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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Order of the Court (Ninth Chamber) of 18 January 2022 — Hungary v European Commission

(Case C-185/20 P) ([1])

(Appeal — Article 181 of the Rules of Procedure of the Court of Justice — Action for annulment — EAGF and EAFRD — Expenditure excluded from EU financing — Expenditure incurred by Hungary)

(2022/C 222/02)

Language of the case: Hungarian

Parties

Appellant: Hungary (represented by: M. Z. Fehér and G. Koós, agents)

Other party: European Commission (represented by: V. Bottka and J. Aquilina, agents)

Operative part of the order

1. The appeal is dismissed as being, in part, manifestly inadmissible and, in part, manifestly unfounded.

2. Hungary shall pay the costs.

([1]) OJ C 262, 10.8.2020.

Order of the Court (Sixth Chamber) of 3 March 2022 — Single Resolution Board v Hypo Vorarlberg Bank AG

(Case C-663/20 P) ([1])

(Appeal — Article 182 of the Rules of Procedure of the Court — Banking union — Single Resolution Mechanism (SRM) — Single Resolution Fund (SRF) — Calculation of the 2017 ex ante contributions — Authentication of a decision of the Single Resolution Board (SRB) — Obligation to state reasons — Confidential data)

(2022/C 222/03)

Language of the case: German

Parties

Appellant: Single Resolution Board (represented: initially by P. A. Messina, J. Kerlin and H. Ehlers, acting as Agents, and by H.-G. Kamann and P. Gey, Rechtsanwälte, and F. Louis, avocat, and subsequently by J. Kerlin and H. Ehlers, acting as Agents, and by H.-G. Kamann and P. Gey, Rechtsanwälte, and F. Louis, avocat)

Other party to the proceedings: Hypo Vorarlberg Bank AG (represented by: G. Eisenberger and A. Brenneis, Rechtsanwälte)

Operative part of the order

1. The judgment of the General Court of the European Union of 23 September 2020, Hypo Vorarlberg Bank v SRB (T-414/17, not published, EU:T:2020:437), is set aside.

2. The decision of the Executive Session of the Single Resolution Board of 11 April 2017 on the calculation of the 2017 ex ante contributions to the Single Resolution Fund (SRB/ES/SRF/2017/05) is annulled, in so far as it concerns Hypo Vorarlberg Bank AG.

3. The effects of the decision of the Executive Session of the Single Resolution Board of 11 April 2017 on the calculation of the 2017 ex ante contributions to the Single Resolution Fund (SRB/ES/SRF/2017/05), in so far as it concerns Hypo Vorarlberg Bank AG, are maintained until the entry into force, within a reasonable period which cannot exceed six months from the date of service of this order, of a new decision of the Single Resolution Board fixing the 2017 ex ante contribution to the Single Resolution Fund of that institution.

4. The Single Resolution Board shall bear its own costs, both at first instance and on appeal, and shall pay the costs incurred by Hypo Vorarlberg Bank AG at first instance.

5. Hypo Vorarlberg Bank AG shall bear its own costs relating to the appeal proceedings.

6. There is no longer any need to adjudicate on the application submitted by the Kingdom of Spain for leave to intervene in support of the form of order sought by the Single Resolution Board.

([1]) OJ C 44, 8.2.2021.

Order of the Court (Sixth Chamber) of 3 March 2022 — Single Resolution Board (SRB) v Portigon AG, European Commission

(Case C-664/20 P) ([1])

(Appeal — Article 182 of the Rules of Procedure of the Court — Banking union — Single Resolution Mechanism (SRM) — Single Resolution Fund (SRF) — Calculation of the 2017 ex ante contributions — Authentication of a decision of the Single Resolution Board (SRB) — Obligation to state reasons — Confidential data)

(2022/C 222/04)

Language of the case: German

Parties

Appellant: Single Resolution Board (SRB) (represented: initially by P. A. Messina and J. Kerlin, acting as Agents, and by H.-G. Kamann and P. Gey, Rechtsanwälte, and F. Louis, avocat, and subsequently by K. Jakub, acting as Agent, and by H.-G. Kamann and P. Gey, Rechtsanwälte, and F. Louis, avocat)

Other parties to the proceedings: Portigon AG (represented by: D. Bliesener, F. Geber and V. Jungkind, Rechtsanwälte), European Commission (represented by: D. Triantafyllou, A. Nijenhuis and A. Steiblytė, acting as Agents)

Operative part of the order

1. The judgment of the General Court of the European Union of 23 September 2020, Portigon v SRB (T-420/17, not published, EU:T:2020:438), is set aside.

2. The decision of the Executive Session of the Single Resolution Board of 11 April 2017 on the calculation of the 2017 ex ante contributions to the Single Resolution Fund (SRB/ES/SRF/2017/05) is annulled, in so far as it concerns Portigon AG.

3. The effects of the decision of the Executive Session of the Single Resolution Board of 11 April 2017 on the calculation of the 2017 ex ante contributions to the Single Resolution Fund (SRB/ES/SRF/2017/05), in so far as it concerns Portigon AG, are maintained until the entry into force, within a reasonable period which cannot exceed six months from the date of service of this order, of a new decision of the Single Resolution Board fixing the 2017 ex ante contribution to the Single Resolution Fund of that institution.

4. The Single Resolution Board shall bear its own costs, both at first instance and on appeal, and shall pay the costs incurred by Portigon AG at first instance.

5. Portigon AG shall bear its own costs relating to the appeal proceedings.

6. There is no longer any need to adjudicate on the application submitted by the Kingdom of Spain for leave to intervene in support of the form of order sought by the Single Resolution Board.

(1) OJ C 44, 8.2.2021.

Order of the Court (Tenth Chamber) of 31 January 2022 (request for a preliminary ruling from the Sąd Okręgowy w Łodzi — Poland) — TM v EJ

(Case C-28/21) (1)

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Insurance against civil liability in respect of the use of motor vehicles — Directive 2009/103/EC — Article 3 — Compulsory cover of damage to property — Scope — Legislation of a Member State excluding loss of earnings from cover by compulsory insurance against civil liability in respect of the use of motor vehicles)

(2022/C 222/05)

Language of the case: Polish

Referring court

Sąd Okręgowy w Łodzi

Parties to the main proceedings

Applicant: TM

Defendant: EJ

Operative part of the order

Must the first paragraph of Article 3 of Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability be interpreted as not precluding a provision of national law under which compulsory insurance against civil liability in respect of the use of motor vehicles does not cover damage consisting of loss of earnings, on condition that that limitation of cover applies without any difference in treatment depending on the Member State of residence of the injured party or of the owner or holder of the damaged vehicle.

(1) OJ C 182, 10.5.2021.

Order of the Court (Tenth Chamber) of 9 February 2022 (request for a preliminary ruling from the Varhoven kasatsionen sad — Bulgaria) — 'Konservinvest' OOD v 'Bulkons Parvomay' OOD

(Case C-35/21) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Quality schemes for agricultural products and foodstuffs — Regulation (EU) No 1151/2012 — Designations of Origin and Geographical indications — Article 9 — Transitional national protection — Geographical indication designating an agricultural product, registered under the legislation of a Member State and protected at national level)

(2022/C 222/06)

Language of the case: Bulgarian

Referring court

Varhoven kasatsionen sad (Bulgaria)

Parties to the main proceedings

Applicant: 'Konservinvest' OOD

Defendant: 'Bulkons Parvomay' OOD

Operative part of the order

Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs must be interpreted as precluding legislation of a Member State providing for a national system for the registration and protection of qualified geographical designations relating to agricultural products and foodstuffs falling within the scope of that regulation, which is intended to apply only to disputes relating to infringements of the rights arising from those designations between traders from that Member State which produce, in that Member State, the products for which those designations have been registered under that regulation.

([1]) OJ C 98, 22.3.2021.

Order of the Court (Eighth Chamber) of 1 March 2022 (request for a preliminary ruling from the Court of Appeal — Ireland) — Criminal proceedings against K.M.

(Case C-493/21) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Common fisheries policy — Regulation (EC) No 1224/2009 — Control system for ensuring compliance with the rules of the common fisheries policy — Article 89 — Measures to ensure compliance — Article 90 — Criminal sanctions — Principle of proportionality — Interpretation of the judgment of 11 February 2021, K. M. (Sanctions imposed on the master of a vessel) (C-77/20, EU:C:2021:112))

(2022/C 222/07)

Language of the case: English

Referring court

Court of Appeal

Parties to the main proceedings

Appellant: K.M.

Other party: Director of Public Prosecutions

Operative part of the order

Articles 89 and 90 of Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006, read in the light of the principle of proportionality enshrined in Article 49(3) of the Charter of Fundamental Rights of the European Union, must be interpreted as meaning that it is for the national courts to assess, in accordance with the assessment criteria provided by the Court in the judgment of 11 February 2021, *K. M. (Sanctions imposed on the master of a vessel)* (C-77/20, EU:C:2021:112), whether, in relation to the infringement committed, including its seriousness, the mandatory forfeiture of all catch and all fishing gear found on board the vessel concerned is proportionate to the attainment of the objective legitimately pursued by the prohibition, laid down in Article 32(1) of Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms, as amended by Regulation (EU) No 227/2013 of the European Parliament and of the Council of 13 March 2013, relating to grading equipment, and to examine, if necessary, the need to adjust, modulate or mitigate the extent of the forfeiture order in respect of the catch and the fishing gear.

([1]) OJ C 401, 4.10.2021.

Order of the Court (Eighth Chamber) of 1 March 2022 — Antonius Maria Vervloet, Cornelia Wilhelmina Vervloet-Mulder v Agència Estatal de Resolució d'Entitats Bancàries (AREB)

(Case C-526/21 P) ([1])

(Appeal — Article 181 of the Rules of Procedure of the Court of Justice — Requirement of clarity and precision of the pleas in law — Manifest inadmissibility)

(2022/C 222/08)

Language of the case: Dutch

Parties

Appellants: Antonius Maria Vervloet, Cornelia Wilhelmina Vervloet-Mulder (represented by: P. Van der Veld, advocaat)

Other party to the proceedings: Agència Estatal de Resolució d'Entitats Bancàries (AREB)

Operative part of the order

1. The appeal is dismissed as manifestly inadmissible.

2. Mr Antonius Maria Vervloet and Mrs Cornelia Wilhelmina Vervloet-Mulder shall bear their own costs.

([1]) OJ C 158, 11.4.2022.

Appeal brought on 16 August 2021 by Bálint Krátky against the order of the General Court (Third Chamber) delivered on 22 June 2021 in Case T-13/21 Krátky v European Parliament and Others

(Case C-503/21 P)

(2022/C 222/09)

Language of the case: Hungarian

Parties

Appellant: Bálint Krátky (represented by: I. Kriston, ügyvéd)

Other parties to the proceedings: European Parliament, Council of the European Union, European Commission

By order of 22 March 2022, the Court of Justice of the European Union (Ninth Chamber) dismissed the appeal and ordered the appellant to pay the costs.

Request for a preliminary ruling from the Visoki trgovački sud Republike Hrvatske (Croatia) lodged on 8 September 2021 — Financijska agencija v HANN-INVEST d.o.o.

(Case C-554/21)

(2022/C 222/10)

Language of the case: Hungarian

Referring court

Visoki trgovački sud Republike Hrvatske

Parties to the main proceedings

Appellant: Financijska agencija

Respondent: HANN-INVEST d.o.o.

Question referred

Can the rule laid down in the second part of the first sentence and in the second sentence of Article 177(3) of the Sudski poslovnik (Rules of Procedure of the Courts), which provides that 'a case before a court of second instance shall be deemed to be closed on the date on which the decision is sent from the court office, after the case has been returned by the Registration Service. The Registration Service shall be required to return the file to the court office as promptly as possible after receipt thereof. The decision shall then be notified within a further period of eight days' be considered compatible with Article 19(1) TEU and Article 47 of the Charter?

Request for a preliminary ruling from the Visoki trgovački sud Republike Hrvatske (Croatia) lodged on 7 October 2021 — Financijska agencija v MINERAL-SEKULINE d.o.o.

(Case C-622/21)

(2022/C 222/11)

Language of the case: Hungarian

Referring court

Visoki trgovački sud Republike Hrvatske

Parties to the main proceedings

Appellant: Financijska agencija

Respondent MINERAL-SEKULINE d.o.o.

Question referred

Can the rule laid down in the second part of the first sentence and in the second sentence of Article 177(3) of the Sudski poslovnik (Rules of Procedure of the Courts), which provides that 'a case before a court of second instance shall be deemed to be closed on the date on which the decision is sent from the court office, after the case has been returned by the Registration Service. The Registration Service shall be required to return the file to the court office as promptly as possible after receipt thereof. The decision shall then be notified within a further period of eight days' be considered compatible with Article 19(1) TEU and Article 47 of the Charter?

Appeal brought on 9 November 2021 by Eos Products Sàrl against the judgment of the General Court (Sixth Chamber) delivered on 8 September 2021 in Case T-489/20, Eos Products Sàrl v European Union Intellectual Property Office

(Case C-672/21 P)

(2022/C 222/12)

Language of the case: German

Parties

Appellant: Eos Products Sàrl (represented by: S. Stolzenburg-Wiemer, Rechtsanwältin)

Other party to the proceedings: European Union Intellectual Property Office

By order of 4 February 2022, the Court of Justice of the European Union (Chamber determining whether appeals may proceed) decided that the appeal should not be allowed to proceed and ordered the appellant to bear its own costs.

Request for a preliminary ruling from the Visoki trgovački sud Republike Hrvatske (Croatia) lodged on 30 November 2021 — UDRUGA KHL MEDVEŠČAK ZAGREB

(Case C-727/21)

(2022/C 222/13)

Language of the case: Hungarian

Referring court

Visoki trgovački sud Republike Hrvatske

Parties to the main proceedings

Appellant: UDRUGA KHL MEDVEŠČAK ZAGREB

Questions referred

1. Is the rule laid down in the second part of the first sentence and in the second sentence of Article 177(3) of the Sudski poslovnik (Rules of Procedure of the Courts, *Narodne novine*, br. 37/14, 49/14, 8/15, 35/15, 123/15, 45/16, 29/17, 33/17, 34/17, 57/17, 101/18, 119/18, 81/19, 128/19, 39/20 and 47/20), which provides that 'a case before a court of second instance shall be deemed to be closed on the date on which the decision is sent from the court office, after the case has been returned by the Registration Service. The Registration Service shall be required to return the file to the court office as promptly as possible after receipt thereof. The decision shall then be notified within a further period of eight days', to be considered compatible with Article 19(1) TEU and Article 47 of the Charter of Fundamental Rights of the European Union?

2. Is Article 40(2) of the Zakon o sudovima (Law on judicial bodies), which provides that 'the legal position adopted at the meeting of all the judges or of a section of the Vrhovni sud Republike Hrvatske (Supreme Court, Croatia), of the Visoki trgovački sud Republike Hrvatske (Commercial Court of Appeal, Croatia), of the Visoki upravni sud Republike Hrvatske (Administrative Court of Appeal, Croatia), of the Visoki kazneni sud Republike Hrvatske (Criminal Court of Appeal, Croatia), du Visoki prekršajni sud Republike Hrvatske (Higher Misdemeanour Court, Croatia) and of the meeting of a section of a Županijski sud (County Court, Croatia) shall be binding on all the chambers or judges at second instance of that section or court' compatible with Article 19(1) TEU and Article 47 of the Charter of Fundamental Rights of the European Union?

Appeal brought on 1 December 2021 by Collibra against the judgment of the General Court (Third Chamber) delivered on 22 September 2021 in Cases T-128/20 and T-129/20, Collibra v EUIPO — Dietrich (COLLIBRA and collibra)

(Case C-730/21 P)

(2022/C 222/14)

Language of the case: English

Parties

Appellant: Collibra (represented by: A. Renck and A. Bothe, Rechtsanwälte, and by I. Junkar, abogada)

Other parties to the proceedings: European Union Intellectual Property Office (EUIPO), Hans Dietrich

By order of 23 March 2022, the Court of Justice (Chamber determining whether appeals may proceed) held that the appeal was not allowed to proceed and that Collibra should bear its own costs.

Appeal brought on 16 December 2021 by Daw SE against the judgment of the General Court (Second Chamber) delivered on 6 October 2021 in Case T-32/21, Daw SE v European Union Intellectual Property Office

(Case C-781/21 P)

(2022/C 222/15)

Language of the case: German

Parties

Appellant: Daw SE (represented by: A. Haberl, Rechtsanwalt)

Other party to the proceedings: European Union Intellectual Property Office

By order of 28 March 2022, the Court of Justice of the European Union (Chamber determining whether appeals may proceed) decided that the appeal should not be allowed to proceed and ordered the appellant to bear its own costs.

Appeal brought on 21 December 2021 by Luis Miguel Novais against the order of the General Court (Ninth Chamber) delivered on 25 October 2021 in Case T-595/21 Novais v Portugal

(Case C-816/21 P)

(2022/C 222/16)

Language of the case: Portuguese

Parties

Appellant: Luis Miguel Novais (represented by: Á. Oliveira and C. Almeida Lopes, advogados)

Other party to the proceedings: Portuguese Republic

By order of 11 March 2022, the Court of Justice (Eighth Chamber) dismissed the appeal as manifestly unfounded and ordered Luis Miguel Novais to bear his own costs.

Appeal brought on 11 February 2022 by HC against the judgment of the General Court (Eighth Chamber) delivered on 1 December 2021 in Case T-804/19, HC v Commission

(Case C-102/22 P)

(2022/C 222/17)

Language of the case: English

Parties

Appellant: HC (represented by: D. Rovetta, V. Villante, avvocati)

Other party to the proceedings: European Commission

Form of order sought

The Appellant claims that the Court should:

— set aside and annul the judgment of the General Court of 1 December 2021 in Case T-804/19, HC vs. European Commission, ECLI:EU:T:2021:849, notified to HC on 1 December 2021;

— declare the plea of illegality under article 277 of the Treaty on the Functioning of the European Union of the Notice of Competition at issue concerning its language regime admissible and founded;

— annul the 'second contested decision' at first instance namely the letter/decision of 21 March 2019 in which EPSO rejected the request for review, informing the applicant that the selection board had confirmed its decision not to invite him to the assessment centre;

— award the Appellant 50.000 euro in form of compensation for the damage suffered.

— As a subordinate to the above, set aside the General Court judgment under appeal and send the case back to the General Court;

— order the European Commission to bear the Appellant's costs both concerning the first instance and present appellate proceeding.

Pleas in law and main arguments

In the current appeal, the Appellant relies on the two main grounds of appeals:

First ground of appeal: Erroneous qualification of facts and distortion of evidence by the General Court with regard to its assessment and judgment concerning the second part of the first plea in law raised by the Appellant at first instance — Breach of the notice of competition. The Appellant faults the General Court of having wrongly qualified the facts, distorted evidence and breached the Notice of Competition applicable to him with regard to the evaluation of the Appellant's professional experience and academic qualifications.

Second ground of appeal: Breach and wrong interpretation of Article 277 of the TFEU. Breach of Articles 1 to 4 of Regulation No 1 of 15 April 1958 ([1]) determining the languages to be used by the European Economic Community in its version currently in force. Breach of Article 1d and Article 28 of the Staff Regulations and Article 1(1)(f) of Annex III thereto. The Appellants faults the General Court for having interpreted too strictly the requirement related to a 'close connection' between the Notice of Competition at issue and the challenged decision before the General Court for the purpose of raising a plea of illegality under article 277 TFEU against such Notice of Competition. The Appellant is of the view that such 'close connection' is present and therefore his plea of illegality against the restriction to the use as the second language for the competition at issue of French and English is admissible and well founded.

([1]) OJ 1958, 17, p. 385.

Appeal brought on 17 February 2022 by Helene Hamers against the judgment delivered by the General Court (First Chamber) on 21 December 2021 in Case T-159/20 Hamers v Cedefop

(Case C-111/22 P)

(2022/C 222/18)

Language of the case: Greek

Parties

Appellant: Helene Hamers (represented by: Vasileios Spiridon Christianos, Alexandros Politis and Michail Rodopoulos, dikigoroi)

Other party to the proceedings: European Centre for the Development of Vocational Training (Cedefop)

Form of order sought

The appellant claims that the Court should:

— set aside in part the judgment of the General Court of 12 December 2021 in Case T-159/20, *Hamers* v *Cedefop*, EU:T:2021:913,

— if need be, refer the case back to the General Court for judgment,

— order Cedefop to pay all the costs.

Pleas in law and main arguments

The subject matter of the judgment under appeal was the harm suffered by the appellant due to acts and omissions of Cedefop before, during and subsequent to national criminal proceedings before the Greek judicial authorities, which concerned the regularity and lawfulness of the award of public contracts by Cedefop to third parties from 2001 to 2005.

The appellant raises two grounds of appeal and claims that the judgment under appeal:

— **first,** in paragraphs 55 to 61 and 83, contains an error of law in the interpretation of Article 41(1) of the Charter of Fundamental Rights of the European Union ('the Charter'), because, contrary to the General Court's finding in those paragraphs, the appellant was not examined impartially by Cedefop and, moreover, the decision of the Cedefop Appeals Committee did not remedy the flaw in the decision of 3 July 2019. At the same time, on those grounds, the General Court gave inadequate reasons in the paragraphs referred to above.

— **second,** in paragraph 65, paragraphs 68 to 75 and paragraph 83, contains an error of law in the interpretation of the presumption of innocence relied on by the appellant pursuant to Article 48(1) of the Charter, which was also compounded by breach of the principle of sincere cooperation within the meaning of Article 4(3) of the Treaty on European Union. At the same time, on those grounds, the General Court gave inadequate reasons in the paragraphs referred to above.

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 28 February 2022 — LACD GmbH v BB Sport GmbH & Co. KG

(Case C-133/22)

(2022/C 222/19)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: LACD GmbH

Defendant: BB Sport GmbH & Co. KG

Questions referred

1. Can any other requirements not related to conformity set out in the guarantee statement within the meaning of Article 2, point 14, of Directive 2011/83/EU ([1]) and any other requirements not related to conformity within the meaning of Article 2, point 12, of Directive (EU) 2019/771 ([2]) apply where circumstances specific to the consumer, in particular his or her subjective attitude towards the item purchased (in this case, the consumer's personal satisfaction with the item purchased), have a bearing on the guarantor's obligation, without it being necessary that those personal circumstances relate to the condition or features of the item purchased?

2. If Question 1 is answered in the affirmative:

   Must it be possible to establish the absence of requirements based on the circumstances specific to the consumer (in this case, the consumer's satisfaction with the goods purchased) in the light of objective circumstances?

([1]) Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ 2011 L 304, p. 64).

([2]) Directive (EU) 2019/771 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the sale of goods, amending Regulation (EU) 2017/2394 and Directive 2009/22/EC, and repealing Directive 1999/44/EC (OJ 2019 L 136, p. 28), as corrected (OJ 2019 L 305, p. 66).

Request for a preliminary ruling from the Bundesarbeitsgericht (Germany) lodged on 1 March 2022 — MO v SM, as trustee of G GmbH

(Case C-134/22)

(2022/C 222/20)

Language of the case: German

Referring court

Bundesarbeitsgericht

Parties to the main proceedings

Appellant in the appeal on a point of law: MO

Respondent in the appeal on a point of law: SM, as trustee of G GmbH

Question referred

What is the purpose of the second subparagraph of Article 2(3) of Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies, ([1]) according to which the employer is to forward to the competent public authority a copy of, at least, the elements of the written communication which are provided for in the first subparagraph, point (b), subpoints (i) to (v)?

([1]) OJ 1998 L 225, p. 16.

Request for a preliminary ruling from the Landesverwaltungsgericht Niederösterreich (Austria) lodged on 3 March 2022 — RE v Bezirkshauptmannschaft Lilienfeld

(Case C-155/22)

(2022/C 222/21)

Language of the case: German

Referring court

Landesverwaltungsgericht Niederösterreich

Parties to the main proceedings

Appellant: RE

Respondent authority: Bezirkshauptmannschaft Lilienfeld

Other party to the proceedings: Arbeitsinspektorat NÖ Wald- und Mostviertel

Question referred

Is EU law to be interpreted as being compatible with a national provision that allows persons who are criminally liable for a transport undertaking to transfer their liability for very serious infringements of Community provisions on driving time and rest periods for drivers to a natural person by mutually acceptable agreement, if such transfer precludes the assessment of good repute within the meaning of Regulation (EC) No 1071/2009, [1] which is provided for under national law only when a punishment is being imposed on the persons transferring criminal liability?

[1] Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC (OJ 2009 L 300, p. 51).

Request for a preliminary ruling from the Landgericht Stuttgart (Germany) lodged on 17 February 2022 — TAP Portugal v flightright GmbH

(Case C-156/22)

(2022/C 222/22)

Language of the case: German

Referring court

Landgericht Stuttgart

Parties to the main proceedings

Appellant: TAP Portugal

Respondent: flightright GmbH

Question referred

Is Article 5(3) of Regulation (EC) No 261/2004 [1] to be interpreted as meaning that an extraordinary circumstance within the meaning of that provision exists where a flight departing from an airport outside the base of the operating air carrier is cancelled because a crew member deployed on that flight (*in casu* the co-pilot), who has passed the prescribed regular medical examinations without restriction, dies suddenly and in a way that the air carrier is unable to foresee shortly before the flight or falls so seriously ill that he or she cannot perform the flight?

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

Request for a preliminary ruling from the Landgericht Stuttgart (Germany) lodged on 17 February 2022 — TAP Portugal v Myflyright GmbH

(Case C-157/22)

(2022/C 222/23)

Language of the case: German

Referring court

Landgericht Stuttgart

Parties to the main proceedings

Appellant: TAP Portugal

Respondent: Myflyright GmbH

Question referred

Is Article 5(3) of Regulation (EC) No 261/2004 ([1]) to be interpreted as meaning that an extraordinary circumstance within the meaning of that provision exists where a flight departing from an airport outside the base of the operating air carrier is cancelled because a crew member deployed on that flight (*in casu* the co-pilot), who has passed the prescribed regular medical examinations without restriction, dies suddenly and in a way that the air carrier is unable to foresee shortly before the flight or falls so seriously ill that he or she cannot perform the flight?

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

Request for a preliminary ruling from the Landgericht Stuttgart (Germany) lodged on 17 February 2022 — TAP Portugal v Myflyright GmbH

(Case C-158/22)

(2022/C 222/24)

Language of the case: German

Referring court

Landgericht Stuttgart

Parties to the main proceedings

Appellant: TAP Portugal

Respondent: Myflyright GmbH

Question referred

Is Article 5(3) of Regulation (EC) No 261/2004 ([1]) to be interpreted as meaning that an extraordinary circumstance within the meaning of that provision exists where a flight departing from an airport outside the base of the operating air carrier is cancelled because a crew member deployed on that flight (*in casu* the co-pilot), who has passed the prescribed regular medical examinations without restriction, dies suddenly and in a way that the air carrier is unable to foresee shortly before the flight or falls so seriously ill that he or she cannot perform the flight?

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

Request for a preliminary ruling from the Curtea de Apel București (Romania) lodged on 4 March 2022 — Groenland Poultry SRL, in liquidation v Agenția de Plăți și Intervenție pentru Agricultură — Centrul Județean Dâmbovița

(Case C-169/22)

(2022/C 222/25)

Language of the case: Romanian

Referring court

Curtea de Apel București

Parties to the main proceedings

Applicant — appellant: Groenland Poultry SRL, in liquidation

Defendant — respondent: Agenția de Plăți și Intervenție pentru Agricultură — Centrul Județean Dâmbovița

Questions referred

1. Must Article 47(1) of Commission Regulation (EC) No 1974/2006 of 15 December 2006 laying down detailed rules for the application of Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) ([1]) be interpreted as meaning that cases of 'force majeure or exceptional circumstances' also include the case where the beneficiary of the aid loses the right to use the leased assets following the termination of the lease on account of the insolvency of the owner of the leased assets (lessor)?

2. In the light of the principle of proportionality, must Article 44(2)(a) of Commission Regulation (EC) No 1974/2006 of 15 December 2006 laying down detailed rules for the application of Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) be interpreted as meaning that, where, during the period for which a commitment given as a condition for the grant of assistance runs, all or part of the holding of a beneficiary is transferred to another person, and that second beneficiary, although having honoured a significant part of the commitment concerned, ceases agricultural activities, and it is not feasible for a successor to take over the commitment, the second beneficiary of the commitment [more correctly: of the aid] must reimburse the aid which it has received (in relation to the period for which it was the beneficiary of the aid), or must it also reimburse the aid received by the first beneficiary thereof?

3. What conditions must the national court take into consideration in interpreting Article 44(2)(a) of Commission Regulation (EC) No 1974/2006 of 15 December 2006 laying down detailed rules for the application of Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) for the purpose of assessing whether 'it is not feasible for a successor to take over the commitment?

([1]) OJ 2006 L 368, p. 15.

Request for a preliminary ruling from the Curtea de Apel București (Romania) lodged on 8 March 2022 — Criminal proceedings against AR

(Case C-179/22)

(2022/C 222/26)

Language of the case: Romanian

Referring court

Curtea de Apel București

Person subject to the European arrest warrant

AR

Questions referred

1. Must the provisions of Article 25 of Framework Decision 2008/909/JHA ([1]) be interpreted as meaning that the judicial authority executing a European [arrest] warrant, if it intends to apply Article 4(6) of Framework Decision 2002/584/JHA ([2]) for the purposes of recognising the judgment passing sentence, is required to request the [forwarding] of the judgment and the certificate issued pursuant to Framework Decision 2008/909/JHA and to obtain the consent of the sentencing State pursuant to Article 4(2) of Framework Decision 2008/909/JHA?

2. Must the provisions of Article 4(6) of Framework Decision 2002/584/JHA, read in conjunction with Articles 25 and 4(2) of Framework Decision 2008/909/JHA, be interpreted as meaning that the refusal to execute a European arrest warrant issued for the purposes of the execution of a custodial sentence and recognition of the judgment passing sentence, without its effective execution by imprisonment of the sentenced person following a pardon and suspension of the sentence, in accordance with the law of the executing State, and without obtaining the consent of the sentencing State in the context of the recognition procedure, [cause] the sentencing State to forfeit its right to enforce the sentence under Article 22(1) of Framework Decision 2008/909/JHA?

3. Must Article 8(1)(c) of Framework Decision 2002/584/JHA be interpreted as meaning that a judgment imposing a custodial sentence on the basis of which a European arrest warrant has been issued, the execution of which has been refused under Article 4(6) [of that Framework Decision], with recognition of the judgment passing sentence but without its effective execution by imprisonment of the sentenced person following a pardon and suspension of the sentence, in accordance with the law of the executing State, and without obtaining the consent of the sentencing State in the context of the recognition procedure, is no longer enforceable?

4. Must the provisions of Article 4(5) of Framework Decision 2002/584/JHA be interpreted as meaning that a judgment refusing to execute a European arrest warrant issued for the purposes of the execution of a custodial sentence and recognition of the judgment passing sentence pursuant to Article 4(6) of Framework Decision 2002/584/JHA, but without its effective execution by imprisonment of the sentenced person following a pardon and suspension of the sentence, in accordance with the law of the executing State (EU Member State), and without obtaining the consent of the sentencing State in the context of the recognition procedure, amounts to a judgment 'by a third State in respect of the same acts'?

If Question 4 is answered in the affirmative:

5. Must the provisions of Article 4(5) of Framework Decision 2002/584/JHA be interpreted as meaning that a judgment refusing to execute a European arrest warrant issued for the purposes of the execution of a custodial sentence and recognition of the judgment passing sentence pursuant to Article 4(6) of Framework Decision 2002/584/JHA, with the suspension of the sentence in accordance with the law of the executing State, amounts to a sentence that 'is currently being served' where supervision of the sentenced person has not yet commenced?

([1]) Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (OJ 2008 L 327, p. 27).

([2]) Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States — Statements made by certain Member States on the adoption of the Framework Decision (OJ 2002 L 190, p. 1).

Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 9 March 2022 — Finanzamt Hamm v Harry Mensing

(Case C-180/22)

(2022/C 222/27)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Appellant in the appeal on a point of law: Finanzamt Hamm

Respondent in the appeal on a point of law: Harry Mensing

Questions referred

1. In circumstances such as those in the main proceedings, in which a taxable person relies, on the basis of the judgment in *Mensing*, ([1]) on the fact that the supply of works of art that were supplied to him in the context of an exempt intra-Community supply by the creator (or his successors in title) also falls under the margin scheme of Article 311 et seq. of Directive 2006/112/EC, ([2]) is the taxable amount to be determined, in accordance with paragraph 49 of that judgment, exclusively on the basis of EU law, with the result that it is not permissible for the national court adjudicating at last instance to interpret a provision of national law (in the present case: the third sentence of Paragraph 25a(3) of the Umsatzsteuergesetz (the Law on turnover tax) to the effect that the tax due on the intra-Community acquisition does not form part of the taxable amount?

2. If the answer to Question 1 is in the affirmative: is Article 311 et seq. of Directive 2006/112 to be understood as meaning that, where the margin scheme is applied to supplies of works of art that were previously acquired from the creator (or his successors in title) within the Community, the tax due on the intra-Community acquisition reduces the profit margin, or is there an unintentional loophole in EU law in that respect that can only be removed by the EU legislature, not by the development of the law through case-law?

([1]) Judgment of 29 November 2018 (C-264/17, EU:C:2018:968).
([2]) Council Directive of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).

Request for a preliminary ruling from the Bundesarbeitsgericht (Germany) lodged on 11 March 2022 — FI v Bayerische Motoren Werke AG

(Case C-192/22)

(2022/C 222/28)

Language of the case: German

Referring court

Bundesarbeitsgericht

Parties to the main proceedings

Appellant: FI

Respondent: Bayerische Motoren Werke AG

Questions referred

1. Do Article 7 of Directive 2003/88/EC ([1]) or Article 31(2) of the Charter of Fundamental Rights of the European Union preclude an interpretation of a rule of national law such as Paragraph 7(3) of the German Bundesurlaubsgesetz (Federal Law on Leave; 'the BUrlG') according to which a worker's entitlement to paid annual leave acquired during the work phase of a progressive retirement relationship but as yet unexercised is forfeited in the release phase at the end of the holiday year or at a later time?

   Should the Court of Justice answer Question 1 in the negative:

2. Do Article 7 of Directive 2003/88/EC or Article 31(2) of the Charter of Fundamental Rights of the European Union preclude an interpretation of a rule of national law such as Paragraph 7(3) BUrlG according to which the as yet unexercised entitlement to paid annual leave of a worker who, in the course of the holiday year, moves from the work phase to the release phase is forfeited at the end of the holiday year or at a later time if the employer — without having previously fulfilled its obligations to cooperate in the realisation of the leave entitlement — has granted the worker the entire annual leave in line with his or her application for a period immediately prior to the start of the release phase, but the leave entitlement could not be fulfilled — at least in part — because the worker became unfit for work due to illness after the leave was granted?

([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 Curtea de Apel Alba Iulia (Romania) lodged on 14 March 2022 — Vantage Logistics S.R.L. v Administrația Județeană a Finanțelor Publice Alba, Auto Help Alba S.R.L., Banca Transilvania S.A., BRD — Groupe Société Générale S.A., S.C. Croma S.R.L., S.C. Polaris M.Holding, S.C. Elit România Piese Auto Originale S.R.L., S.C. Nedo Auto Service S.R.L., CH Insolvency I.P.U.R.L. as court-appointed liquidator of S.C. Nedo Auto Service S.R.L.

(Case C-200/22)

(2022/C 222/29)

Language of the case: Romanian

Referring court

Curtea de Apel Alba Iulia

Parties to the main proceedings

Appellant: Vantage Logistics S.R.L

The other parties to the proceedings: Administrația Județeană a Finanțelor Publice Alba, Auto Help Alba S.R.L, Banca Transilvania S.A., BRD — Groupe Société Générale S.A., S.C. Croma S.R.L., S.C. Polaris M.Holding, S.C. Elit România Piese Auto Originale S.R.L., S.C. Nedo Auto Service S.R.L., CH Insolvency I.P.U.R.L. as court-appointed liquidator of S.C. Nedo Auto Service S.R.L.

Question referred

Can EU law, the principle of respect for, and protection of, the right to private property derived from Article 17 of the Charter [of Fundamental Rights of the European Union], the principle of the primacy of EU law over national law and, in particular, the first sentence of Article 9(6) of Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency), ([1]) be interpreted as precluding national legislation such as that at issue in the main proceedings (Article 139(1) [point] (C) of Law No 85/2014], which, in the context of insolvency proceedings, [allows] the reorganisation/restructuring plan to be deemed to have been accepted if, where there are two or four categories of claims, at least half the number of categories votes in favour of it, provided that one of the disadvantaged categories accepts the plan and at least 30 % of the total, by value, of the general body of creditors accepts that same plan?

([1]) OJ 2019 L 172, p. 18.

Request for a preliminary ruling from the Verwaltungsgericht Wien (Austria) lodged on 16 March 2022 — CK

(Case C-203/22)

(2022/C 222/30)

Language of the case: German

Referring court

Verwaltungsgericht Wien

Parties to the main proceedings

Applicant: CK

Interested parties: Dun & Bradstreet Austria GmbH., Magistrat der Stadt Wien

Questions referred

1. What requirements as to content does information provided need to satisfy in order to be regarded as sufficiently 'meaningful' within the meaning of Article 15(1)(h) of the General Data Protection Regulation; 'the GDPR')? ([1])

In the case of profiling, must the information essential for making the result of the automated decision transparent in each individual case also be disclosed by the controller — where necessary in compliance with an existing trade secret — as part of the disclosure of the 'logic involved' which includes, in particular, (1) the disclosure of the data subject's processed data, (2) the disclosure of the parts of the algorithm on which the profiling is based that are necessary to provide transparency, and (3) the information relevant to establishing the connection between the processed information and the rating arrived at?

In cases involving profiling, must the party entitled to access for the purpose of Article 15(1)(h) of the GDPR be provided, as a minimum, with the following information on the specific processing concerning him or her, even if a trade secret is involved, in order to enable him or her to protect his or her rights under Article 22(3) of the GDPR:

(a) communication of all potentially pseudo-anonymised information, in particular on the manner in which the data subject's data is being processed, which allows the data subject to check compliance with the GDPR,

(b) making available the input data used for profiling,

(c) the parameters and input variables used in the determination of the rating,

(d) the influence of these parameters and input variables on the calculated rating,

(e) information on the origin of the parameters or input variables,

(f) an explanation as to why the party entitled to access for the purpose of Article 15(1)(h) of the GDPR has been assigned a specific rating and clarification of the implications of such rating,

(g) listing the profile categories and providing an explanation as to what rating implication is associated with each of the profile categories?

2. Is the right of access granted by Article 15(1)(h) of the GDPR related to the rights guaranteed by Article 22(3) of the GDPR to express one's point of view and to challenge an automated decision taken within the meaning of Article 22 of the GDPR in so far as the scope of the information to be provided on the basis of an access request within the meaning of Article 15(1)(h) of the GDPR is only sufficiently 'meaningful' if the party requesting access and the data subject for the purpose of Article 15(1)(h) of the GDPR is enabled to exercise the rights guaranteed by Article 22(3) of the GDPR to express his or her own point of view and to challenge the automated decision for the purpose of Article 22 of the GDPR concerning him or her in a real, profound and promising way?

3. (a) Must Article 15(1)(h) of the GDPR be interpreted as meaning that information constitutes 'meaningful information' for the purposes of this provision only if it is so broad that the party entitled to access for the purpose of Article 15 (1)(h) of the GDPR is able to determine whether this information is accurate, i.e. whether the automatic decision specifically requested was actually based on the information provided?

(b) If the above question is answered in the affirmative: what is the procedure if the accuracy of the information provided by a controller can only be verified if third-party data protected by the GDPR must also be brought to the attention of the party entitled to access for the purpose of Article 15(1)(h) of the GDPR (black box)?

Can this tension between the right of access within the meaning of Article 15(1) of the GDPR and the data protection rights of third parties also be resolved by disclosing the data of third parties (which have also been subjected to the same profiling process) required for the accuracy check only to the authority or the court for the authority or the court to check independently whether the disclosed data of these third parties is accurate?

(c) If the above question is answered in the affirmative: which rights must be granted to the party entitled to access for the purpose of Article 15(1)(h) of the GDPR in the event that it is necessary to ensure the protection of third party rights within the meaning of Article 15(4) of the GDPR by creating the black box referred to in point (3b)?

Must the data of other persons to be disclosed by the controller for the purpose of Article 15(1) of the GDPR to the party entitled to access for the purpose of Article 15(1)(h) of the GDPR be disclosed in pseudo-anonymised form in order to ensure that the accuracy can be verified?

4. (a) What is the procedure if the information to be provided in accordance with Article 15(1)(h) of the GDPR also meets the requirements of a trade secret within the meaning of Article 2(1) of the Know-How Directive? ([2])

Can the tension between the right of access guaranteed by Article 15(1)(h) of the GDPR and the right to non-disclosure of a trade secret protected by the Know-How Directive be resolved by allowing the information to be disclosed as a trade secret within the meaning of Article 2(1) of the Know-How Directive be disclosed to the authority or the court only, so that the authority or the court must independently verify whether it must be assumed that a trade secret within the meaning of Article 2(1) of the Know-How Directive exists and whether the information provided by the controller within the meaning of Article 15(1) of the GDPR is accurate?

(b) If the above question is answered in the affirmative: which rights must be granted to the party entitled to access for the purpose of Article 15(1)(h) of the GDPR in the event that it is necessary to ensure the protection of third party rights within the meaning of Article 15(4) of the GDPR by creating the black box referred to in point (4a)?

In this case of discrepancy between the information to be disclosed to the authority or the court and the information to be disclosed to the person entitled to access within the meaning of Article 15(1)(h) of the GDPR, in cases involving profiling, must the party entitled to access for the purpose of Article 15(1)(h) of the GDPR also be provided, as a minimum, with the following information on the specific processing concerning him or her in order to enable him or her to protect his or her rights under Article 22(3) of the GDPR in their entirety:

(a) communication of all potentially pseudo-anonymised information, in particular on the manner in which the data subject's data is being processed, which allows the data subject to check compliance with the GDPR,

(b) making available the input data used for profiling,

(c) the parameters and input variables used in the determination of the rating,

(d) the influence of these parameters and input variables on the calculated rating,

(e) information on the origin of the parameters or input variables,

(f) an explanation as to why the party entitled to access for the purpose of Article 15(1)(h) of the GDPR has been assigned a specific rating and clarification of the implications of such rating,

(g) listing the profile categories and providing an explanation as to what rating implication is associated with each of the profile categories?

5. Does the provision of Article 15(4) of the GDPR in any way limit the scope of the information to be provided pursuant to Article 15(1)(h) of the GDPR?

If this question is answered in the affirmative, is this right of access limited by Article 15(4) of the GDPR, and how is the extent of the limitation to be determined in each individual case?

6. Is the provision of Article 4(6) of the Law on Data protection, according to which 'the right of access of the data subject pursuant to Article 15 of the GDPR, as a rule, does not (exist) vis-à-vis the controller if the provision of such information would violate a business or trade secret of the controller or third parties' compatible with the requirements of Article 15(1) in conjunction with Article 22(3) of the GDPR? If the above question is answered in the affirmative, what are the conditions for such compatibility?

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

(2) 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).

Request for a preliminary ruling from the Tribunale ordinario di Bologna (Italy) lodged on 24 March 2022 — OV v Ministero Interno — Unità Dublino

(Case C-217/22)

(2022/C 222/31)

Language of the case: Italian

Referring court

Tribunale ordinario di Bologna

Parties to the main proceedings

Applicant: OV

Defendant: Ministero Interno — Unità Dublino

Question referred

1. Must Articles 4 and 5 of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013, (1) particularly in view of the right to an effective remedy laid down in Article 27 of that regulation, be interpreted as meaning that the applicant, who has challenged before the courts of the *requesting* State the transfer decision adopted by the Dublin Unit of that State in the context of a take back procedure under Article 18(1)(b), is entitled to invoke the infringement by the *requested* State of the duty to provide information laid down in Article 4 or of the obligation to arrange a personal interview with the applicant under Article 5 of that regulation, and if the answer is in the affirmative, what is the relevance of such an infringement?

(1) Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ 2013 L 180, p. 31).

Appeal brought on 5 April 2022 by European Commission against the judgment of the General Court (Fourth Chamber, Extended Composition) delivered on 26 January 2022 in Case T-286/09 RENV, Intel Corporation v Commission

(Case C-240/22 P)

(2022/C 222/32)

Language of the case: English

Parties

Appellant: European Commission (represented by: F. Castillo de la Torre, N. Khan, M. Kellerbauer and C. Sjödin, Agents)

Other parties to the proceedings: Intel Corporation Inc., Association for Competitive Technology, Inc., Union fédérale des consommateurs — Que choisir (UFC — Que choisir)

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal, save for paragraph 3 of its operative part;

— refer the proceedings back to the General Court;

— reserve the costs.

Pleas in law and main arguments

The appellant raises six grounds of appeal.

First ground of appeal: The review by the judgment under appeal of the extent of the Decision's ([1]) analysis of the criteria of coverage and duration is *ultra petita*. Furthermore, the judgment under appeal errs in law in denying any overall assessment of the capability of Intel's practices to foreclose competition in the light of all the relevant circumstances of the case and in misinterpreting the guidance given in that respect in the judgment of the Court of Justice of 6 September 2017, *Intel* v *Commission*, C-413/14 P, EU:C:2017:632.

Second ground of appeal: The judgment's under appeal review of the as-efficient-competitor test (the AEC test) carried out in the Decision infringes the Commission's rights of defence.

Third ground of appeal: The judgment's under appeal review of the Decision's AEC test in relation to Dell errs with respect to the standard of proof, distorts the clear meaning of the evidence, applies contradictory reasoning and infringes the Commission's rights of defence.

Fourth ground of appeal: The judgment's under appeal review of the Decision's AEC test in relation to Hewlett-Packard Company errs with respect to the standard of proof, infringes the Commission's rights of defence and contains several other errors of law.

Fifth ground of appeal: The judgment's under appeal review of the Decision's AEC test in relation to Lenovo errs in its interpretation of the AEC test and of Article 102 TFEU, distorts the evidence and infringes the Commission's rights of defence.

Sixth ground of appeal: Insofar as the judgment under appeal relies on its review of the Decision's AEC test for the purposes of partly annulling the Decision, it fails to consider properly the implications of its findings on the AEC test.

([1]) Commission Decision C(2009) 3726 final of 13 May 2009 relating to a proceeding under Article [102 TFEU] and Article 54 of the EEA Agreement (Case COMP/C-3/37.990 — Intel).

Appeal brought on 15 April 2022 by Arysta LifeScience Great Britain Ltd against the judgment of the General Court (Seventh Chamber) delivered on 9 February 2022 in Case T-740/18, Taminco and Arysta LifeScience Great Britain v Commission

(Case C-259/22 P)

(2022/C 222/33)

Language of the case: English

Parties

Appellant: Arysta LifeScience Great Britain Ltd (represented by: C. Mereu, avocat)

Other parties to the proceedings: European Commission, Taminco BVBA

Form of order sought

The Appellant claims that the Court should:

— set aside the judgment under appeal; and

— annul the contested regulation ([1]) and award the costs of this appeal and of the proceedings before the General Court to the Appellant or award the costs of this appeal to the Appellant and refer the cases back to the General Court for re-consideration.

Pleas in law and main arguments

1. The General Court erred in law when holding that the Appellant's rights of defence are limited to the specific provisions set out in Articles 12(3) and 14(1) of regulation 844/2012. The General Court erred in law by failing to consider that the process for the renewal of the approval of substances is administrative in nature and, therefore, the Appellant can exercise its rights of defence beyond the provisions set out in the relevant legal framework explicitly providing for such rights (e.g. Regulations 1107/2009 ([2]) and 844/2012 ([3])).

2. The General Court erred in law by holding that the Appellant cannot withdraw one of its representative uses from its notification dossier. Pursuant to Regulations 1107/2009 and 844/2012, the freedom in choosing the representative uses at the beginning of the renewal process mirrors and necessarily entails the freedom of withdrawing them during such procedure.

   The General Court also erred in law by holding that European Food Safety Authority's (EFSA) Administrative Guidance is applicable. The process for the renewal is one single process combining two interconnected phases. It is therefore irrelevant that the EFSA's administrative guidance concerns the process starting with the 'submission of an application and ends with the adoption and publication of the EFSA conclusions', and that consequently, the withdrawal could only occur in the first phase before EFSA.

3. The General Court erred in law and/or distorted the evidence thus reaching a wrong legal conclusion, by referring to the foliar use of the substance to justify conclusions on the seed treatment use. It inconsistently refered to issues related to the foliar uses — which the Appellant withdrew — to conclude that 'the Commission was not required to base the contested implementing regulation solely on grounds relating to the use of thiram as a seed treatment'.

   In addition, the General Court erred in law and/or distorted the evidence by holding that the Commission correctly amended the contested regulation to reflect the withdrawal of the foliar use. The contested regulation continues to support the non-renewal of thiram based on issues concerning the foliar use (e.g. recital 8 of the contested regulation reads: 'The authority identified a high acute risk to consumers and to workers from application of thiram by foliar spraying.'), which was withdrawn by the Appellant.

4. The General Court erred in law, distorted the evidence and/or based its conclusions on inconsistent reasoning and/or without a sufficient statement of reasons, when it held that the metabolite M1 is relevant for the assessment of seed treatment uses. Any reference to the metabolite M1 — directly related to foliar use — should have been disregarded by the General Court due to the withdrawal of such use.

   The General Court did the same when it held that there is a risk for seed treatment uses due to the presence of the metabolite DMCS. The risk must be regarded as acceptable for seed treatment with regard to the metabolite DMCS as the rates are much lower for seed treatment and have been detected below the threshold of concern.

5. The General Court misinterpreted the precautionary principle and/or erred in law and/or distorted the evidence on record thus reaching a wrong legal conclusion when holding that the Commission conducted a proper impact assessment under the precautionary principle. The Commission failed to conduct any impact assessment, but simply concluded 'that the risks and issues identified overrule the impact of possible loss of the substance'. The Commission could have at least specified the elements allegedly taken into account to reach such conclusion.

(1) Commission Implementing Regulation (EU) 2018/1500 of 9 October 2018 concerning the non-renewal of approval of the active substance thiram, and prohibiting the use and sale of seeds treated with plant protection products containing thiram, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending Commission Implementing Regulation (EU) No 540/2011 (OJ 2018 L 254, p. 1).

(2) Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ 2009, L 309, p. 1).

(3) Commission Implementing Regulation (EU) No 844/2012 of 18 September 2012 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation No 1107/2009 (OJ 2012 L 252, p. 26).

Order of the President of the Court of 11 March 2022 — European Commission v Federal Republic of Germany

(Case C-57/20) (1)

(2022/C 222/34)

Language of the case: German

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

(1) OJ C 87, 16.3.2020.

Order of the President of the Third Chamber of the Court, acting as President of the Ninth Chamber of 4 March 2022 (request for a preliminary ruling from the Landesgericht Korneuburg — Austria) — Airhelp Limited v Austrian Airlines AG

(Case C-164/20) (1)

(2022/C 222/35)

Language of the case: German

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

(1) OJ C 230, 13.7.2020.

Order of the President of the Second of the Court of 1 February 2022 — ViaSat, Inc. v European Commission, Inmarsat Ventures SE, formerly Inmarsat Ventures Ltd

(Case C-235/20 P) (1)

(2022/C 222/36)

Language of the case: English

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

(1) OJ C 9, 11.1.2021.

Order of the President of the Court of 4 February 2022 — Czech Republic v Republic of Poland, *intervener in support of the applicant:* European Commission

(Case C-121/21) ([1])

(2022/C 222/37)

Language of the case: Polish

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

([1]) OJ C 138, 14.4.2021.

Order of the President of the Court of 18 January 2022 (request for a preliminary ruling from the Cour d'appel de Mons — Belgium) — Ryanair DAC v Happy Flights Srl, formerly Happy Flights Sprl

(Case C-386/21) ([1])

(2022/C 222/38)

Language of the case: French

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

([1]) OJ C 382, 20.9.2021.

Order of the President of the Court of 11 March 2022 (request for a preliminary ruling from the Verwaltungsgericht Stade — Germany) — Applicant 1, Applicant 2, Antragsteller 3, Applicant 4, Applicant 5 v Bundesrepublik Deutschland

(Case C-504/21) ([1])

(2022/C 222/39)

Language of the case: German

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

([1]) OJ C 490, 6.12.2021.

Order of the President of the Court of 25 January 2022 (request for a preliminary ruling from the Verwaltungsgericht Wiesbaden — Germany) — FT v Land Hessen, intervening party: SCHUFA Holding AG

(Case C-552/21) ([1])

(2022/C 222/40)

Language of the case: German

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

([1]) OJ C 2, 3.1.2022.

Order of the President of the Court of 11 March 2022 (request for a preliminary ruling from the Landesgericht Salzburg — Austria) — PJ v Eurowings GmbH

(Case C-751/21) ([1])

(2022/C 222/41)

Language of the case: German

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

([1]) OJ C 95, 28.2.2022.

Order of the President of the Court of 15 February 2022 (request for a preliminary ruling from the Győri Járásbíróság — Hungary) — JH v Wizz Air Hungary Légiközlekedési Zrt. (Wizz Air Hungary Zrt.)

(Case C-771/21) ([1])

(2022/C 222/42)

Language of the case: Hungarian

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

([1]) OJ C 128, 21.3.2022.

Order of the President of the Court of 11 March 2022 — Nec Corp. v European Commission

(Case C-786/21 P) ([1])

(2022/C 222/43)

Language of the case: English

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

([1]) OJ C 84, 21.2.2022.

Order of the President of the Court of 15 February 2022 — European Union Copper Task Force v European Commission, European Parliament, Council of the European Union

(Case C-828/21 P) ([1])

(2022/C 222/44)

Language of the case: English

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

([1]) OJ C 73, 14.2.2022.

GENERAL COURT

Judgment of the General Court of 6 April 2022 — Cilem Records International v EUIPO — KVZ Music (HALIX RECORDS)

(Case T-118/21) ([1])

(EU trade mark — Opposition proceedings — Application for EU word mark HALIX RECORDS — Earlier national word and figurative marks HALIX RECORDS — Relative ground for refusal — Article 8(4) of Regulation (EC) No 207/2009 (now Article 8(4) of Regulation (EU) 2017/1001) — Rule 19(1) and (2) of Regulation (EC) No 2868/95 (now Article 7(1) and (2) of Delegated Regulation (EU) 2018/625))

(2022/C 222/45)

Language of the case: German

Parties

Applicant: Cilem Records International UG (Augsburg, Germany) (represented by: E. Hecht, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: KVZ Music Ltd (Sofia, Bulgaria) (represented by: D. Stechern, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 28 January 2021 (Case R 1060/2020-4), relating to opposition proceedings between Cilem Records International and KVZ Music.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Cilem Records International UG to bear its own costs and to pay those incurred by EUIPO;

3. Orders KVZ Music Ltd to bear its own costs.

([1]) OJ C 128, 12.4.2021.

Judgment of the General Court of 6 April 2022 — Biogena v EUIPO — Alter Farmacia (NUTRIFEM AGNUBALANCE)

(Case T-370/21) ([1])

(EU trade mark — Opposition proceedings — International registration designating the European Union — Word mark NUTRIFEM AGNUBALANCE — Earlier EU word mark NUTRIBEN — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2022/C 222/46)

Language of the case: English

Parties

Applicant: Biogena GmbH & Co KG (Salzburg, Austria) (represented by: I. Schiffer, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Alter Farmacia, SA (Madrid, Spain)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 22 April 2021 (Case R 1208/2020-5), relating to opposition proceedings between Alter Farmacia and Biogena.

Operative part of the judgment

The Court:

1. Annuls the decision of the Fifth Board of Appeal of EUIPO of 22 April 2021 (Case R 1208/2020-5) in so far as it concerns the goods in Class 5 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, and the 'dried kitchen herbs; preserved herbs and spices' in Class 30 thereof;

2. Dismisses the action as to the remainder;

3. Orders each party to bear its own costs.

(1) OJ C 329, 16.8.2021.

Order of the General Court of 25 March 2022 — Saure v Commission

(Case T-151/21) (1)

(Action for annulment — Access to documents — Regulation (EC) No 1049/2001 — Commission correspondence concerning the quantity and delivery timings of BioNTech SE COVID-19 vaccines — Initial refusal — Act not open to challenge — Application to modify the form of order sought — Assessing the admissibility of an action at the time it was brought — Manifest inadmissibility)

(2022/C 222/47)

Language of the case: German

Parties

Applicant: Hans-Wilhem Saure (Berlin, Germany) (represented by: C. Partsch, lawyer)

Defendant: European Commission (represented by: A. Spina, K. Herrmann and G. Gattinara, agents)

Re:

By its action based on Article 263 TFEU, the applicant seeks to have set aside the letter of the European Commission of 27 January 2021 rejecting an initial application for access to certain documents.

Operative part of the order

1. The action is dismissed as being manifestly inadmissible.

2. M. Hans-Wilhelm Saure shall bear his own costs and pay those incurred by the European Commission and those relating to the requests to modify the application and the European Commission shall bear its own costs related to the application.

(1) OJ C 189, 17.5.2021.

Order of the General Court of 30 March 2022 — Scania CV v EUIPO (V8)

(Case T-327/21) ([1])

(EU trade mark — Revocation of the contested decision — Action which has become devoid of purpose — No need to adjudicate)

(2022/C 222/48)

Language of the case: Swedish

Parties

Applicant: Scania CV AB (Södertälje, Sweden) (represented by: C. Langenius, P. Sundin and S. Falkner, lawyers)

Defendant: European Union Intellectual Property Office (represented by: A. Bosse and D. Hanf, acting as Agents)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 20 April 2021 (Case R 1868/2020-1), concerning an application for registration of the figurative sign V8 as an EU trade mark.

Operative part of the order

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

2. The European Union Intellectual Property Office (EUIPO) shall bear its own costs and pay those incurred by Scania CV AB.

([1]) OJ C 297, 26.7.2021.

Order of the General Court of 23 March 2022 — Bambu Sales v EUIPO (BAMBU)

(Case T-342/21) ([1])

(EU trade mark — Revocation of the contested decision — Action which has become devoid of purpose — No need to adjudicate)

(2022/C 222/49)

Language of the case: English

Parties

Applicant: Bambu Sales, Inc. (Secaucus, New Jersey, United States) (represented by: T. Stein, lawyer)

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

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 20 April 2021 (Case R 1702/2020 1), concerning an application for registration of the word sign BAMBU as an EU trade mark.

Operative part of the order

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

2. The European Union Intellectual Property Office (EUIPO) shall bear its own costs and pay those incurred by Bambu Sales, Inc.

([1]) OJ C 329, 16.8.2021.

Order of the General Court of 25 March 2022 — Alcogroup and Alcodis v Commission

(Case T-691/21) ([1])

(Action for annulment — Competition — Settlement procedure — Letter from the European Commission inviting an undertaking to express its interest in engaging in a settlement procedure — Act not open to challenge — Preparatory act — Intermediary act — Inadmissibility)

(2022/C 222/50)

Language of the case: French

Parties

Applicants: Alcogroup (Brussels, Belgium) and Alcodis (Brussels) (represented by: P. de Bandt, C. Binet and M. Nuytten, lawyers)

Defendant: European Commission (represented by: P. Berghe, T. Baumé and F. Jimeno Fernández, agents)

Re:

By their action based on Article 263 TFEU, lodged at the Registry of the General Court on 27 October 2021, the applicants seek to have set aside the letter of the European Commission of 17 September 2021, by which the Commission invited the applicants to inform it, within two weeks, of their interest in engaging in a settlement procedure within the meaning of Article 10a of Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles [101 and 102 TFEU] (OJ 2004 L 123, p. 18), as amended, regarding a potential infringement of Article 101 TFEU that they may have committed with other undertakings.

Operative part of the order

1. The action is dismissed as inadmissible.

2. The applicant shall pay the costs.

([1]) OJ C 513, 20.12.2021.

Action brought on 2 March 2022 — Grodno Azot and Khimvolokno Plant v Council

(Case T-117/22)

(2022/C 222/51)

Language of the case: English

Parties

Applicants: Grodno Azot AAT (Grodno, Belarus) and Khimvolokno Plant (Grodno) (represented by: N. Tuominen and L. Engelen, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicants claim that the Court should:

— annul Council Implementing Decision (CFSP) 2021/2125 of 2 December 2021 implementing Decision 2012/642/CFSP concerning restrictive measures in view of the situation in Belarus ([1]), and Council Implementing Regulation (EU) 2021/2124 of 2 December 2021 implementing Article 8a(1) of Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus ([2]) (the Contested Measures); and

— order that the Council pays the applicant's costs for this action.

Pleas in law and main arguments

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

1. First plea in law, alleging that by including the applicants in the annexes to the Contested Measures, the Council made a manifest error of assessment. Namely, the applicants claim that the Contested Measures provide unsubstantiated, factually incorrect and unfounded reasons for his designation. Further, the deficient reasons provided do not demonstrate a sufficiently substantive link to the scope of the measures

2. Second plea in law, alleging that the Contested Measures do not meet the standard of proof required for adopting individual sanctions. By attempting to use individual measures in order to achieve the objective of restricting business activities and profits of a foreign state-owned enterprise, the Council applied an unlawful type of measure.

(1) OJ L 430 I, p. 16.
(2) OJ L 430 I, p. 1.

Action brought on 30 March 2022 — Seifert v Council

(Case T-166/22)

(2022/C 222/52)

Language of the case: German

Parties

Applicant: Evgenia Seifert (Munich, Germany) (represented by: T. Seifert, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Article 1(9) of Council Regulation (EU) 2022/328 of 25 February 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine;

— order the European Union to pay the costs of the proceedings including expenses necessarily incurred by the applicant.

Pleas in law and main arguments

According to the applicant, Article 1(9) of Council Regulation (EU) 2022/328 of 25 February 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, (1) discriminates against her on grounds of her origin as a Russian national and, therefore, infringes Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms read in conjunction with her rights enshrined in Article 8(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms. In that respect, the Council cannot rely on a time of emergency under Article 15(1) of that convention and on a derogation within the meaning of Article 15(3) of that convention.

(1) OJ 2022 L 49, p. 1.

Action brought on 4 April 2022 — Mellish v Commission

(Case T-176/22)

(2022/C 222/53)

Language of the case: French

Parties

Applicant: Philip Mellish (Uccle, Belgium) (represented by: N. de Montigny, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the applicant's payslip for June 2021 and the note from the Commission's HR Service of 14 June 2021 informing him that from 2021 onwards and following Brexit he would no longer receive the flat-rate sum for reimbursement of the costs of travelling to his place of origin;

— annul, in so far as it is deemed to supplement the statement of reasons for the contested decision, the decision of 22 December 2021 rejecting the complaint of 1 September 2021;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, claiming that the Staff Regulations of Officials of the European Union ('the Staff Regulations') should be applied teleologically and effectively and alleging that the administration made an error of law, that Article 7(4) of Annex VII to the Staff Regulations was infringed, and that the general implementing provisions on the place of origin infringe the Staff Regulations.

2. Second plea in law, alleging infringement of the principle of equal treatment and unjustified discrimination, raising a plea of illegality and claiming that the provisions providing for the total abolition of reimbursement in the event of loss of citizenship should be disapplied.

3. Third plea in law, in the alternative, first, claiming that the provisions at issue should be applied in accordance with the flexibility promised by the European Union regarding the interpretation of the Staff Regulations in a way that is generous to United Kingdom nationals and consistent with other internal rules and, second, alleging that the principle of compensation for the staff member's expatriation status was infringed.

Action brought on 4 April 2022 — Chambers and Others v Commission

(Case T-177/22)

(2022/C 222/54)

Language of the case: French

Parties

Applicants: Alexander Chambers (Barcelona, Spain) and nine other applicants (represented by: N. de Montigny, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul the applicants' payslips for June 2021 in so far as they are indicative of a decision to withdraw the flat-rate allowance owed by way of reimbursement of the costs of travelling from the place of employment to the place of origin;

— annul, in so far as it supplements the statement of reasons for the contested decision, the decision of 22 December 2021 rejecting the complaint of 30 August 2021;

— order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicants rely on three pleas in law, which are, in essence, identical or similar to those relied on in Case T-177/22, *Mellish* v *Commission*.

Action brought on 13 April 2022 — Polynt v ECHA

(Case T-192/22)

(2022/C 222/55)

Language of the case: English

Parties

Applicant: Polynt SpA (Scanzorosciate, Italy) (represented by: C. Mereu and S. Abdel-Qader, lawyers)

Defendant: European Chemicals Agency

Form of order sought

The applicants claim that the Court should:

— declare the application admissible and well-founded;

— annul the decision of the European Chemicals Agency, sent by letter of 4 February 2022 (FUP-DEV-01-21200655590-58-0000-CCH-1-2_FTR_NOTIF), informing of a failure to respond to a dossier evaluation decision;

— declare — or order ECHA to adopt a new measure declaring — that the Applicant is released from the obligation to provide any information to ECHA following the cease of production and consequent unavailability of the substance concerned due to *force majeure*; and

— order ECHA to pay all costs of these proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Defendant breached the principle of force majeure when it held that the cease of manufacture of the substance 1,3-dioxo-2-benzofuran-5- carboxylic acid with nonan-1-ol (EC Number 941-303-6) (hereinafter 'the substances') after the adoption of the final compliance check decision for reasons of force majeure does not relieve the Appellant from the obligation to provide the information requested in the initial compliance check decision on the substances.

2. Second plea in law, alleging that the Defendant breached Article 50(2) of Regulation (EC) Nº 1907/2006 of the European Parliament and of the Council ([1]) ('REACH Regulation').

3. Third plea in law, alleging that the Defendant breached Articles 5 and 6 of the REACH Regulation.

4. Fourth plea in law, alleging that the Defendant infringed the principle of proportionality.

([1]) Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) Nº 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ 2006 L 396, p. 1).

Action brought on 14 April 2022 — Zelmotor v EUIPO — B&B Trends (zelmotor)

(Case T-194/22)

(2022/C 222/56)

Language in which the application was lodged: Polish

Parties

Applicant: Zelmotor sp. z o.o. (Rzeszów, Poland) (represented by: M. Rumak, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: B&B Trends, SL (Santa Perpetua de Mogoda, Spain)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: EU figurative mark 'zelmotor' — EU trade mark No 10 980 225

Proceedings before EUIPO: Revocation proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 4 February 2022 in Case R 927/2021-2

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Second Board of Appeal of EUIPO of 4 February 2022 in Case R 927/2021-2 in part, in so far as it makes a declaration of invalidity in respect of the goods and services in Classes 7, 9 and 35, with the exception of stators and rotors in Class 7;

— order EUIPO and the other party to the proceedings to pay, in addition to their own costs, the costs incurred by the applicant.

Plea in law

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

Action brought on 18 April 2022 — Ioulia and Irene Tseti Pharmaceutical Laboratories v EUIPO — Arbora & Ausonia (InterMed Pharmaceutical Laboratories eva intima)

(Case T-197/22)

(2022/C 222/57)

Language in which the application was lodged: English

Parties

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

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Arbora & Ausonia, SLU (Madrid, Spain)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union figurative mark InterMed Pharmaceutical Laboratories eva intima — Application for registration No 18 127 265

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 1 March 2022 in Case R 1244/2021-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision so long as it is appealed on its part;

— order EUIPO and ARBORA & AUSONIA, SLU, if it becomes intervener, to pay the costs of the applicant.

Plea in law

— Infringement of Article 8(1)(b) of Council Regulation (EC) No 207/2009.

Action brought on 18 April 2022 — Ioulia and Irene Tseti Pharmaceutical Laboratories v EUIPO — Arbora & Ausonia (InterMed Pharmaceutical Laboratories eva intima)

(Case T-198/22)

(2022/C 222/58)

Language in which the application was lodged: English

Parties

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

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Arbora & Ausonia, SLU (Madrid, Spain)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union figurative mark InterMed Pharmaceutical Laboratories eva intima — Application for registration No 18 127 266

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 1 March 2022 in Case R 1245/2021-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision so long as it is appealed on its part;

— order EUIPO and Arbora & Ausonia SLU, if it becomes intervener, to pay the costs of the applicant.

Plea in law

— Infringement of Article 8(1)(b) of Council Regulation (EC) No 207/2009.

Action brought on 13 April 2022 — Perfetti Van Melle v EUIPO (Representation of a cylindrical container with a wavy outline)

(Case T-199/22)

(2022/C 222/59)

Language of the case: Italian

Parties

Applicant: Perfetti Van Melle SpA (Lainate, Italy) (represented by: P. Testa and C. Pappalardo, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for EU figurative mark (Representation of a cylindrical container with a wavy outline) — Application for registration No 18 355 641

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 10 February 2022 in Case R 1530/2021-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

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

Action brought on 13 April 2022 — TA Towers v EUIPO — Wobben Properties (Building materials)

(Case T-201/22)

(2022/C 222/60)

Language in which the application was lodged: English

Parties

Applicant: TA Towers ApS (Odense, Denmark) (represented by: L. Andersen, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Wobben Properties GmbH (Aurich, Germany)

Details of the proceedings before EUIPO

Proprietor of the design at issue: Applicant before the General Court

Design at issue: Community design No 6 352 332-0002 (Building materials)

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Third Board of Appeal of EUIPO of 11 February 2022 in Case R 2491/2020-3

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— annul the decision of the Cancellation Division of 20 November 2020 in Case ICD 108 310;

— order EUIPO and the invalidity applicant to pay the costs of the proceedings before the Cancellation Division, the Board of Appeal and the General Court.

Pleas in law

— Infringement of Article 6(1)(b) of Council Regulation (EC) No 6/2002;

— Infringement of Article 8 of Council Regulation (EC) No 6/2002;

— Infringement of Article 62 of Council Regulation (EC) No 6/2002.

Action brought on 13 April 2022 — TA Towers v EUIPO — Wobben Properties (Building materials)

(Case T-202/22)

(2022/C 222/61)

Language in which the application was lodged: English

Parties

Applicant: TA Towers ApS (Odense, Denmark) (represented by: L. Andersen, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Wobben Properties GmbH (Aurich, Germany)

Details of the proceedings before EUIPO

Proprietor of the design at issue: Applicant before the General Court

Design at issue: Community design No 6 352 332-0001 (Building materials)

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Third Board of Appeal of EUIPO of 11 February 2022 in Case R 2493/2020-3

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— annul the decision of the Cancellation Division of 20 November 2020 in Case ICD 108 309;

— order EUIPO and the invalidity applicant to pay the costs of the proceedings before the Cancellation Division, the Board of Appeal and the General Court.

Pleas in law

— Infringement of Article 6 of Council Regulation (EC) No 6/2002;

— Infringement of Article 8 of Council Regulation (EC) No 6/2002;

— Infringement of Article 62 of Council Regulation (EC) No 6/2002.

Action brought on 14 April 2022 — Rimini Street v EUIPO — (OTHER COMPANIES DO SOFTWARE WE DO SUPPORT)

(Case T-204/22)

(2022/C 222/62)

Language of the case: English

Parties

Applicant: Rimini Street, Inc. (Las Vegas, Nevada, United States) (represented by: E. Ratjen, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: International registration designating the European Union in respect of the mark OTHER COMPANIES DO SOFTWARE WE DO SUPPORT — Application for registration No 1 559 651

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 14 February 2022 in Case R 1389/2021-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

— Infringement of Article 7(1)(b) of Council Regulation (EC) 207/2009 in conjunction with Article 7(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 21 April 2022 — Procter & Gamble v EUIPO (Safeguard)

(Case T-210/22)

(2022/C 222/63)

Language of the case: English

Parties

Applicant: The Procter & Gamble Company (Cincinnati, Ohio, United States) (represented by: M. Körner, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for European Union figurative mark Safeguard — Application for registration No 18 457 075

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 21 February 2022 in Case R 1753/2021-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

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

Action brought on 22 April 2022 — Synesis v Council

(Case T-215/22)

(2022/C 222/64)

Language of the case: German

Parties

Applicant: Synesis TAA (Minsk, Belarus) (represented by: G. Lansky and A. Egger, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— pursuant to Article 263 TFEU, annul Council Implementing Decision (CFSP) 2022/307 of 24 February 2022 implementing Decision 2012/642/CFSP concerning restrictive measures against Belarus (OJ 2022 L 46, p. 97) and Council Implementing Regulation (EU) 2022/300 of 24 February 2022 implementing Article 8a(1) of Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus (OJ 2022 L 46, p. 3), in so far as they concern the applicant;

— pursuant to Article 134 of the Rules of Procedure of the General Court, order the Council to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the argument that the contested measures are unlawful in so far as they concern the applicant, the applicant relies on a single plea in law, alleging that the Council committed a manifest error of assessment and in particular infringed its examination obligations. In the applicant's view, the Council failed to provide any concrete evidence to justify the validity of the applicant's inclusion on the list in the contested measures.

Action brought on 22 April 2022 — Shatrov v Council

(Case T-216/22)

(2022/C 222/65)

Language of the case: German

Parties

Applicant: Alexander Evgenevich Shatrov (Minsk, Belarus) (represented by: G. Lansky and A. Egger, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— pursuant to Article 263 TFEU, annul Council Implementing Decision (CFSP) 2022/307 of 24 February 2022 implementing Decision 2012/642/CFSP concerning restrictive measures against Belarus (OJ 2022 L 46, p. 97) and Council Implementing Regulation (EU) 2022/300 of 24 February 2022 implementing Article 8a(1) of Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus (OJ 2022 L 46, p. 3), in so far as they concern the applicant;

— pursuant to Article 134 of the Rules of Procedure of the General Court, order the Council to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the argument that the contested measures are unlawful in so far as they concern the applicant, the applicant relies on a single plea in law, alleging that the Council committed a manifest error of assessment and in particular infringed its examination obligations. In the applicant's view, the Council failed to provide any concrete evidence to justify the validity of the applicant's inclusion on the list in the contested measures.

Order of the General Court of 1 April 2022 — Classen Holz Kontor v EUIPO — Deutsche Steinzeug Cremer & Breuer (DRYTILE)

(Case T-307/21) ([1])

(2022/C 222/66)

Language of the case: German

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

([1]) OJ C 289, 19.7.2021.

Order of the General Court of 1 April 2022 — Classen Holz Kontor v EUIPO — Deutsche Steinzeug Cremer & Breuer (new type tiling DRYTILE)

(Case T-308/21) ([1])

(2022/C 222/67)

Language of the case: German

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

([1]) OJ C 289, 19.7.2021.

Order of the General Court of 31 March 2022 — lastminute foundation v EUIPO — Scai Comunicazione (B Heroes)

(Case T-587/21) ([1])

(2022/C 222/68)

Language of the case: Italian

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

([1]) OJ C 462, 15.11.2021.

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