in conjunction with the provisions of Annex VII, (c) Article 70 of Directive 2014/24?

4. Are the third subparagraph of Article 1(1) of Directive 89/665, ([3]) which lays down the principle of the effectiveness of review procedures, Article 1(3) and (5) thereof, Article 21 of Directive 2014/24 and Directive 2016/943, ([4]) in particular recital 18 and the third subparagraph of Article 9(2) thereof (together or separately, but without limitation thereto), to be interpreted as meaning that, where a binding pre-litigation dispute settlement procedure is laid down in the national legal rules governing public procurement:

   (a) the contracting authority has to provide to the supplier who initiated the review procedure all details of another supplier's tender (regardless of their confidential nature), if the subject matter of that procedure is specifically the lawfulness of the evaluation of the other supplier's tender and the supplier which initiated the procedure had explicitly requested the contracting authority prior thereto to provide them;

   (b) irrespective of the answer to the previous question, the contracting authority, when rejecting the claim submitted by the supplier regarding the lawfulness of the evaluation of his competitor's tender, must in any event give a clear, comprehensive and specific reply, regardless of the risk of disclosing confidential tender information entrusted to it?

5. Are the third subparagraph of Article 1(1), Article 1(3) and (5) and Article 2(1)(b) of Directive 89/665, Article 21 of Directive 2014/24 and Directive 2016/943, in particular recital 18 thereof (together or separately, but without limitation thereto), to be interpreted as meaning that the contracting authority's decision not to grant a supplier access to the confidential details of another participant's tender is a decision which may be challenged separately before the courts?

6. If the answer to the previous question is in the affirmative, is Article 1(5) of Directive 89/665 to be interpreted as meaning that the supplier must file a claim with the contracting authority in respect of such a decision by it and, if need be, bring an action before the court?

7. If the answer to the previous question is in the affirmative, are the third subparagraph of Article 1(1) and Article 2(1)(b) of Directive 89/665 to be interpreted as meaning that, depending on the extent of the information available on the content of the other supplier's tender, the supplier may bring an action before the courts concerning exclusively the refusal to provide information to him, without separately calling the lawfulness of other decisions of the contracting authority into question?

8. Irrespective of the answers to the previous questions, is the third subparagraph of Article 9(2) of Directive 2016/943 to be interpreted as meaning that the court, having received the applicant's request that the other party to the dispute be ordered to produce evidence and that the court make it available to the applicant, must grant such a request, regardless of the actions on the part of the contracting authority during the procurement or review procedures?

9. Is the third subparagraph of Article 9(2) of Directive 2016/943 to be interpreted as meaning that, after rejecting the applicant's claim for disclosure of confidential information of the other party to the dispute, the court should of its own motion assess the significance of the data whose loss of confidentiality is requested and the data's effects on the lawfulness of the public procurement procedure?

10. May the ground for exclusion of suppliers which is laid down in Article 57(4)(h) of Directive 2014/24, regard being had to the judgment of the Court of Justice of 3 October 2019, *Delta Antrepriză de Construcții și Montaj 93*, ([5]) be applied in such a way that the court, when examining a dispute between a supplier and the contracting authority, may decide of its own motion, irrespective of the assessment of the contracting authority, that the tenderer concerned, acting intentionally or negligently, submitted misleading, factually inaccurate information to the contracting authority and therefore had to be excluded from public procurement procedures?

11. Is Article 57(4)(h) of Directive 2014/24, applied in conjunction with the principle of proportionality set out in Article 18(1) of that directive, to be interpreted and applied in such a way that, where national law provides for additional penalties (besides exclusion from procurement procedures) in respect of the submission of false information, those penalties may be applied only on the basis of personal responsibility, in particular where factually inaccurate information is submitted only by a proportion of the joint participants in the public procurement procedure (for example, one of several partners)?

([1]) 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 (OJ 2014 L 94, p. 65).
([2]) ECLI:EU:C:2017:338.
([3]) Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ 1989 L 395, p. 33).
([4]) Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ 2016 L 157, p. 1).
([5]) C-267/18, ECLI:EU:C:2019:826.

Request for a preliminary ruling from the Conseil du Contentieux des Étrangers (Belgium) lodged on 20 December 2019 — X v Belgian State

(Case C-930/19)

(2020/C 77/41)

Language of the case: French

Referring court

Conseil du Contentieux des Étrangers

Parties to the main proceedings

Applicant: X

Defendant: Belgian State

Question referred

Does Article 13(2) of 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 ([1]) infringe Articles 20 and 21 of the Charter of Fundamental Rights of the European Union, in that it provides that divorce, annulment of marriage or termination of a registered partnership does not entail loss of the right of residence of a Union citizen's family members who are not nationals of a

Member State where, inter alia, this is warranted by particularly difficult circumstances, such as having been a victim of domestic violence while the marriage or registered partnership was subsisting, but only on the condition that the persons concerned show that they are workers or self-employed persons or that they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host Member State during their period of residence and have comprehensive sickness insurance cover in the host Member State, or that they are members of the family, already constituted in the host Member State, of a person satisfying these requirements, whereas Article 15(3) of Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, [2] which makes the same provision for the right of residence to continue, does not make its continuation subject to that condition?

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[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).
[2] OJ 2003, L 251, p. 12.

Request for a preliminary ruling from the Conseil d'État (France) lodged on 30 December 2019 — Les Chirurgiens-Dentistes de France, Confédération des Syndicats médicaux français, Fédération des Syndicats pharmaceutiques de France, Syndicat des Biologistes, Syndicat des Médecins libéraux, Union dentaire, Conseil national de l'Ordre des Chirurgiens-Dentistes, Conseil national de l'Ordre des Masseurs-Kinésithérapeutes, Conseil national de l'Ordre des Infirmiers v Ministre des Solidarités et de la Santé, Ministre de l'Enseignement supérieur, de la Recherche et de l'Innovation, Premier ministre

(Case C-940/19)

(2020/C 77/42)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicants: Les Chirurgiens-Dentistes de France, Confédération des Syndicats médicaux français, Fédération des Syndicats pharmaceutiques de France, Syndicat des Biologistes, Syndicat des Médecins libéraux, Union dentaire, Conseil national de l'Ordre des Chirurgiens-Dentistes, Conseil national de l'Ordre des Masseurs-Kinésithérapeutes, Conseil national de l'Ordre des Infirmiers

Defendants: Ministre des Solidarités et de la Santé, Ministre de l'Enseignement supérieur, de la Recherche et de l'Innovation, Premier ministre

Question referred

Does Article 4f(6) of Directive 2005/36/EC of 7 September 2005 [1] preclude a Member State from introducing the possibility of partial access to one of the professions covered by the mechanism for the automatic recognition of professional qualifications laid down by the provisions of Chapter III of Title III of that directive?

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[1] Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ 2005 L 255, p. 22).

Request for a preliminary ruling from the Lietuvos Aukščiausiasis Teismas (Lithuania) lodged on 31 December 2019 — UAB 'Manpower Lit' v E.S., M.L., M.P., V.V. and R.V.

(Case C-948/19)

(2020/C 77/43)

Language of the case: Lithuanian

Referring court

Lietuvos Aukščiausiasis Teismas

Parties to the main proceedings

Appellant on a point of law: UAB 'Manpower Lit'

Other parties to the proceedings: E.S., M.L., M.P., V.V. and R.V.

Questions referred

1. What content should be the given to the term 'public undertaking' in Article 1(2) of Directive 2008/104? ([1]) Are European Union agencies such as EIGE to be regarded as 'public undertakings' within the meaning of Directive 2008/104?

2. Which entities (temporary-work agency, user undertaking, at least one of them, or possibly both) are subject, according to Article 1(2) of Directive 2008/104, to the criterion of being engaged in economic activities? Are the areas of activity and functions of EIGE, as defined in Articles 3 and 4 of Regulation (EC) No 1922/2006 of the European Parliament and of the Council of 20 December 2006, ([2]) to be regarded as economic activities as that term is defined (understood) within the meaning of Article 1(2) of Directive 2008/104?

3. Can Article 1(2) and (3) of Directive 2008/104 be interpreted as being capable of excluding from the application of the Directive those public and private temporary-work agencies or user undertakings which are not involved in the relations referred to in Article 1(3) of the Directive and are not engaged in the economic activities mentioned in Article 1(2) of the Directive?

4. Should the provisions of Article 5(1) of Directive 2008/104 concerning the rights of temporary agency workers to basic working and employment conditions, in particular as regards pay, apply in full to European Union agencies, which are subject to special EU labour-law rules and to Articles 335 and 336 TFEU?

5. Does the law of a Member State (Article 75 of the Lithuanian Labour Code) transposing the provisions of Article 5(1) of Directive 2008/104 for all undertakings using temporary workers (including EU institutions) infringe the principle of administrative autonomy of an EU institution established in Articles 335 and 336 TFEU, and the rules governing the calculation and payment of wages laid down in the Staff Regulations of Officials of the European Union?

6. In view of the fact that all posts (job functions) to which workers are directly recruited by EIGE include tasks which can be performed exclusively by those workers who work under the Staff Regulations of Officials of the European Union, can the respective posts (job functions) of temporary agency workers be regarded as being 'the same job[s]' within the meaning of Article 5(1) of Directive 2008/104?

([1]) Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work (OJ 2008 L 327, p. 9).

([2]) OJ 2006 L 403, p. 9.

Request for a preliminary ruling from the Helsingin hallinto-oikeus (Finland) lodged on 17 December 2019 — A

(Case C-950/19)

(2020/C 77/44)

Language of the case: Finnish

Referring court

Helsingin hallinto-oikeus

Parties to the main proceedings

Appellant: A

Other party to the proceedings: Patentti- ja rekisterihallituksen tilintarkastuslautakunta

Questions referred

1. Is Article 22a(1) (inserted by Directive 2014/56/EU) ([1]) of Directive 2006/43/EC ([2]) to be interpreted as meaning that a key audit partner takes up a position of the kind referred to in this provision upon conclusion of the employment contract?

2. If the answer to the first question is in the negative: Is Article 22a(1) to be interpreted as meaning that a key audit partner takes up a position of the kind referred to in this provision upon commencing employment in the position concerned?

([1]) OJ 2014 L 158, p. 196.
([2]) Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ 2006 L 157, p. 87).

Request for a preliminary ruling from the Rīgas rajona tiesa (Latvia) lodged on 7 January 2020 — Criminal proceedings against AB, CE, SIA 'MM investīcijas'

(Case C-3/20)

(2020/C 77/45)

Language of the case: Latvian

Referring court

Rīgas rajona tiesa

Parties to the main proceedings

AB, CE, SIA 'MM investīcijas'

Questions referred

1. Do Article 11(a) and the first paragraph of Article 22 of Protocol No 7 to the Treaty on the Functioning of the European Union on the privileges and immunities of the European Union apply to the post of member of the Governing Council of the European Central Bank, held by the governor of the central bank of a Member State, that is to say, the President of the Bank of Latvia, AB?

2. If the answer to the first question is in the affirmative, does that person continue to be immune from criminal proceedings under those provisions even after he has left the post of governor of the central bank of a Member State and, therefore, the post of member of the Governing Council of the European Central bank?

3. If the answer to the first question is in the affirmative, does that immunity relate only to immunity 'from legal proceedings' as referred to in Article 11(a) of Protocol No 7 to the Treaty on the Functioning of the European Union on the privileges and immunities of the European Union or does it also cover the criminal prosecution, including service of the indictment and the gathering of evidence? In the event that the immunity applies to the criminal prosecution, does that fact influence whether the evidence can be used?

4. If the answer to the first question is in the affirmative, does Article 11(a) of Protocol No 7 to the Treaty on the Functioning of the European Union on the privileges and immunities of the European Union, read in conjunction with Article 17 of that protocol, allow the person directing the proceedings or, at the corresponding stage of the proceedings, the composition of the court, to assess whether there is a European Union interest in those proceedings and, only where it is found that there is — that is to say, if AB's alleged conduct relates to the performance of his duties at an EU institution — to request the institution concerned, that is to say, the European Central Bank, to waive that person's immunity?

5. For the purposes of applying the provisions of Protocol No 7 to the Treaty on the Functioning of the European Union on the privileges and immunities of the European Union, must the existence of a European Union interest always relate directly to decisions taken or acts carried out in performance of duties at an EU institution? May such an official be subjected to a measure of criminal procedure if his indictment does not relate to his duties at an EU institution but to activities carried on as part of his duties in a Member State?

Request for a preliminary ruling from the Varhoven administrativen sad (Bulgaria) lodged on 7 January 2020 — 'Alti' OOD v Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' — Plovdiv pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite

(Case C-4/20)

(2020/C 77/46)

Language of the case: Bulgarian

Referring court

Varhoven administrativen sad

Parties to the main proceedings

Applicant: 'Alti' OOD

Defendant: Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' — Plovdiv pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite (Director of the 'Appeals and Tax/Social Insurance Practice' Directorate — Plovdiv within the Central Administration of the National Revenue Agency)

Questions referred

1. Are Article 205 of Council Directive 2006/112/EC ([1]) and the principle of proportionality to be interpreted as meaning that the joint and several liability of a registered person, which is the recipient of a taxable supply, for the value added tax not paid by its supplier in addition to the supplier's principal debt (the value added tax debt) also includes the accessory obligation to pay compensation for late payment in the amount of the statutory interest on the principal debt from the beginning of the debtor's default until the issuance of the tax assessment notice by which the joint and several liability is established or until the discharge of the debt?

2. Are Article 205 of Directive 2006/112 and the principle of proportionality to be interpreted as precluding a national provision such as Article 16(3) of the Danachno-osiguritelen protsesualen kodeks (Tax and Insurance Procedure Code) according to which a third party's liability for unpaid taxes of a taxable person includes the taxes and the interest?

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

Action brought on 17 January 2020 – European Commission v Council of the European Union

(Case C-24/20)

(2020/C 77/47)

Language of the case: English

Parties

Applicant: European Commission (represented by: F. Castillo de la Torre, J. Norris and I. Naglis, Agents)

Defendant: Council of the European Union

The applicant claims that the Court should:

— annul article 3 of Council Decision 2019/1754 ([1]) of 7 October 2019 on the accession of the European Union to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications;

— annul Article 4 of Decision 2019/1754 to the extent that it contains references to the Member States, or, in the alternative, to annul Article 4 entirely if references to the Member States cannot be severed from the rest of the Article;

— maintain the effects of the parts of Decision 2019/1754 which have been annulled, in particular any use of the authorisation granted under Article 3, implemented before the date of the judgment by the Member States which are currently parties to the 1958 Lisbon Agreement, until the entry into force, within a reasonable period which should not exceed six months from the date of delivery of the judgment, of a decision of the Council of the European Union;

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

Pleas in law and main arguments

First plea: breach of Article 218(6) and 293(1) TFEU, of the principle of conferral of powers laid down in Article 13(2) TEU and of the principle of institutional balance and the Commission's right of initiative, in that the contested Decision has been adopted without a proposal of the Commission.

Second plea: in the alternative, breach of Articles 2(1) and 207 TFEU and lack of motivation, as the Council exceeded its power by granting an authorisation which is general, permanent and not duly justified.

([1]) OJ 2019, L 271, p. 12.

Order of the President of the Court of 15 January 2020 (request for a preliminary ruling from the Tribunal correctionnel de Saint-Brieuc — Chambre détachée de Guingamp — France) — Procureur de la République v Tugdual Carluer, Yann Latouche, Dominique Legeard, Thierry Leleu, Dimitri Pinschof, Brigitte Plunian, Rozenn Marechal

(Case C-115/18) ([1])

(2020/C 77/48)

Language of the case: French

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

([1]) OJ C 152, 30.4.2018.

Order of the President of the Court of 23 October 2019 (request for a preliminary ruling from the Landesverwaltungsgericht Steiermark — Austria) — Proceedings brought by Humbert Jörg Köfler, Wolfgang Leitner, Joachim Schönbeck, Wolfgang Semper v Bezirkshauptmannschaft Murtal, interested party: Finanzpolizei

(Case C-297/18) ([1])

(2020/C 77/49)

Language of the case: German

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

([1]) OJ C 301, 27.8.2018.

Order of the President of the Court of 23 October 2019 (request for a preliminary ruling from the Landesverwaltungsgericht Steiermark — Austria) — Proceedings brought by ZR, AR, BS v Bezirkshauptmannschaft Hartberg-Fürstenfeld, interested party: Finanzpolizei

(Case C-712/18) ([1])

(2020/C 77/50)

Language of the case: German

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

([1]) OJ C 122, 1.4.2019.

Order of the President of the Court of 23 October 2019 (request for a preliminary ruling from the Landesverwaltungsgericht Steiermark — Austria) — Proceedings brought by ZR, BS, AR v Bezirkshauptmannschaft Hartberg-Fürstenfeld, interested party: Finanzpolizei

(Case C-713/18) ([1])

(2020/C 77/51)

Language of the case: German

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

([1]) OJ C 122, 1.4.2019.

Order of the President of the Court of 23 October 2019 (request for a preliminary ruling from the Landesverwaltungsgericht Steiermark — Austria) — Proceedings brought by DY v Bezirkshauptmannschaft Hartberg-Fürstenfeld, interested party: Finanzpolizei

(Case C-138/19) ([1])

(2020/C 77/52)

Language of the case: German

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

([1]) OJ C 187, 3.6.2019.

Order of the President of the Court of 23 October 2019 (request for a preliminary ruling from the Landesverwaltungsgericht Steiermark — Austria) — Proceedings brought by DY

(Case C-139/19) ([1])

(2020/C 77/53)

Language of the case: German

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

([1]) OJ C 187, 3.6.2019.

Order of the President of the Court of 7 October 2019 (request for a preliminary ruling from the l'Eparchiako Dikastirio Larnakas — Cyprus) — Kypriaki Kentriki Archi v GA

(Case C-154/19) ([1])

(2020/C 77/54)

Language of the case: Greek

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

([1]) OJ C 164, 13.5.2019.

Order of the President of the Court of 23 October 2019 (request for a preliminary ruling from the Landesverwaltungsgericht Steiermark — Austria) — Proceedings brought by DX v Bürgermeister der Stadt Graz, interested party: Finanzpolizei

(Case C-227/19) ([1])

(2020/C 77/55)

Language of the case: German

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

([1]) OJ C 213, 24.6.2019.

Order of the President of the Court of 18 October 2019 (request for a preliminary ruling from the Landgericht Stuttgart — Germany) — Eurowings GmbH v GD, HE, IF

(Case C-334/19) ([1])

(2020/C 77/56)

Language of the case: German

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

([1]) OJ C 288, 26.8.2019.

Order of the President of the Court of 24 October 2019 (request for a preliminary ruling from the Conseil du Contentieux des Étrangers — Belgium) — X v État belge

(Case C-672/19) ([1])

(2020/C 77/57)

Language of the case: French

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

([1]) OJ C 372, 4.11.2019.

GENERAL COURT

Judgment of the General Court of 30 January 2020 — PV v Commission

(Joined Cases T-786/16 and T-224/18) ([1])

(Civil service — Civil servants — Psychological harassment — Bundle of decisions adopted by the Commission adversely affecting the applicant — Applications for assistance — Disciplinary procedure — Revocation — Withdrawal of the revocation — New disciplinary procedure — Fresh revocation)

(2020/C 77/58)

Language of the case: French

Parties

Applicant: PV (represented by: M. Casado García-Hirschfeld, lawyer)

Defendant: European Commission (represented by: G. Berscheid, B. Mongin and I. Melo Sampaio, acting as Agents)

Re:

Action under Article 270 TFEU seeking, in the first place, a declaration that the applicant was the victim of psychological harassment; in the second place, annulment, primarily, in Case T-786/16, of (i) the applicant's 2014, 2015 and 2016 appraisal reports; (ii) the decisions of the Director-General of the Commission's Directorate General (DG) for Interpretation of 31 May and 5 July 2016 on the deductions from the applicant's salary, and the decision of 28 November 2016 rejecting the claims brought against those decisions; (iii) the pre-information letter from the Paymaster's Office (PMO) of 21 June 2016 informing the applicant that he was liable for a debt amounting to EUR 33 593,88, the PMO's decision of 11 July 2016 suspending the applicant's salary as of 1 July 2016, and the decision of 17 January 2017 rejecting the claim brought against those decisions; (iv) the revocation decision of 26 July 2016; (v) the note from the Director-General of the Commission's DG Interpretation of 31 July 2016 announcing the intention to regard the applicant's absences for the period from 2 June to 31 July 2016 as unjustified and to make the corresponding deductions from his salary; (vi) the PMO's pre-information letter of 21 September 2016 informing the applicant that he was liable for an amalgamated debt amounting to EUR 42 704,74, and the decision of 17 January 2017 rejecting the claim brought against that letter; (vii) the debit note of 20 July 2017 and the decision of 29 November 2017 rejecting the claim brought against that note; and (viii) disciplinary procedure CMS 13/087; and, in Case T-224/18, (i) the decision to open disciplinary procedure CMS 17/025; (ii) the emails inviting the applicant to take part in the appraisal exercises for 2016 and 2017; (iii) the decision of 24 July 2017 to reinstate the applicant following the withdrawal of the revocation decision concerning him, together with the decision of 15 January 2018 rejecting the claim brought against that decision; (iv) the PMO's decision of 12 September 2017 on the set off of the debit note of 20 July 2017 against the applicant's unpaid salary for the period from 1 August 2016 to 30 September 2017, the decision rejecting the claim brought against that decision, and the decision to suspend the applicant's salary from 1 October 2017; and, in the alternative, annulment, in Case T-786/16, of (i) the medical opinions of 27 June and 10 October 2014; (ii) the decisions of 23 October 2014, 20 January, 20 March and 30 July 2015 and of 15 March and 18 May 2016 refusing applications for assistance; (iii) the decisions of 9 February, 30 March, 5 May, 24 June, 1 October and 12 November 2015, 15 January, 22 April, 31 May, 5 July, 11 July and 15 September 2016 on salary deductions and the decisions rejecting the claims brought against those decisions; (iv) the debt letters of 10 March, 11 May, 10 June, 11 August, 13 November and 9 December 2015 and of 18 July 2016; (v) the decisions of 12 March, 11 August and 13 October 2015 and of 7 June and 21 September 2016 rejecting the claims brought against the appraisal procedures; (vi) the medical notes of the Commission's examining doctor noting the applicant's non-attendance for a medical examination on 16 and 18 July, 8 August, 4 September and 4 December 2014, 4 February, 13 April, 4 June, 11 August, 14 October and 4 December 2015, 5 February, 22 March, 18 April, 3 June, 30 June and 25 July 2016; and (vii) the decision rejecting the claim of 14 July 2016 concerning an unjustified absence on 16 and 17 March 2016; and, in the third place, in Cases T-786/16 and T-224/18, compensation in respect of material and non-material damage allegedly suffered by the applicant.

Operative part of the judgment

The Court:

1. *Dismisses the actions;*

2. *Orders PV to pay the costs, including those relating to the interlocutory proceedings in Cases T-224/18 R and T-224/18 R II.*

([1]) OJ C 123, 9.4.2018.

Judgment of the General Court of 30 January 2020 — CBA Spielapparate- und Restaurantbetrieb v Commission

(Case T-168/17) ([1])

(Access to documents — Regulation (EC) No 1049/2001 — Documents relating to the administrative procedure concerning alleged State aid implemented by the Austrian authorities in favour to concession holders pursuant to the law on gaming — Refusal to grant access — Plea relating to the protection of the purpose of inspections, investigations and audits — Overriding public interest — Obligation to state reasons — Plea of illegality)

(2020/C 77/59)

Language of the case: German

Parties

Applicant: CBA Spielapparate- und Restaurantbetrieb GmbH (Vienna, Austria) (represented by A. Schuster, lawyer)

Defendant: European Commission (represented by C. Ehrbar, F. Erlbacher and K. Blanck, acting as Agents)

Interveners in support of the defendant: European Parliament (represented by N. Görlitz and D. Moore, acting as Agents), Council of the European Union (represented by M. Bauer and E. Rebasti, acting as Agents)

Re:

Application under Article 263 TFEU seeking annulment of Commission Decision C(2017) 249 final of 13 January 2017 refusing the request for access to documents concerning Case SA.40224 [2014/CP] on the basis of Article 4 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 (OJ 2001 L 145, p. 43).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders CBA Spielapparate- und Restaurantbetrieb GmbH to bear its own costs and pay those incurred by the European Commission;*

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

([1]) OJ C 151, 15.5.2017.

Judgment of the General Court of 22 January 2020 — Lithuania v Commission

(Case T-19/18) ([1])

(EAGF and EAFRD — Expenditure excluded from financing — Expenditure incurred by Lithuania — One-off and flat-rate financial corrections — Rural development — Cross-compliance control system — Administrative control — On-the-spot check — Quality of the checks — Quality of the applicants — Artificial conditions — Reasonableness of the costs — Expenditure incurred through projects — Risk analysis — Risk factors — Tolerance regarding penalties which is not provided for under EU legislation — Assessment and penalty system which is too lenient — Annual statistical control data)

(2020/C 77/60)

Language of the case: Lithuanian

Parties

Applicant: Republic of Lithuania (represented by: R. Dzikovič, V. Vasiliauskienė, M. Palionis and A. Dapkuvienė, acting as Agents)

Defendant: European Commission (represented by: A. Sauka, A. Steiblytė and J. Jokubauskaitė, acting as Agents)

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

Re:

Application under Article 263 TFEU seeking annulment of Commission Implementing Decision (EU) 2017/2014 of 8 November 2017 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2017, L 292, p. 61), in so far as it provides for the imposition on the Republic of Lithuania of a financial correction of EUR 9 745 705,88 regarding expenditure connected with EAFRD and a financial correction of EUR 546 351,91 regarding expenditure connected with EAGF and EAFRD.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

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

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

([1]) OJ C 112, 26.3.2018.

Judgment of the General Court of 30 January 2020 — Portugal v Commission

(Case T-292/18) ([1])

(EAGF and EAFRD — Expenditure excluded from financing — Expenditure incurred by Portugal — Articles 32 and 33 of Regulation (EC) No 1290/2005 — Article 54 of Regulation (EU) No 1306/2013 — Definition of national courts)

(2020/C 77/61)

Language of the case: Portuguese

Parties

Applicant: Portuguese Republic (represented by: L. Inez Fernandes, P. Estêvão, J. Saraiva de Almeida and P. Barros da Costa, acting as Agents)

Defendant: European Commission (represented by: B. Rechena and A. Sauka, acting as Agents)

Re:

Application under Article 263 TFEU seeking annulment of Commission Implementing Decision (EU) 2018/304 of 27 February 2018 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2018 L 59, p. 3), in that it excludes from EU financing an amount of EUR 1 052 101,05 relating to expenditure declared by the Portuguese Republic.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders the Portuguese Republic to bear its own costs and pay those incurred by the European Commission.*

([1]) OJ C 249, 16.7.2018.

Judgment of the General Court of 29 January 2020 — Aquino and Others v Parliament

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

(Civil service — Strike action by interpreters — Measures for the requisition of interpreters adopted by the European Parliament — No legal basis — Liability — Non-material damage)

(2020/C 77/62)

Language of the case: French

Parties

Applicants: Roberto Aquino (Brussels, Belgium) and the 25 and the other applicants whose names are set out in the annex to the judgment (represented by: L. Levi, lawyer)

Defendant: European Parliament (represented by: O. Caisou-Rousseau, T. Lazian and E. Taneva, acting as Agents)

Intervener in support of the defendant: Council of the European Union (represented by: M. Bauer and R. Meyer, acting as Agents)

Re:

Action under Article 270 TFEU seeking, first, annulment of the decision of 2 July 2018 of the Parliament's Director-General for Personnel requisitioning interpreters and conference interpreters for 3 July 2018 and of the subsequent decisions of the Parliament's Director-General for Personnel requisitioning interpreters and conference interpreters for 4, 5, 10 and 11 July 2018 and, secondly, compensation for the non-material damage, assessed on an equitable basis at EUR 1 000 per person, which the applicants allegedly suffered as a result of those decisions.

Operative part of the judgment

The Court:

1. *Annuls the decision of 2 July 2018 of the Director-General for Personnel of the European Parliament requisitioning interpreters and conference interpreters for 3 July 2018;*

2. *Orders the Parliament to pay the sum of EUR 500 each to Barbara Carli-Ganotis, Claudine de Seze, Maria Corina Diaconu Olszewski, Maria Provata, Irène Sevastikoglou and Benedetta Tissi;*

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

4. *Orders the Parliament to bear its own costs and to pay those incurred by the applicants requisitioned by the decision of 2 July 2018, including the costs relating to the interim measures proceedings and those relating to the intervention of the Council of the European Union;*

5. *Orders the applicants requisitioned by the decisions adopted after the action was brought to bear their own costs;*

6. *Orders the Council to bear its own costs.*

([1]) OJ C 364, 8.10.2018.

Judgment of the General Court of 30 January 2020 — Grupo Textil Brownie v EUIPO — The Guide Association (BROWNIE)

(Case T-598/18) ([1])

(EU trade mark — Opposition proceedings — Application for EU word mark BROWNIE — Earlier national word marks BROWNIES, BROWNIE, Brownies and Brownie — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001) — Genuine use of the earlier mark — Article 42(2) and (3) of Regulation No 207/2009 (now Article 47(2) and (3) of Regulation 2017/1001))

(2020/C 77/63)

Language of the case: English

Parties

Applicant: Grupo Textil Brownie, SL (Barcelona, Spain) (represented by: D. Pellisé Urquiza and J.C. Quero Navarro, lawyers)

Defendant: European Union Intellectual Property Office (represented by: M. Capostagno, A. Folliard-Monguiral and H. O'Neill, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: The Guide Association (London, United Kingdom) (represented by: T. St Quintin, Barrister, and M. Jhittay, Solicitor)

Re:

Action brought against the decision of the Second Board of Appeal of the EUIPO of 4 July 2018 (Case R 2680/2017-2) relating to opposition proceedings between The Guide Association and Grupo Textil Brownie.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Grupo Textil Brownie, SL to pay the costs.*

([1]) OJ C 427, 26.11.2018.

Judgment of the General Court of 29 January 2020 — Aldi v EUIPO — Titlbach (ALTISPORT)

(Case T-697/18) ([1])

(EU trade mark — Opposition proceedings — International registration designating the European Union — Figurative mark ALTISPORT — Earlier international and EU word marks ALDI — Relative ground for refusal — Article 8(1)(b) of Regulation (EU) 2017/1001 — Comparison of the goods and services — Obligation to state reasons — Article 94 of Regulation (EU) 2017/1001)

(2020/C 77/64)

Language of the case: German

Parties

Applicant: Aldi GmbH & Co. KG (Mülheim an der Ruhr, Germany) (represented by: N. Lützenrath, U. Rademacher, C. Fürsen and M. Minkner, lawyers)

Defendant: European Union Intellectual Property Office (represented by: E. Markakis and A. Söder, acting as agents)

Other party to the proceedings before the Board of Appeal of EUIPO: Aleš Titlbach (Meziboří, Czech Republic)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 19 September 2018 (Case R 2683/2017-4), relating to opposition proceedings between Aldi and Mr Titlbach.

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 19 September 2018 (Case R 2683/2017-4) in so far as it concerns 'toys' 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;*

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

3. *Orders the parties to bear their own costs.*

(1) OJ C 25, 21.1.2019.

Judgment of the General Court of 29 January 2020 — Volkswagen v EUIPO (CROSS)

(Case T-42/19) (1)

(EU trade mark — Application for EU word mark CROSS — Absolute grounds for refusal — Descriptive character — Article 7(1)(c) of Regulation (EU) 2017/1001 — Lack of distinctive character — Article 7(1)(b) of Regulation 2017/1001 — Equal treatment — Obligation to state reasons — Article 94(1)of Regulation 2017/1001)

(2020/C 77/65)

Language of the case: German

Parties

Applicant: Volkswagen AG (Wolfsburg, Germany) (represented by: F. Thiering and L. Steidle, lawyers)

Defendant: European Union Intellectual Property Office (represented by: G. Schneider, S. Hanne and E. Markakis, acting as Agents)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 14 November 2018 (Case R 2500/2017-1), relating to an application for registration of the word sign CROSS as an EU trade mark,

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Volkswagen AG to pay the costs.*

(1) OJ C 82, 4.3.2019.

Judgment of the General Court of 29 January 2020 — Vinos de Arganza v EUIPO — Nordbrand Nordhausen (ENCANTO)

(Case T-239/19) ([1])

(EU trade mark — Opposition proceedings — Application for EU figurative mark ENCANTO — Earlier national word mark BELCANTO — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2020/C 77/66)

Language of the case: English

Parties

Applicant: Vinos de Arganza, SL (Toral de los Vados, Spain) (represented by: L. Broschat García, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Nordbrand Nordhausen GmbH (Nordhausen, Germany)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 17 January 2019 (Case R 392/2018-1), relating to opposition proceedings between Nordbrand Nordhausen and Vinos de Arganza.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Vinos de Arganza, SL, to pay the costs.*

([1]) OJ C 187, 3.6.2019.

Judgment of the General Court of 30 January 2020 — BZ v Commission

(Case T-336/19) ([1])

(Civil service — Contract staff — Dismissal for obviously inadequate work — Proportionality — Article 8 of the Conditions of Employment of Other Servants — Liability)

(2020/C 77/67)

Language of the case: French

Parties

Applicant: BZ (represented by: C. Mourato, lawyer)

Defendant: European Commission (represented by: G. Berscheid, B. Mongin and M. Brauhoff, acting as Agents)

Re:

Application based on Article 270 TFEU seeking, first, annulment of the Commission's decision of 25 July 2018 to dismiss the applicant in response to a report on the probationary period before the end of that period and, second, payment of compensation for the material or non-material damage allegedly suffered by the applicant as a result of that decision.

Operative part of the judgment

The Court:

1. *Annuls the European Commission's decision of 25 July 2018 to dismiss BZ;*

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

3. *Orders the Commission to pay the costs.*

([1]) OJ C 255, 29.7.2019.

Judgment of the General Court of 30 January 2020 — Julius Sämann v EUIPO — Maharishi Vedic University (Representation of a tree)

(Case T-559/19) ([1])

(EU trade mark — Opposition proceedings — Application for an EU figurative mark representing a tree — Earlier EU and international figurative marks representing an 'arbre magique' (magic tree) — Relative grounds for refusal — No likelihood of confusion — No similarity between the signs — Article 8(1)(b) of Regulation (EU) 2017/1001 — No damage to reputation — Article 8(5) of Regulation 2017/1001)

(2020/C 77/68)

Language of the case: English

Parties

Applicant: Julius Sämann Ltd (Thayngen, Switzerland) (represented by: D. Parrish, Solicitor)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Maharishi Vedic University Ltd (Mgarr, Malta) (represented by: L. Prehn, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 16 May 2019 (Case R 1743/2018-1), relating to opposition proceedings between Julius Sämann and Maharishi Vedic University.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Julius Sämann Ltd to pay the costs.*

([1]) OJ C 328, 30.9.2019.

Order of the General Court of 22 January 2020 — Daimler v Commission

(Case T-751/18) ([1])

(Action for annulment — Withdrawal of certified CO2 savings — Eco-innovations scheme — Regulation (EC) No 443/2009 — Implementing Regulation (EU) No 725/2011 — Act not open to challenge — Preparatory measure — Inadmissibility)

(2020/C 77/69)

Language of the case: German

Parties

Applicant: Daimler AG (Stuttgart, Germany) (represented by: N. Wimmer, C. Arhold and G. Ollinger, lawyers)

Defendant: European Commission (represented by: J.-F. Brakeland and A. Becker, acting as Agents)

Re:

Application based on Article 263 TFEU for annulment of Commission letter Ares(2018) 5413709 of 22 October 2018 notifying the withdrawal of CO_2 savings achieved by eco-innovations attributed to Daimler AG vehicles fitted with Bosch HED EL 7-150 and 175 plus high efficient alternators.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Daimler AG is ordered to pay the costs.*

([1]) OJ C 93, 11.3.2019.

Order of the General Court of 21 January 2020 — Clem & Jo Optique v EUIPO — C&A (C&J)

(Case T-125/19) ([1])

(EU trade mark — Opposition proceedings — Withdrawal of the opposition — No need to adjudicate)

(2020/C 77/70)

Language of the case: English

Parties

Applicant: Clem & Jo Optique SARL (Cormicy, France) (represented by: N. Hausmann, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO intervener before the General Court: C&A AG (Zug, Switzerland) (represented by: M. Aznar Alonso, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 19 December 2018 (Case R 1252/2018-4), relating to opposition proceedings between C&A and Clem & Jo Optique.

Operative part of the order

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

2. *Clem & Jo Optique SARL shall bear its own costs and those incurred by the European Union Intellectual Property Office (EUIPO).*

3. *C&A AG shall bear its own costs.*

([1]) OJ C 148, 29.4.2019.

Order of the General Court of 16 January 2020 — Hemp Foods Australia v EUIPO — Cabrejos (Sativa)

(Case T-128/19) ([1])

(Action for annulment — EU trade mark — International registration designating the European Union — No recording of the change in ownership in the international register — No locus standi — Inadmissibility)

(2020/C 77/71)

Language of the case: English

Parties

Applicant: Hemp Foods Australia Pty Ltd (Sydney, Australia) (represented by: M. Holah and P. Brownlow, Solicitors)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: César Raúl Dávila Cabrejos (Lima, Peru) (represented by: L. Estropá Navarro, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 16 November 2018 (Case R 1041/2018-2), relating to opposition proceedings between Mr Cabrejos and Raw With Life Pty Ltd as Trustee for Benhaim Trading Trust.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Hemp Foods Australia Pty Ltd shall pay the costs.*

([1]) OJ C 182, 27.5.2019.

Order of the General Court of 21 January 2020 — Deutsche Telekom v Parliament and Council

(Case T-161/19) ([1])

(Action for annulment — Internal market for electronic communications — Retail price charged to consumers for regulated intra-EU communications — Regulation (EU) 2018/1971 — Legislative act — Applicant not individually concerned — Inadmissibility)

(2020/C 77/72)

Language of the case: English

Parties

Applicant: Deutsche Telekom AG (Bonn, Germany) (represented by: F. González Díaz, B. Langeheine and J. Blanco Carol, lawyers)

Defendants: European Parliament (represented by: R. van de Westelaken, M. Peternel and C. Biz, acting as Agents), Council of the European Union (represented by: O. Segnana and I. Gurov, acting as Agents)

Re:

Application on the basis of Article 263 TFEU for the partial annulment of Regulation (EU) 2018/1971 of the European Parliament and of the Council of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office), amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/2009 (OJ 2018 L 321, p. 1).

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *There is no longer any need to adjudicate on the applications to intervene of the Kingdom of the Netherlands and the European Commission.*

3. *Deutsche Telekom AG shall bear its own costs and shall pay the costs incurred by the European Parliament and the Council of the European Union, with the exception of those relating to the applications to intervene.*

4. *Deutsche Telekom, the Parliament, the Council, the Kingdom of the Netherlands and the Commission shall each bear their own respective costs relating to the applications to intervene.*

([1]) OJ C 172, 20.5.2019.

Order of the General Court of 21 January 2020 — Telefónica and Telefónica de España v Parliament and Council

(Case T-162/19) ([1])

(Action for annulment — Internal market for electronic communications — Retail price charged to consumers for regulated intra-EU communications — Regulation (EU) 2018/1971 — Legislative act — Applicants not individually concerned — Inadmissibility)

(2020/C 77/73)

Language of the case: English

Parties

Applicants: Telefónica, SA (Madrid, Spain) and Telefónica de España, SAU (Madrid) (represented by: F. González Díaz, B. Langeheine and J. Blanco Carol, lawyers)

Defendants: European Parliament (represented by: R. van de Westelaken, M. Peternel and C. Biz, acting as Agents), Council of the European Union (represented by: O. Segnana and I. Gurov, acting as Agents)

Re:

Application on the basis of Article 263 TFEU for the partial annulment of Regulation (EU) 2018/1971 of the European Parliament and of the Council of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office), amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/2009 (OJ 2018 L 321, p. 1).

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *There is no longer any need to adjudicate on the applications to intervene of the Kingdom of the Netherlands and the European Commission.*

3. *Telefónica, SA and Telefónica de España, SAU shall bear their own costs and shall pay the costs incurred by the European Parliament and the Council of the European Union, with the exception of those relating to the applications to intervene.*

4. *Telefónica, Telefónica de España, the Parliament, the Council, the Kingdom of the Netherlands and the Commission shall each bear their own respective costs relating to the applications to intervene.*

([1]) OJ C 172, 20.5.2019.

Action brought on 1 October 2019 – Qualcomm v Commission

(Case T-671/19)

(2020/C 77/74)

Language of the case: English

Parties

Applicant: Qualcomm, Inc. (San Diego, California, United States) (represented by: M. Davilla, M. Pinto de Lemos Fermiano Rato, and M. English, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Decision C(2019) 5361 final of the Commission;

— annul, or in the alternative, reduce substantially the amount of the fine;

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Decision is the result of grave procedural irregularities that have irreparably infringed Qualcomm's rights of defence.

2. Second plea in law, alleging that in defending the relevant market and in finding Qualcomm dominant, the Decision commits manifest errors of assessment of fact and law and fails to state adequate reasons.

3. Third plea in law, alleging that the Decision fails to apply the correct legal standard thereby committing manifest errors of law.

4. Fourth plea in law, alleging that the Decision's predation theory is illogical and unsupported by evidence.

5. Fifth plea in law, alleging that in reconstructing alleged 'effectively paid' prices, the Decision commits manifest errors and fails to state adequate reasons.

6. Sixth plea in law, alleging that the Decision's allocation of non-recurring engineering expenses is manifestly incorrect.

7. Seventh plea in law, alleging that the Decision manifestly fails to establish an appropriate cost benchmark.

8. Eighth plea in law, alleging that the Decision's price-cost analysis is manifestly incorrect.

9. Ninth plea in law, alleging that in finding that Qualcomm's prices foreclosed Icera and produced consumer harm, the Decision commits manifest errors of law and of appraisal.

10. Tenth plea in law, alleging that the Decision manifestly errs in finding that Qualcomm's pricing was the implementation of a plan to exclude Icera.

11. Eleventh plea in law, alleging that in dismissing the objective justification, the Decision commits a manifest error of appraisal and fails to state adequate reasons.

12. Twelfth plea in law, alleging that the Decision is not adequately reasoned.

13. Thirteenth plea in law, alleging that the Decision's findings regarding the duration of the alleged infringement are manifestly incorrect.

14. Fourteenth plea in law, alleging that the Decision manifestly errs in imposing and calculating the fine.

15. Fifteenth plea in law, alleging that in establishing the Commission's jurisdiction and the alleged effect on trade, the Decision commits manifest errors of law, fact and assessment and fails to state adequate reasons.

Action brought on 20 December 2019 – Worldwide Spirits Supply v EUIPO – Melfinco (CLEOPATRA QUEEN)

(Case T-870/19)

(2020/C 77/75)

Language of the case: English

Parties

Applicant: Worldwide Spirits Supply, Inc. (Tortola, British Virgin Islands) (represented by: S. Demetriou, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Melfinco S.A. (Schaan, Liechtenstein)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union figurative mark CLEOPATRA QUEEN – European Union trade mark No 14 027 338

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 21 October 2019 in Case R 1820/2018-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and reverse the invalidity declaring it null and void;

— alternatively,

— substantially alter the content of the contested decision to the extent that the applicant should be invited to produce evidence of genuine use or invited to reach an amicable settlement with Melfinco S.A. in the context of coexistence.

Pleas in law

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

— Infringement of Article 64(2) and (3) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 3 January 2020 — Forbo Financial Services v EUIPO — Windmöller (Canoleum)

(Case T-3/20)

(2020/C 77/76)

Language in which the application was lodged: German

Parties

Applicant: Forbo Financial Services AG (Baar, Switzerland) (represented by: S. Fröhlich, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Windmöller GmbH (Augustdorf, Germany)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for EU word mark Canoleum — Application for registration No 16 736 548

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 9 October 2019 in Case R 773/2019-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

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

Plea in law

— Infringement of Article 104 in conjunction with Article 97(1)(f) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 8 January 2020 — Czech Republic v Commission

(Case T-8/20)

(2020/C 77/77)

Language of the case: Czech

Parties

Applicant: Czech Republic (represented by: M. Smolek, J. Pavliš, J. Očková and J. Vláčil, Agents)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Implementing Decision (EU) 2019/1835 of 30 October 2019 in so far as it excludes from European Union financing expenditure incurred by the Czech Republic under the European Agricultural Fund for Rural Development (EAFRD) in connection with the M14 measures for the financial years 2017, 2018 and 2019 in the total amount of EUR 35 109,02, and order the European Commission to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on the following plea in law:

— The plea in law is based on the infringement of Article 52(1) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy. The Commission imposed a financial correction on the basis of an alleged infringement of a single provision of EU law, namely Article 25 of Commission Implementing Regulation (EU) No 809/2014 of 17 July 2014 laying down rules for the application of Regulation (EU) No 1306/2013 with regard to the integrated administration and control system, rural development measures and cross compliance ('Regulation No 809/2014'). However, there was no infringement of that provision. The Commission incorrectly submits that the initiation of an on-the-spot check on the first beneficiary constitutes the implicit announcement of subsequent controls and attributes the same consequences to that implicit announcement as if it were an actual announcement of a check within the meaning of Article 25 of Regulation No 809/2014.

Action brought on 14 January 2020 — Buxadé Villalba and Others v Parliament

(Case T-32/20)

(2020/C 77/78)

Language of the case: Spanish

Parties

Applicants: Jorge Buxadé Villalba, María Esperanza Araceli Aguilar Pinar and Hermann Tertsch Del Valle-Lersundi (represented by: M. Castro Fuertes, lawyer)

Defendant: European Parliament

Form of order sought

The applicants claim that the Court should:

— annul the decision to grant Carles Puigdemont i Casamajó and Antoni Comín i Oliveres the status of Members of the European Parliament;

— order the cessation of any effects of that status and the annulment of any effects already produced;

— order the termination of any contracts for the provision of services concluded by Carles Puigdemont i Casamajó and Antoni Comín i Oliveres with assistants, advisers, trainees or third parties;

— order Carles Puigdemont i Casamajó and Antoni Comín i Oliveres to reimburse all sums, regardless of the reason and the amount, received by them from the European Parliament in their unlawful status as MEPs and the sums paid by the European Parliament to third parties for any contract for the provision of services concluded with assistants, advisers, trainees or third parties;

— in the alternative, declare that the post of MEP is incompatible with that of member of the Legislative Assembly of the Autonomous Community, declare that Carles Puigdemont i Casamajó and Antoni Comín i Oliveres have no right to receive any remuneration from 2 July 2019 until the date on which they took up their posts, and order the reimbursement of that remuneration together with late payment interest, in the event that they have received any amount;

— in the event that the application is successful, order the European Parliament to pay the costs.

Pleas in law and main arguments

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

1. First plea, alleging infringement of Articles 8 and 12 of the Act concerning the election of the members of the European Parliament of 20 September 1976, in accordance with Spanish electoral law.

   — In that regard, the applicants submit that, in accordance with that Act, the European electoral procedure is governed, in each Member State, by national provisions and that, consequently, Articles 219 to 224 of the Ley Orgánica del Régimen Electoral General (Organic Law on the General Electoral System) are applicable. Specifically, the latter provision provides that within five days, elected candidates must swear or pledge to abide by the Constitution and that, where that is not done, the seat will be declared vacant. Mr Puigdemont and Mr Comín have not at any point appeared before the Junta Electoral Central (Central Electoral Board) in order to swear or pledge to abide by the Constitution.

2. Second plea, alleging infringement of Article 3(3) of the Rules of Procedure of the European Parliament.

   — In that regard, the applicants submit that the competent Spanish authority has not provided any certificate stating that Mr Puigdemont and Mr Comín have sworn or pledged to abide by the Constitution, which is a condition precedent to their status as elected representatives. Consequently, according to the applicants, the European Parliament's conduct disregards the European Electoral Act, encroaches upon sovereign competences of the Member States and could result in any agreement adopted by the European Parliament in plenary sessions or committees in which Mr Puigdemont and Mr Comín may participate being entirely unlawful and invalid.

3. Third plea, alleging that the judgment of the Court of Justice of the European Union of 19 December 2019 delivered in Case C-502/19, *Junqueras Vies*, is irrelevant for the purposes of the European Parliament's measure being invalid.

   — It is submitted in that respect that Mr Puigdemont and Mr Comín were never in preventive detention and that they hold immunity only through being declared elected representatives, but they do not hold the full status of MEPs, on the ground that not all of the requirements of the Spanish electoral procedure have been fulfilled.

4. Fourth plea, put forward in the alternative, alleging infringement of Article 7(3) and (4) of the European Electoral Act, in so far as there is a ground for incompatibility provided for under Spanish electoral law (Article 211(2)(d) of the Organic Law on the General Electoral System).

   — The applicants claim in that regard that, in accordance with EU law, each Member State may extend the grounds for incompatibility provided for at national level to elections to the European Parliament, that the abovementioned provision of national electoral law provides for the incompatibility of persons who are members of the Legislative Assemblies of the Autonomous Communities, and that Mr Puigdemont and Mr Comín ceased to be members of the Catalan Parliament on 7 January 2020.

Action brought on 20 January 2020 — Datenlotsen Informationssysteme v Commission

(Case T-34/20)

(2020/C 77/79)

Language of the case: German

Parties

Applicant: Datenlotsen Informationssysteme GmbH (Hamburg, Germany) (represented by: T. Lübbig, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the European Commission's decision of 20 September 2019 on the measure SA.34402 — 2015/C (ex 2015/NN) implemented by Germany for Hochschul-Informations-System GmbH (Commission document C(2019) 6836 final);

— 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 the following pleas in law.

1. Infringement of Article 107(1) TFEU in applying a test to determine whether the activities of Hochschul-Informations-System GmbH ('HIS') are economic in nature that is incompatible with the case-law, since the Commission failed to have regard to the content of the 'inseparability' criterion and the autonomous significance of the 'connection' criterion.

2. Infringement of Article 107(1) TFEU in characterising HIS' activities for German public universities as non-economic.

3. Infringement of Article 107(1) TFEU in failing to differentiate between HIS' various fields of activity.

4. Infringement of Article 108(3) TFEU and Article 1(b)(v) of Council Regulation (EU) 2015/1589 ([1]) in classifying the direct funding as 'existing aid' on the basis that a market existed in 1976.

5. Infringement of the second paragraph of Article 296 TFEU in failing to state sufficient reasons for the applicability of Article 1(b)(v) of Regulation 2015/1589 to situations not involving liberalisation.

6. Infringement of Article 108(3) TFEU and Article 1(b)(v) of Regulation 2015/1589 in classifying the direct funding as 'existing aid' on the basis that the measures underwent significant change.

7. Infringement of Article 108(3) TFEU and Article 1(b)(v) of Regulation 2015/1589 in classifying the direct funding as an 'aid scheme', since there was in fact a series of individual aid awards approved annually.

8. Infringement of the right to have one's case heard within a reasonable period of time as part of the right to 'good administration' under Article 41 of the Charter of Fundamental Rights of the European Union.

([1]) 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 23 January 2020 – Lotto24 v EUIPO (LOTTO24)

(Case T-38/20)

(2020/C 77/80)

Language of the case: German

Parties

Applicant: Lotto24 AG (Hamburg, Germany) (represented by: O. Brexl, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for EU figurative mark LOTTO24 in orange (Pantone 130) and red (Pantone 1807) – Application for registration No 17 996 822

Contested decision: Decision of the Second Board of Appeal of EUIPO of 5 November 2019 in Case R 1216/2019-2

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) of Regulation (EU) 2017/2011 of the European Parliament and of the Council;

— Infringement of Article 7(1)(c) of Regulation (EU) 2017/2011 of the European Parliament and of the Council.

Action brought on 24 January 2020 — Di Bernardo v Commission

(Case T-41/20)

(2020/C 77/81)

Language of the case: French

Parties

Applicant: Danilo di Bernardo (Brussels, Belgium) (represented by: S. Orlandi and T. Martin, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the decision of 13 March 2019 taken with a view to complying with the judgment of 29 November 2018 in Case T-811/16;

— order the Commission to pay the applicant, as compensation for material harm caused to the applicant, a sum of EUR 50 000 as well as a sum of EUR 7 000, subject to increase in the course of the proceedings, as compensation for his moral harm;

— 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 an infringement of the competition notice by the Examining Board in so far as the eligibility criteria that it laid down unlawfully restrict the scope of that notice. The applicant claims in that regard that, by adopting eligibility criteria which had the effect of excluding the taking into account of experience similar to that of the applicant, experience nevertheless compatible with the requirements of the competition notice, the Examining Board infringed the latter.

2. Second plea in law, alleging manifest errors of assessment vitiating the contested decision and relating to the question whether the applicant's professional experience is related to the responsibilities described in the competition notice.

Action brought on 27 January 2020 – KRBL v EUIPO – P.K. Overseas (INDIA SALAM Pure Basmati Rice)

(Case T-45/20)

(2020/C 77/82)

Language of the case: English

Parties

Applicant: KRBL Ltd (Delhi, India) (represented by: P. Strickland, Solicitor)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: P.K. Overseas Pte Ltd (Singapore, Singapore)

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: International registration designating the European Union in respect of the figurative mark INDIA SALAM Pure Basmati Rice with the colour indications light brown, sepia and white yellow – International registration designating the European Union No 1 126 413

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 26 November 2019 in Case R 766/2019-4

Form of order sought

The applicant claims that the Court should:

— allow the appeal and refuse the application;

— annul the contested decision;

— annul the decision of the Opposition Division of 13 February 2019 relating to Opposition Proceedings No B 2 201 385;

— order EUIPO to pay the costs of these proceedings.

Pleas in law

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

— Infringement of Article 8(4) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Order of the General Court of 22 January 2020 — La Marchesiana v EUIPO — Marchesi 1824 (MARCHESI)

(Case T-35/18) ([1])

(2020/C 77/83)

Language of the case: English

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

([1]) OJ C 142, 23.4.2018.

Order of the General Court of 15 January 2020 — Avio v Commission

(Case T-139/18) ([1])

(2020/C 77/84)

Language of the case: Italian

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

([1]) OJ C 142, 23.4.2018.

Order of the General Court of 21 January 2020 — Bartolomé Alvarado and Grupo Preciados Place v EUIPO — Alpargatas (ALPARGATUS PASOS ARTESANALES)

(Case T-606/19) ([1])

(2020/C 77/85)

Language of the case: Spanish

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

([1]) OJ C 372, 4.11.2019.

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