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(2022/C 303/01)

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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (First Chamber) of 22 June 2022 (request for a preliminary ruling from the Audiencia Provincial — León — Spain) — AB Volvo, DAF TRUCKS NV v RM

(Case C-267/20) [1]

(Reference for a preliminary ruling — Agreements, decisions and concerted practices — Article 101 TFEU — Directive 2014/104/EU — Articles 10, 17 and 22 — Actions for damages for infringements of the provisions of EU competition law — Limitation period — Rebuttable presumption of harm — Quantification of harm suffered — Belated transposition of the directive — Temporal application — Substantive and procedural provisions)

(2022/C 303/02)

Language of the case: Spanish

Referring court

Audiencia Provincial — León

Parties to the main proceedings

Applicants: AB Volvo, DAF TRUCKS NV

Defendant: RM

Operative part of the judgment

Article 10 of Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union must be interpreted as constituting a substantive provision, within the meaning of Article 22(1) of that directive, and as meaning that an action for damages which, although relating to an infringement of competition law which ceased before the entry into force of that directive, was brought after the entry into force of the provisions transposing it into national law falls within its temporal scope, in so far as the time limit for transposition applicable to that action under the old rules did not expire before the time limit for transposition of the same directive.

Article 17(1) of Directive 2014/104 must be interpreted as constituting a procedural provision, within the meaning of Article 22(2) of that directive, and as meaning that an action for damages which, although relating to an infringement of competition law which ceased before the entry into force of that directive, was brought after 26 December 2014 and after the entry into force of the provisions transposing it into national law falls within its temporal scope.

Article 17(2) of Directive 2014/104 must be interpreted as constituting a substantive provision, within the meaning of Article 22(1) of that directive, and as meaning that an action for damages which, although brought after the entry into force of the provisions transposing belatedly that directive into national law, pertains to an infringement of competition law which ceased before the expiry of the time limit for transposing it does not fall within its temporal scope.

[1] OJ C 320, 28.9.2020.

Judgment of the Court (First Chamber) of 22 June 2022 (request for a preliminary ruling from the Bundesarbeitsgericht — Germany) — Leistritz AG v LH

(Case C-534/20) ([1])

(Reference for a preliminary ruling — Protection of natural persons with regard to the processing of personal data — Regulation (EU) 2016/679 — Second sentence of Article 38(3) — Data protection officer — Prohibition of the dismissal, by a controller or processor, of a data protection officer or of the imposition, by a controller or processor, of a penalty on him or her for performing his or her tasks — Legal basis — Article 16 TFEU — Requirement of functional independence — National legislation prohibiting the termination of a data protection officer's employment contract without just cause)

(2022/C 303/03)

Language of the case: German

Referring court

Bundesarbeitsgericht

Parties to the main proceedings

Applicant: Leistritz AG

Defendant: LH

Operative part of the judgment

The second sentence of Article 38(3) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), must be interpreted as not precluding national legislation which provides that a controller or a processor may terminate the employment contract of a data protection officer, who is a member of his or her staff, only with just cause, even if the contractual termination is not related to the performance of that officer's tasks, in so far as such legislation does not undermine the achievement of the objectives of that regulation.

([1]) OJ C 28, 25.1.2021.

Judgment of the Court (First Chamber) of 16 June 2022 (request for a preliminary ruling from the Korkein hallinto-oikeus — Finland) — Proceedings brought by A

(Case C-577/20) ([1])

(Reference for a preliminary ruling — Recognition of professional qualifications — Directive 2005/36/EC — Article 2 — Scope — Article 13(2) — Regulated professions — Conditions for pursuing the profession of psychotherapist in a Member State on the basis of a diploma in psychotherapy issued by a university established in another Member State — Articles 45 and 49 TFEU — Freedom of movement and freedom of establishment — Assessment of the equivalence of the relevant training — Article 4(3) TEU — Principle of sincere cooperation between Member States — Conditions on the basis of which the host Member State may challenge the level of knowledge and qualifications attested to by a diploma issued in another Member State)

(2022/C 303/04)

Language of the case: Finnish

Referring court

Korkein hallinto-oikeus

Parties to the main proceedings

Appellant: A

Intervener: Sosiaali- ja terveysalan lupa- ja valvontavirasto

Operative part of the judgment

1. Article 13(2) of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, as amended by Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013, and Articles 45 and 49 TFEU, must be interpreted as meaning that an application for access to, and for authorisation to pursue, a regulated profession in the host Member State, submitted under Article 13 (2) by a person who holds evidence of formal qualifications relating to that profession issued in a Member State in which that profession is not regulated, but does not satisfy the requirement of having pursued that same profession for the minimum period referred to in Article 13(2), must be assessed by the competent authority of the host Member State in the light of Articles 45 and 49 TFEU.

2. Articles 45 and 49 TFEU, read in conjunction with Article 4(3) TEU, must be interpreted as meaning that the competent authority of the host Member State to which an application has been made for authorisation to pursue a regulated profession in that Member State, is required to regard a diploma issued by the authority of another Member State as bona fide and cannot, in principle, call into question the level of knowledge and qualifications which the applicant may be presumed to have acquired by virtue of that diploma. Only where it has serious doubts founded on specific information forming a consistent body of evidence which suggests that the diploma relied on by the applicant does not reflect the level of knowledge and qualifications which the applicant may be presumed to have acquired, the authority of the host Member State may request the issuing authority to review, in the light of such evidence, the grounds for awarding that diploma, the latter authority being required, if necessary, to withdraw it. That evidence may include, where appropriate, inter alia, information submitted both by persons other than the provider of the training in question and by the authorities of another Member State acting in the course of their duties. Where the issuing authority has reviewed, in the light of that evidence, the grounds for awarding the diploma and has decided not to withdraw it, it is only in exceptional cases, where it is clear from the circumstances that the diploma is not bona fide, that the authority of the host Member State may call into question the grounds for awarding that diploma.

([1]) OJ C 62, 22.2.2021.

Judgment of the Court (Tenth Chamber) of 16 June 2022 (request for a preliminary ruling from the Fővárosi Törvényszék — Hungary) — DuoDecad Kft. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

(Case C-596/20) ([1])

(Reference for a preliminary ruling — Taxation — Common system of value added tax (VAT) — Directive 2006/112/EC — Articles 2, 24 et 43 — Place of supply of services — Technical support services provided to a company established in another Member State — Abuse of rights — Assessment of the facts — Lack of jurisdiction)

(2022/C 303/05)

Language of the case: Hungarian

Referring court

Fővárosi Törvényszék

Parties to the main proceedings

Applicant: DuoDecad Kft.

Defendant: Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága

Operative part of the judgment

The Court of Justice of the European Union has no jurisdiction to answer the questions referred by the Fővárosi Törvényszék (Budapest High Court, Hungary), made by decision of 28 September 2020.

([1]) OJ C 35, 1.2.2021.

Judgment of the Court (Sixth Chamber) of 22 June 2022 — European Commission v Slovak Republic

(Case C-661/20) [1]

(Failure of a Member State to fulfil obligations — Directive 92/43/EEC — Article 6(2) and (3) — Conservation of natural habitats and of wild fauna and flora — Directive 2009/147/EC — Article 4(1) — Conservation of wild birds — Capercaillie (Tetrao urogallus) — Forest management strategies — Emergency felling — Appropriate assessment of their implications — Natura 2000 sites — Special protection areas designated for the conservation of the capercaillie — Absence of measures to prevent the deterioration of habitats and of special conservation measures in certain areas)

(2022/C 303/06)

Language of the case: Slovak

Parties

Applicant: European Commission (represented by: C. Hermes and R. Lindenthal, acting as Agents)

Defendant: Slovak Republic (represented by: B. Ricziová, acting as Agent)

Operative part of the judgment

The Court:

1. Declares:

— by exempting forest maintenance programmes and modifications thereto, emergency felling and measures to prevent threats to forests and to eliminate the consequences of damage caused by natural disasters from the obligation, in the event that they are likely to have a significant effect on Natura 2000 areas, that they be subject to an appropriate assessment of their implications for the relevant areas in view of the conservation objectives of those areas;

— by failing to take appropriate steps for the prevention of the deterioration of the habitats and of significant disturbance in the special protection areas (SPAs) designated for the conservation of the capercaillie (Tetrao urogallus) (SPA Nízke Tatry SKCHVU018, SPA Tatry SKCHVU030, SPA Veľká Fatra SKCHVU033, SPA Muránska planina-Stolica SKCHVU017, SPA Chočské vrchy SKCHVU050, SPA Horná Orava SKCHVU008, SPA Volovské vrchy SKCHVU036, SPA Malá Fatra SKCHVU013, SPA Poľana SKCHVU022, SPA Slovenský Raj SKCHVU053, SPA Levočské vrchy SKCHVU051 and SPA Strážovské vrchy SKCHVU028);

— by failing to adopt the special conservation measures applicable to the habitat of the capercaillie (Tetrao urogallus) in the SPAs designated for its conservation in order to ensure its survival and reproduction in its area of distribution (SPA Nízke Tatry SKCHVU018, SPA Tatry SKCHVU030, SPA Veľká Fatra SKCHVU033, SPA Muránska planina-Stolica SKCHVU017, SPA Volovské vrchy SKCHVU036, SPA Malá Fatra SKCHVU013 and SPA Levočské vrchy SKCHVU051);

the Slovak Republic has failed to fulfil its obligations under Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, read in conjunction with Article 7 thereof, Article 6 (2) of Directive 92/43, read in conjunction with Article 7 thereof, and Article 4(1) of Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds;

2. Orders the Slovak Republic to pay the costs.

[1] OJ C 44, 8.2.2021.

Judgment of the Court (Grand Chamber) of 20 June 2022 (request for a preliminary ruling from the High Court of Justice (England & Wales), Queen's Bench Division (Commercial Court) — United Kingdom) — London Steam-Ship Owners' Mutual Insurance Association Limited v Kingdom of Spain

(Case C-700/20) ([1])

(Reference for a preliminary ruling — Judicial cooperation in civil and commercial matters — Regulation (EC) No 44/2001 — Recognition of a judgment given in another Member State — Grounds for non-recognition — Article 34(3) — Judgment irreconcilable with a judgment given in a dispute between the same parties in the Member State in which recognition is sought — Conditions — Whether the prior judgment entered in the terms of an arbitral award complies with the provisions and fundamental objectives of Regulation (EC) No 44/2001 — Article 34(1) — Recognition manifestly contrary to public policy in the Member State in which recognition is sought — Conditions)

(2022/C 303/07)

Language of the case: English

Referring court

High Court of Justice (England & Wales), Queen's Bench Division (Commercial Court)

Parties to the main proceedings

Applicant: London Steam-Ship Owners' Mutual Insurance Association Limited

Defendant: Kingdom of Spain

Operative part of the judgment

1. Article 34(3) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that a judgment entered by a court of a Member State in the terms of an arbitral award does not constitute a 'judgment', within the meaning of that provision, where a judicial decision resulting in an outcome equivalent to the outcome of that award could not have been adopted by a court of that Member State without infringing the provisions and the fundamental objectives of that regulation, in particular as regards the relative effect of an arbitration clause included in the insurance contract in question and the rules on lis pendens contained in Article 27 of that regulation, and that, in that situation, the judgment in question cannot prevent, in that Member State, the recognition of a judgment given by a court in another Member State;

2. Article 34(1) of Regulation No 44/2001 must be interpreted as meaning that, in the event that Article 34(3) of that regulation does not apply to a judgment entered in the terms of an arbitral award, the recognition or enforcement of a judgment from another Member State cannot be refused as being contrary to public policy on the ground that it would disregard the force of res judicata acquired by the judgment entered in the terms of an arbitral award.

([1]) OJ C 110, 29.3.2021.

Judgment of the Court (Fourth Chamber) of 16 June 2022 — SGL Carbon SE (C-65/21 P), Química del Nalón SA, formerly Industrial Química del Nalón SA (C-73/21 P), Deza a.s. (C-74/21 P), Bilbaína de Alquitranes SA (C-75/21 P) v European Commission, Kingdom of Spain, European Chemicals Agency (ECHA)

(Joined Cases C-65/21 P and C-73/21 P to C-75/21 P) [1]

(Appeals — Environment — Regulation (EC) No 1272/2008 — Classification, labelling and packaging of certain substances and mixtures — Regulation (EU) No 944/2013 — Classification of pitch, coal tar, high-temp as an Aquatic Acute 1 (H400) toxic substance and as an Aquatic Chronic 1 (H410) toxic substance — Annulment — Actions for damages)

(2022/C 303/08)

Language of the case: English

Parties

Appellants: SGL Carbon SE (C-65/21 P), Química del Nalón SA, formerly Industrial Química del Nalón SA (C-73/21 P), Deza a.s. (C-74/21 P), Bilbaína de Alquitranes SA (C-75/21 P) (represented by: M. Grunchard, P. Sellar and K. Van Maldegem, avocats)

Other parties to the proceedings: European Commission (represented by: A. Dawes, R. Lindenthal and K. Talabér-Ritz, acting as Agents), Kingdom of Spain (represented by: L. Aguilera Ruiz and M.J. Ruiz Sánchez, acting as Agents), European Chemicals Agency (ECHA) (represented by: W. Broere, M. Heikkilä and S. Mahoney, acting as Agents)

Operative part of the judgment

The Court:

1. Dismisses the appeals;

2. Orders SGL Carbon SE, Química del Nalón SA, Deza a.s. and Bilbaína de Alquitranes SA to bear their own costs and to pay those incurred by the European Commission;

3. Orders the Kingdom of Spain and the European Chemicals Agency (ECHA) to bear their own costs.

[1] OJ C 128, 12.4.2021.

Judgment of the Court (Fifth Chamber) of 16 June 2022 (request for a preliminary ruling from the Cour d'appel de Bruxelles — Belgium) — Port de Bruxelles, Région de Bruxelles-Capitale v Infrabel SA

(Case C-229/21) [1]

(Reference for a preliminary ruling — Trans-European transport network — Regulation (EU) No 1315/2013 — Article 15(1) — Inland waterways transport infrastructures — Inland ports — Obligation of a Member State to connect inland ports with road or rail transport infrastructures — Removal of the connection with one of those two types of transport infrastructure — Conditions)

(2022/C 303/09)

Language of the case: French

Referring court

Cour d'appel de Bruxelles

Parties to the main proceedings

Appellants: Port de Bruxelles, Région de Bruxelles-Capitale

Respondent: Infrabel SA

Interveners: FIF-FSI (Fonds d'Infrastructure Ferroviaire) SA, État belge, Région de Bruxelles-Capitale, Port de Bruxelles SA, Lineas SA

Operative part of the judgment

Article 15(1) of Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU, must be interpreted as meaning that, where an inland port which forms part of the comprehensive network, within the meaning of Article 6(1) and (2) of that regulation, has connections to both road and rail transport infrastructures, it precludes the removal of one of those two types of connection, save in exceptional circumstances. The failure to maintain the connection in question as a result of non-compliance with that provision, or the economic exploitation of the land occupied by those infrastructures, do not constitute such circumstances.

(1) OJ C 217, 7.6.2021.

Judgment of the Court (Eighth Chamber) of 16 June 2022 (request for a preliminary ruling from the Varhoven administrativen sad — Bulgaria) — Zamestnik-ministar na regionalnoto razvitie i blagoustroystvoto i rakovoditel na Upravlyavashtia organ na Operativna programa 'Regioni v rastezh' 2014-2020 v Obshtina Razlog

(Case C-376/21) (1)

(Reference for a preliminary ruling — Public procurement — Regulation (EU, Euratom) 2018/1046 — Regulation (EU, Euratom) No 966/2012 — Inapplicability to public contracts awarded by Member States and financed by resources from the European Structural and Investment Funds — Directive 2014/24/EU — Direct and unconditional reference to provisions of EU law in national legislation — Applicability to a contract whose estimated value is lower than the threshold set in the directive — Article 32(2)(a) — Option for a contracting authority to invite only one economic operator to participate in a negotiated procedure without prior publication after deeming a prior open procedure unsuccessful — Obligation to maintain the initial conditions of the contract without introducing substantial alterations)

(2022/C 303/10)

Language of the case: Bulgarian

Referring court

Varhoven administrativen sad

Parties to the main proceedings

Applicant: Zamestnik-ministar na regionalnoto razvitie i blagoustroystvoto i rakovoditel na Upravlyavashtia organ na Operativna programa 'Regioni v rastezh' 2014-2020

Defendant: Obshtina Razlog

Operative part of the judgment

1. Article 160(1) and (2) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012, as well as Article 102(1) and (2) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002, as amended by Regulation (EU, Euratom) 2015/1929 of the European Parliament and of the Council of 28 October 2015, must be interpreted as not applying to procedures for the award of public contracts organised by contracting authorities of the Member States, even where those contracts are financed by resources from the European Structural and Investment Funds.

2. Article 32(2)(a) of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, as amended by Commission Delegated Regulation (EU) 2015/2170 of 24 November 2015, read in conjunction with Article 18(1) of that directive, as amended by Delegated Regulation 2015/2170, must be interpreted as meaning that a contracting authority may, in a negotiated procedure without prior publication, approach a single economic operator where that procedure reproduces, without substantial alteration, the initial conditions of the contract that were mentioned in a prior open procedure which was discontinued on the ground that the only tender submitted was unsuitable, even if the subject matter of the contract in question does not have special characteristics which objectively justify its performance being entrusted exclusively to that economic operator.

(1) OJ C 391, 27.9.2021.

Order of the Court (Ninth Chamber) of 28 June 2022 (request for a preliminary ruling from the Supremo Tribunal Administrativo — Portugal) — OF v Instituto de Financiamento da Agricultura e Pescas IP (IFAP)

(Case C-728/21) (1)

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Regulation (EC, Euratom) No 2988/95 — Protection of the European Union's financial interests — Irregularities with regard to EU law — Proceedings — Limitation period — Interruption — Act relating to investigation or legal proceedings concerning an irregularity — Concept — Control report identifying the existence of an irregularity)

(2022/C 303/11)

Language of the case: Portuguese

Referring court

Supremo Tribunal Administrativo

Parties to the main proceedings

Applicant: OF

Defendant: Instituto de Financiamento da Agricultura e Pescas IP (IFAP)

Operative part of the order

The third subparagraph of Article 3(1) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests must be interpreted as meaning that an on-the-spot check report, which merely reveals the existence of an irregularity and does not mention any intention to investigate or institute legal proceedings in respect of that irregularity, can nevertheless be considered to be an 'act relating to investigation or legal proceedings', within the meaning of that provision, such as to interrupt the limitation period of the proceedings, referred to in the first subparagraph of Article 3(1) of that regulation, if it sets out with sufficient precision the transactions to which the suspicions of irregularities relate.

(1) Date lodged: 30.11.2021.

Appeal brought on 3 January 2022 by Equinoccio-Compañía de Comercio Exterior, SL against the order of the General Court (First Chamber) delivered on 22 October 2021 in Case T-22/21, Equinoccio-Compañía de Comercio Exterior v Commission

(Case C-3/22 P)

(2022/C 303/12)

Language of the case: English

Parties

Appellant: Equinoccio-Compañía de Comercio Exterior, SL (represented by: D. Luff, avocat, and by R. Sciaudone, avvocato)

Other party to the proceedings: European Commission

By order of 27 June 2022, the Court of Justice (Eighth Chamber) held that the appeal is dismissed as manifestly unfounded and that Equinoccio-Compañía de Comercio Exterior SL shall bear its own costs.

Appeal brought on 2 March 2022 by Legero Schuhfabrik GmbH against the order of the General Court (Ninth Chamber) delivered on 15 December 2021 in Case T-683/20, Legero Schuhfabrik GmbH v European Union Intellectual Property Office

(Case C-153/22 P)

(2022/C 303/13)

Language of the case: German

Parties

Appellant: Legero Schuhfabrik GmbH (represented by: M. Gail, Rechtsanwalt)

Other parties to the proceedings: European Union Intellectual Property Office, Rieker Schuh AG

By order of 22 June 2022, the Court of Justice of the European Union (Chamber determining whether appeals may proceed) refused to allow the appeal to proceed and ordered the appellant to bear its own costs.

Appeal brought on 2 March 2022 by Legero Schuhfabrik GmbH against the order of the General Court (Ninth Chamber) delivered on 15 December 2021 in Case T-682/20, Legero Schuhfabrik GmbH v European Union Intellectual Property Office

(Case C-154/22 P)

(2022/C 303/14)

Language of the case: German

Parties

Appellant: Legero Schuhfabrik GmbH (represented by: M. Gail, lawyer)

Other parties to the proceedings: European Union Intellectual Property Office, Rieker Schuh AG

By order of 22 June 2022, the Court of Justice of the European Union (Chamber determining whether appeals may proceed) did not allow the appeal to proceed and ordered the appellant to bear its own costs.

Request for a preliminary ruling from the Curtea de Apel Târgu Mureș (Romania) lodged on 8 April 2022 — Societatea Civilă Profesională de Avocați AB & CD v Consiliul Județean Suceava and Others

(Case C-252/22)

(2022/C 303/15)

Language of the case: Romanian

Referring court

Curtea de Apel Târgu Mureș

Parties to the main proceedings

Applicant in the proceedings at first instance: Societatea Civilă Profesională de Avocați AB & CD

Defendants in the proceedings at first instance: Consiliul Județean Suceava, Președintele Consiliului Județean Suceava, Agenția pentru Protecția mediului Bacău and Consiliul Local al Comunei Pojorâta

Intervener: QP

Questions referred

1. Are [the first paragraph of Article 47 of the Charter], read in conjunction with [the second subparagraph of Article 19(1) TEU], and Article 2(4) of the Convention on access to information, public participation in decision-making and access to justice in environmental matters, signed in Aarhus, Denmark, on 25 June 1998, and approved on behalf of the European Community by Council Decision 2005/370/EC of 17 February 2005 ([1]) [('the Convention')], read in conjunction with Article 9(3) thereof, to be interpreted as meaning that the concept of 'the public' includes a legal entity such as a law firm partnership, which does not rely on the infringement of any right or interest specific to that entity, but rather the infringement of the rights and interests of natural persons — namely the lawyers of which that partnership is comprised — [and] can such an entity be treated as a group of natural persons acting through an association or organisation for the purposes of Article 2(4) of the Convention?

2. If the first question is answered in the affirmative, having regard [both] to the objectives of Article 9(3) of the Convention and to the objective of effective judicial protection of the rights conferred by EU law, must Article 9(3) of the Convention and [the first and second paragraphs of Article 47 of the Charter], read in conjunction with [the second subparagraph of Article 19(1) TEU], be interpreted as precluding a provision of national law that makes access to justice for such a law firm partnership conditional on proof of an interest of its own or on the fact that, by bringing the action, it seeks to protect a legal situation directly connected with the specific purpose for which that type of organisation (in this case, a law firm partnership) was established?

3. If the first and second questions are answered in the affirmative, or regardless of the answers to those two questions as set out above, must Article 9(3), (4) [and] (5) of the Convention and [the first and second paragraphs of Article 47 of the Charter], read in conjunction with [the second subparagraph of Article 19(1) TEU], be interpreted as meaning that the expression that adequate and effective remedies, including the adoption of a judicial decision, should not be 'prohibitively expensive', presupposes rules and/or criteria to limit the costs that may be incurred by the unsuccessful party to the proceedings, in the sense that a national court or tribunal must ensure that the requirement that the cost not be prohibitively expensive is met, taking into account [both] the interest of the person who wishes to defend his or her rights and the public interest in the protection of the environment?

([1]) Council Decision of 17 February 2005 on the conclusion, on behalf of the European Community, of the Convention on access to information, public participation in decision-making and access to justice in environmental matters (OJ 2005 L 124, p. 1).

Request for a preliminary ruling from the Curtea de Apel București (Romania) lodged on 20 April 2022 — CRRC Qingdao Sifang CO LTD and Astra Vagoane Călători SA v Autoritatea pentru Reformă Feroviară and Alstom Ferroviaria SpA

(Case C-266/22)

(2022/C 303/16)

Language of the case: Romanian

Referring court

Curtea de Apel București

Parties to the main proceedings

Applicants: CRRC Qingdao Sifang CO LTD and Astra Vagoane Călători SA

Defendants: Autoritatea pentru Reformă Feroviară and Alstom Ferroviaria SpA

Questions referred

1. Do the principles of certainty in legal relations and the protection of legitimate expectations preclude a piece of national legislation which transposed Article 25 of Directive 2014/24/EU on public procurement ([1]) as from 5 April 2021, and which provided that economic operators who do not fall within the scope of those provisions of EU law may continue to participate in public procurement procedures only if they have submitted tenders before the date on which that legislative amendment entered into force?

2. Do the principles of equal treatment, transparency and proportionality laid down in Article 18(1) of Directive 2014/24/EU on public procurement, in conjunction with Article 2(1)(13) and Article 49 thereof, preclude the exclusion of a tenderer on the basis of a legislative act having the force of law adopted by the government of a Member State which lays down a new rule amending the definition of 'economic operator' after publication of the contract notice relating to a contract award procedure in which that person is participating?

([1]) Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ 2014 L 94, p. 65).

Request for a preliminary ruling from the Spetsializiran nakazatelen sad (Bulgaria) lodged on 21 April 2022 — Criminal proceedings against IP, DD, ZI, SS and HYa

(Case C-269/22)

(2022/C 303/17)

Language of the case: Bulgarian

Referring court

Spetsializiran nakazatelen sad

Accused persons

IP, DD, ZI, SS and HYa

Question referred

Do the second paragraph of Article 47 of the Charter, which establishes the requirement of a fair trial, and Article 48(1) of the Charter, which establishes the presumption of innocence, preclude a request for a preliminary ruling under Article 267 TFEU in which certain acts of the accused persons are presumed to be established, where, before submitting the request for a preliminary ruling, the referring court respected all the procedural safeguards required for a decision on the merits?

Request for a preliminary ruling from the Okresný súd Prešov (Slovakia) lodged on 26 April 2022 — DZ, EO, YV, YE, MP v Ministerstvo vnútra Slovenskej republiky

(Case C-283/22)

(2022/C 303/18)

Language of the case: Slovak

Referring court

Okresný súd Prešov

Parties to the main proceedings

Applicants: DZ, EO, YV, YE, MP

Defendant: Ministerstvo vnútra Slovenskej republiky

Questions referred

1. Must Article 3(g) of Regulation (EC) No 785/2004 ([1]) of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators be interpreted as meaning that a person

   — who is not on board a helicopter of a [Union] air carrier, but who is suspended from a hoist cable as an integral piece of equipment (or component) of the helicopter while the helicopter is in flight and who was lifted along with the ascent of the helicopter (as a result of being suspended from the hoist cable);

   — who was transported as part of a free transport operation provided by the State (a State helicopter used in police services) as a carrier under a 'carriage contract' between the air carrier (State) and the employer of the person performing a special task (namely, on the basis of an uznesenie vlády Slovenskej republiky č. 411/2006 Z.z., of 10. mája 2006 k návrhu zásad vykonávania letov lietadiel v policajných službách (Decree No 411/2006 of the Government of the Slovak Republic of 10 May 2006 on the proposed arrangements for the implementation of air flights in police services) and the nariade Ministerstva vnútra Slovenskej republiky č. 50/2012 zo dňa 14 March 2012 o vyžadovaní a schvaľovaní letov (Decree No 50/2012 of the Ministry of the Interior of the Slovak Republic of 14 March 2012 on the need for flights and their approval), which provided that the aircraft of the air carrier would perform flights in order to ensure the performance of the tasks of the employer of the person concerned];

   — the purpose of the carriage was to perform a special task such as that at issue in the main proceedings {performance of a service task consisting in the specialised training of officers of the Hasičský a záchranný zbor (fire-fighting and rescue unit) using aerial equipment (helicopter) in the form of a crane hoisting exercise for rescuer and [rescued]},

   and

   — who was participating in a task as a trainee member of a firefighting module attached to the helicopter by means of a hoist cable as an integral piece of equipment (or component) of the helicopter on the instructions of the helicopter's pilot and operator, and was to be hoisted aboard the helicopter during the flight,

   (a) is a passenger

   or

   (b) a member of the flight crew or cabin crew?

2. Must Article 17(1) of the Convention for the Unification of Certain Rules for International Carriage by Air, concluded at Montreal on 28 May 1999, signed by the European Community on 9 December 1999 pursuant to Article 300(2) EC and approved on its behalf by Council Decision 2001/539/EC ([2]) of 5 April 2001, be interpreted as meaning that, in the circumstances set out in the first question, such person is deemed to be:

   (a) a passenger

   or

   (b) a member of the flight crew or a member of the cabin crew?

3. Can the use of the State helicopter on 10 May 2017 be regarded as carriage within the meaning of Article 2(1) [and] Article 1 of the Convention for the Unification of Certain Rules for International Carriage by Air, concluded at Montreal on 28 May 1999, signed by the European Community on 9 December 1999 pursuant to Article 300(2) EC and approved on its behalf by Council Decision 2001/539/EC of 5 April 2001?

(1) OJ 2004 L 138, p. 1, Special edition in Slovak: Chapter 07 Volume 008 P. 160.
(2) 2001/539/EC: Council Decision of 5 April 2001 on the conclusion by the European Community of the Convention for the Unification of Certain Rules for International Carriage by Air (the Montreal Convention) (OJ 2001 L 194, p. 38, Special edition in Slovak: Chapter 07 Volume 005 P. 491).

Request for a preliminary ruling from the Hof van Cassatie (Belgium) lodged on 28 April 2022 — KBC Verzekeringen NV v P&V Verzekeringen CVBA

(Case C-286/22)

(2022/C 303/19)

Language of the case: Dutch

Referring court

Hof van Cassatie

Parties to the main proceedings

Appellant: KBC Verzekeringen NV

Respondent: P&V Verzekeringen CVBA

Question referred

Is Article 1(1) of Directive 2009/103/EC (1) 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, as amended by Directive (EU) 2021/2118 (2) of the European Parliament and of the Council of 24 November 2021, which defines 'vehicle' as 'any motor vehicle intended for travel on land and propelled by mechanical power, but not running on rails, and any trailer, whether or not coupled', must be interpreted as meaning that an electric bicycle (Speed-Pedelec) whose engine provides pedal assistance only, so that the bicycle does not move autonomously, without muscular power, but only by means of engine and muscular power, and an electric bicycle which is equipped with a boost function, whereby the bicycle accelerates to a speed of 20 km/h when the boost button is pressed without pedalling, yet muscular power is required in order to be able to use the boost function, are not vehicles within the meaning of that directive?

(1) OJ 2009 L 263, p. 11.
(2) Directive (EU) 2021/2118 of the European Parliament and of the Council of 24 November 2021 amending Directive 2009/103/EC 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 (OJ 2021 L 430, p. 1).

Request for a preliminary ruling from the Varhoven administrativen sad (Bulgaria) lodged on 11 May 2022 — 'Consortium Remi Group' AD v Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' Varna pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite

(Case C-314/22)

(2022/C 303/20)

Language of the case: Bulgarian

Referring court

Varhoven administrativen sad

Parties to the main proceedings

Appellant in cassation: 'Consortium Remi Group' AD

Respondent in cassation: Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' Varna pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite

Questions referred

1. In the event of a derogation in accordance with Article 90(2) of the VAT Directive, ([1]) do the principle of neutrality and Article 90 of that directive allow a provision of national law such as the second sentence of Article 129(1) of the Danachno-osiguritelen protsesualen kodeks (Tax and Social Security Procedure Code), which provides for a limitation period for the submission of an application for a set-off or refund of the tax charged by the taxable entity in respect of the supply of goods or services in the event of total or partial non-payment by the recipient of the supply?

2. Irrespective of the answer to the first question, in the circumstances of the main proceedings, is it a necessary condition for the recognition of the right to a reduction in the taxable amount under Article 90(1) of the VAT Directive that the taxable entity corrects the invoice which it has issued, as regards the VAT charged, on account of total or partial non-payment by the recipient of the price of the supply under the invoice, before submitting the application for a refund?

3. Depending on the answers to the first two questions: How must Article 90(1) of the VAT Directive be interpreted when determining the time at which the ground for a reduction of the taxable amount arises in the event of total or partial non-payment of the price where there is no national provision in place on account of a derogation from Article 90(1)?

4. How must the reasoning in the judgments of 27 November 2017, *Enzo Di Maura* (C-246/16, EU:C:2017:887, paragraphs 21 to 27), ([2]) and of 3 July 2019, *UniCredit Leasing* (C-242/18, EU:C:2019:558, paragraphs 62 and 65) ([3]) be applied if Bulgarian law does not contain any specific conditions for the application of the derogation under Article 90 (2) of the VAT Directive?

5. Are the principle of neutrality and Article 90 of the VAT Directive consistent with a tax and insurance practice under which, in the event of non-payment, no correction of the tax charged is permitted until the recipient of the supplies or services — provided that the recipient is a taxable entity — has been notified of the cancellation of the tax, so that the deduction initially made by the recipient is corrected?

6. Does the interpretation of Article 90(1) of the directive permit the assumption that a possible right to a reduction of the taxable amount in the event of total or partial non-payment gives rise to a right to a refund of the VAT paid by the supplier, plus interest for late payment, and from what point in time?

([1]) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).
([2]) OJ 2018 C 22, p. 9.
([3]) OJ 2019 C 305, p. 18.

Request for a preliminary ruling from the Administrativen sad — Varna (Bulgaria) lodged on 13 May 2022 — TS, HI v Ministar na zemedelieto, hranite i gorite

(Case C-325/22)

(2022/C 303/21)

Language of the case: Bulgarian

Referring court

Administrativen sad — Varna

Parties to the main proceedings

Applicants: TS, HI

Defendant: Ministar na zemedelieto, hranite i gorite

Questions referred

1. Is a beneficiary of unlawfully granted State aid under a swap contract by which it acquired land in a forest area (owned by the State under private law) excluded from the definition of the term 'undertaking' where, as evidenced by its annual balance sheets, it carries out an economic activity by offering goods and services on the market concerned, but, in accordance with recital 127 of (Commission Decision [1] [EU] 2015/456 of 5 September 2014 on the aid scheme No SA.26212 [11/C] [ex 11/NN — ex CP 176/A/08] and SA.26217 [11/C] [ex 11/NN — ex CP 176/B/08], which applies to swaps of forest land in Bulgaria [notified under document C(2014) 6207]), does not directly or indirectly carry out economic activities with the land acquired by way of the swap, because national law provides for an objective prohibition preventing the beneficiary from changing the designated use of the land and from carrying out construction on the land removed from the forest stock or from selling that land?

2. Must the provision of Article 107 TFEU be interpreted and applied in such a manner that, with regard to the status of 'undertaking' and in the application of the criteria for an 'undertaking', and having regard to the data collected in relation to the completed first stage of the administrative procedure for prior consent, the investment project as applied for and factually described of the beneficiary of unlawfully obtained State aid, which is to be realised on State-owned forest land acquired by means of a swap and which is a prerequisite for the initiation of a subsequent procedure concerning the removal from the forest stock of the land acquired for the purpose of the construction, must be taken into account as a legally relevant circumstance, irrespective of the fact that it has become objectively impossible for the investment project to be realised due to the moratorium imposed by parliament and the subsequently adopted statutory provision containing an express prohibition preventing a change of the designated use of the land acquired from the State and preventing construction on that land?

3. Must Article 107 TFEU and Article 16(3) of Council Regulation (EU) 2015/1589 [2] be interpreted as precluding, for the purposes of determining the amount of State aid received by way of a swap of forest land (owned by the State under private law), national legislation such as the provisions of points 2 and 4 of Paragraph 1a (Supplementary Provisions) of the Zakon za darzhavnata sobstvenost (Law on State ownership) which prevents the establishment of a market price for the land due to the fact that it sets market indicators and valuation criteria for the calculation which result in a deviation from the actual value of the land, and, in that sense, does such national legislation infringe the principle of effectiveness?

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[1] Commission Decision (EU) 2015/456 of 5 September 2014 on the aid scheme No SA.26212 (11/C) (ex 11/NN — ex CP 176/A/08) and SA.26217 (11/C) (ex 11/NN — ex CP 176/B/08) implemented by the Republic of Bulgaria in the context of swaps of forest land (notified under document C(2014) 6207) (OJ 2015 L 80, p. 100).

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

Request for a preliminary ruling from the Corte suprema di cassazione (Italy) lodged on 25 May 2022 — Feudi di San Gregorio Aziende Agricole SpA v Agenzia delle Entrate

(Case C-341/22)

(2022/C 303/22)

Language of the case: Italian

Referring court

Corte suprema di cassazione

Parties to the main proceedings

Appellant: Feudi di San Gregorio Aziende Agricole SpA

Respondent: Agenzia delle Entrate

Questions referred

1. Is Article 9(1) of Directive 2006/112 [1] to be interpreted as meaning that the status of taxable person, and consequently the right to deduct input VAT paid or to be reimbursed input VAT paid, may be refused where, in three consecutive years, the relevant transactions for VAT purposes carried out are of a value which is not deemed commensurate — in that it is too low — with what may, according to criteria pre-determined by law, reasonably be expected from the available assets and the person or entity concerned is unable to demonstrate, as justification for that fact, the existence of objective circumstances which have caused that result?

2. In the event that the first question is answered in the negative, do Article 167 of Directive 2006/112, the general principle of VAT neutrality and the general principle that any restriction of the right to deduct VAT must be proportional preclude a provision of national law such as Article 30(4) of Law No 724 of 1994, under which the right to deduct input VAT paid on purchases or to be reimbursed such VAT or to use such VAT in a subsequent tax period may be refused where, in three consecutive tax periods, the relevant transactions for VAT purposes carried out are of a value which is not deemed commensurate — in that it is too low — with what may, according to criteria pre-determined by law, reasonably be expected from the available assets for three consecutive years and the taxable person concerned is unable to demonstrate, as justification for that fact, the existence of objective circumstances which have caused that result?

3. In the event that the second question is answered in the negative, do the EU-law principles of legal certainty and of the protection of legitimate expectations preclude a provision of national law such as Article 30(4) of Law No 724 of 1994, under which the right to deduct input VAT paid on purchases or to be reimbursed such VAT or to use such VAT in a subsequent tax period may be refused where, in three consecutive tax periods, the relevant transactions for VAT purposes carried out are of a value which is not deemed commensurate — in that it is too low — with what may, according to criteria pre-determined by law, reasonably be expected from the available assets for three consecutive years and the taxable person concerned is unable to demonstrate, as justification for that fact, the existence of objective circumstances which have caused that result?

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

Reference for a preliminary ruling from High Court (Ireland) made on 3 June 2022 — AHY v The Minister for Justice

(Case C-359/22)

(2022/C 303/23)

Language of the case: English

Referring court

High Court (Ireland)

Parties to the main proceedings

Applicant: AHY

Respondent: The Minister for Justice

Questions referred

1) Does the right to an effective remedy, in the form of an appeal or review, in fact and in law, against a 'transfer decision' pursuant to the provisions of Articles 27(1) of Regulation (EU) 604/2013 (1) of the European Parliament and of the Council of 26th June 2013 (the 'Dublin III Regulation') encompass the right to such an effective remedy against a decision made by the Member State under Article 17(1) of the Dublin III Regulation as to the exercise of its discretion under Article 17(1) as to whether it should examine the international protection application lodged with it by a third-country national or a stateless person even if such examination is not its responsibility under the criteria laid down in the Dublin III Regulation?

2) If the answer to question 1 is 'yes':

   (a) Does it follow that a requesting Member State is precluded from implementing a transfer decision pending the determination of an applicant's request for the exercise of discretion under Article 17(1) of the Dublin III Regulation?

   (b) Do the provisions of Article 27(3), which require Member States to provide in their national law for one of three forms of suspensive effect for the purposes of appeals against or reviews of transfer decisions, include a challenge to a decision under Article 17(1) refusing to exercise the option of assuming responsibility for an international protection application ('an article 17 refusal decision')?

(c) where no specific national law provides for one of the three forms of suspensive effect in Article 27(3) in the event of a challenge to an article 17 refusal decision, are the Courts on such a challenge obliged to grant suspensive effect in one of those three forms in its national law and, if so, which one?

(d) Must each and all of the suspensive remedies under Article 27(3) be interpreted to operate as a stay on the time limit for the implementation of a transfer decision under Article 29(1) of the Dublin III Regulation?

3) If the answer to question 1 is 'no':

(a) does the right to an effective remedy under Article 47 of the Charter of Fundamental Rights of the European Union preclude a requesting Member State from implementing a transfer decision pending the determination of an applicant's request for the exercise of discretion under Article 17(1) of the Dublin III Regulation?

(b) does the right to an effective remedy under Article 47 of the Charter of Fundamental Rights of the European Union preclude a requesting Member State from implementing a transfer decision pending the determination of a challenge by way of judicial review brought under the provisions of national law to an article 17 refusal decision?

(c) Alternatively, does a challenge by way of judicial review brought under the provisions of national law to an article 17 refusal decision operate as a stay on the time limit for the implementation of a transfer decision under Article 29(1) of the Dublin III Regulation or otherwise have suspensive effect on the transfer decision

(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 6 June 2022 by Planistat Europe and Mr Hervé-Patrick Charlot against the judgment of the General Court (Sixth Chamber) delivered on 6 April 2022 in Case T-735/20, Planistat Europe and Charlot v Commission

(Case C-363/22 P)

(2022/C 303/24)

Language of the case: French

Parties

Appellants: Planistat Europe, Mr Hervé-Patrick Charlot (represented by: F. Martin Laprade, avocat)

Other party to the proceedings: European Commission

Form of order sought

The appellants claim that the Court of Justice should:

— Confirm the judgment of the General Court in that it declared admissible in part the action with regard to the compensation for the damage suffered by the appellants as a result of making false accusations;

— Annul the judgment of the General Court in that it found the action of the appellants in part time-barred and in that it dismissed the action for non-contractual liability as a result;

— Find that the Commission incurred non-contractual liability;

— Order the Commission to pay the amount of EUR 150 000 for the non-material damage suffered by Mr Hervé-Patrick Charlot;

— Order the Commission to pay the amount of EUR 11 600 000 for the non-material damage suffered by the appellants;

— Order the Commission to recognise publicly its error so that the image and reputation of the appellants is restored;

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

Pleas in law and main arguments

In support of their appeal, the appellants rely on three grounds.

The first ground alleges an error of law committed by the General Court that misconstrued the event giving rise to the damage relied upon by the appellants, while failing to mention the fact that the non-material damage resulted also from the media coverage of the complaints brought before the criminal authorities, and stating that the material damage resulted exclusively from the termination of the contracts concluded with the Commission.

That error led the General Court to infer, mistakenly, that the claims brought by the appellants were in part time-barred.

The General Court also failed to apply correctly the rule of law concerning the procedure for calculating the limitation period.

The second ground also alleges that the General Court erred in law in the assessment of the unlawfulness of the defamatory behaviour. The first part of that ground alleges infringement of the fundamental principle of the right to respect for private life; the second part alleges infringement of the right to sound administration.

The third and final ground alleges an error of law on the part of the General Court as regards assessing the fact of damage and the existence of a causal link.

Appeal brought on 7 June 2022 by Air Canada against the judgment of the General Court (Fourth Chamber, Extended Composition) delivered on 30 March 2022 in Case T-326/17, Air Canada v Commission

(Case C-367/22 P)

(2022/C 303/25)

Language of the case: English

Parties

Appellant: Air Canada (represented by: T. Soames, avocat, and I.-Z. Prodromou-Stamoudi, dikigoros)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal;

— annul the Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case AT.39258 — Airfreight) (the 'Decision') or, in the alternative, any one or more of Art. 1(1)(a), 1(2)(a), 1(3)(a) and 1(4)(a);

— annul Art. 3 or, in the alternative, reduce substantially the amount of the fine imposed on Air Canada;

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

— order the Commission to pay the appellant's costs before the Court and the remaining two thirds of the costs before the General Court.

Pleas in law and main arguments

In support of the Appeal, the appellant relies on three pleas in law:

By the first ground of appeal, which is divided in two parts the appellant claims that the General Court erred in law in its assessment of the Commission's jurisdiction to find and penalise an infringement of Art. 101 TFEU and Art. 53 EEA on inbound routes.

The General Court committed a manifest error of law by finding that Art. 101(1) TFEU can be applied to conduct involving price coordination outside the EU based on the qualified effects test alone without it being necessary to assess whether the conduct has the object or effect of restricting or distorting competition in the internal market.

The General Court committed manifest errors of law in reviewing the Decision's assessment of the effects of coordination in relation to inbound freight services in so far as it: (i) misapplied and confused the relevant case-law concerning the assessment of anticompetitive effects stemming from by object infringements of competition law in the context of asserting jurisdiction to apply Art. 101 TFEU and Art. 53 EEA; (ii) held that the Commission satisfied the qualified effects test when it failed to discharge its obligation to assess properly or at all the evidentiary proof necessary to establish jurisdiction on inbound routes to satisfy the test in its Decision; (iii) erred in reversing the applicable burden of proof and taking issues with Air Canada's alleged failure to disprove the existence of effects the Decision never even established; (iv) substituted its own reasoning for that of the Commission on how and why the qualified effects test is supposedly satisfied; (v) infringed Air Canada's rights of defence by assessing the Decision's legality pursuant to arguments, interpretation and analysis made for the first time during the annulment proceedings; (vi) misapplied and confused the relevant case-law concerning the single and continuous infringement; and (vii) failed to review properly the Decision's assessment of the effects of the single and continuous infringement taken as a whole.

By the second ground of appeal, the appellant alleges manifest errors of law in the General Court's assessment of Air Canada's liability on routes it never operated or which it could not legally have operated to the extent that it: (i) substituted the Commission's reasoning in the Decision for its own and, by so doing, adopted a position contrary to the actual wording of the Decision itself; (ii) infringed Air Canada's rights of defence by relying on arguments, interpretation and analysis never put to Air Canada during the administrative procedure; (iii) failed to state sufficiently clear and unequivocal reasons as to why it reached its final conclusions; and (iv) relied on case-law not on point and, in any event, applied this wrongly.

By the third ground of appeal, the appellant alleges manifest errors of law in the General Court's failure to assess on its own motion the Commission's lack of temporal competence to fine Air Canada after expiration of the limitation period.

Request for a preliminary ruling from the Vestre Landsret (Denmark) lodged on 8 June 2022 — Skatteministeriet v Danish Fluid System Technologies A/S

(Case C-368/22)

(2022/C 303/26)

Language of the case: Danish

Referring court

Vestre Landsret

Parties to the main proceedings

Applicant: Skatteministeriet

Defendant: Danish Fluid System Technologies A/S

Question referred

Is subheading 7307 22 10 of the Combined Nomenclature of the Common Customs Tariff, as amended by Annex I to Commission Regulation (EU) No 861/2010 ([1]) of 5 October 2010 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff, to be interpreted as covering articles such as those at issue in the main proceedings?

([1]) OJ 2010 L 284, p. 1.

Appeal brought on 8 June 2022 by Air France SA against the judgment of the General Court (Fourth Chamber, Extended Composition) delivered on 30 March 2022 in Case T-338/17, Air France v European Commission

(Case C-369/22 P)

(2022/C 303/27)

Language of the case: French

Parties

Appellant: Air France SA (represented by: A. Wachsmann, M. Blayney, avocats)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— Principally,

  — Set aside the judgment under appeal in its entirety;

  — Consequently, annul European Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (Case AT.39258 — Airfreight), in so far as it concerns Air France SA, as well as the grounds on which its operative part is based, in so far as that decision imposes a fine on Air France SA; and

— In the alternative, reduce to an appropriate amount, on the basis of Article 261 TFEU, the fine of EUR 182 920 000 imposed jointly and severally on Air France-KLM and Air France SA by Article 3(b) of European Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (Case AT.39258 — Airfreight);

— In any event, order the European Commission to pay all the costs, including those incurred by Air France SA before the General Court.

Grounds of appeal and main arguments

The appeal is based, principally, on a ground for setting aside the judgment under appeal and, in the alternative, on two grounds for variation of that judgment.

Principally, by the first ground of appeal, Air France SA submits that the General Court failed correctly to assess the Commission's jurisdiction to apply Article 101 TFEU to inbound services, that is to say, from a third country to the EEA. Air France SA maintains that the analysis of the qualified effects is vitiated by errors of law and that the General Court infringed its obligation to state reasons.

In the alternative, by the second ground of appeal, Air France SA submits that the General Court infringed its obligation to state reasons and the principle of equal treatment, as regards the taking into account of regulatory regimes.

By its third and final ground of appeal, Air France SA contends that the General Court made errors of law by reversing the burden of proof when it found that Air France SA participated uninterruptedly in the infringement between 7 December 1999 and 14 February 2006.

Appeal brought on 8 June 2022 by Air France-KLM against the judgment of the General Court (Fourth Chamber, Extended Composition) delivered on 30 March 2022 in Case T-337/17, Air France-KLM v European Commission

(Case C-370/22 P)

(2022/C 303/28)

Language of the case: French

Parties

Appellant: Air France-KLM (represented by: A. Wachsmann, M. Blayney, avocats)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— Principally,

— Set aside the judgment under appeal in its entirety;

— Consequently, annul European Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (Case AT.39258 — Airfreight), in so far as it concerns Air France-KLM SA, as well as the grounds on which its operative part is based, in so far as that decision imposes a fine on Air France-KLM SA; and

— In the alternative, reduce to an appropriate amount, on the basis of Article 261 TFEU, the fine of EUR 307 360 000 imposed jointly and severally on Air France-KLM and, on the one hand, on Air France SA and, on the other, on KLM, by Articles 3(b) and 3(d) of European Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (Case AT.39258 — Airfreight);

— In any event, order the European Commission to pay all the costs, including those incurred by Air France-KLM SA before the General Court.

Grounds of appeal and main arguments

The appeal is based, principally, on a ground for setting aside the judgment under appeal, in the alternative, on a ground for setting aside that judgment and, in the further alternative, on two grounds for variation of that judgment.

Principally, by the first ground of appeal, Air France-KLM submits that the judgment under appeal incorrectly confirms the imputation of Air France's practices and of part of the practices of Koninklijke Luchtvaart Maatschappij NV ('KLM'). On that basis, Air France-KLM claims that the judgment should be set aside.

In the alternative, by the second ground of appeal, Air France-KLM submits that the General Court failed correctly to assess the Commission's jurisdiction to apply Article 101 TFEU to inbound services, that is to say, from a third country to the EEA. Air France-KLM maintains that the analysis of the qualified effects is vitiated by errors of law and that the General Court infringed its obligation to state reasons. On that basis, Air France-KLM claims that the judgment should be set aside.

In the further alternative, by the third ground of appeal, Air France-KLM submits that the General Court infringed its obligation to state reasons and the principle of equal treatment, as regards the taking into account of regulatory regimes.

By its fourth and final ground of appeal, Air France-KLM contends that the General Court made errors of law by reversing the burden of proof when it found that Air France participated uninterruptedly in the infringement between 7 December 1999 and 14 February 2006.

Appeal brought on 9 June 2022 by LATAM Airlines Group SA, Lan Cargo SA against the judgment of the General Court (Fourth Chamber, Extended Composition) delivered on 30 March 2022 in Case T-344/17, Latam Airlines Group and Lan Cargo v Commission

(Case C-375/22 P)

(2022/C 303/29)

Language of the case: English

Parties

Appellants: LATAM Airlines Group SA, Lan Cargo SA (represented by: B. Hartnett, Barrister, O. Geiss, Rechtsanwalt, and W. Sparks, advocaat)

Other party to the proceedings: European Commission

Form of order sought

The appellants claim that the Court should:

— set aside the judgment under appeal insofar as it dismisses the action for annulment;

— annul the Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case AT.39258 — Airfreight) (the Decision) insofar as it relates to the appellants. In the alternative, annul the Decision in part and reduce the fine imposed on the appellants to such an amount the Court sees fit;

— in the alternative, if the Court finds it cannot give final judgment, refer the case back to the General Court; and

— order the Commission to bear all costs of the proceedings before this Court and the General Court.

Pleas in law and main arguments

In support of the action, the appellants rely on the following grounds of appeal:

The first ground of appeal relates to manifest errors of law when determining the legal consequences of upholding the first plea. Instead of proceeding to annul the Decision in its entirety, the General Court only partially annulled the Decision without assessing whether the elements for which the appellants were found not to be liable, are severable, despite clear case law defining this to be the relevant test.

The second ground of appeal relates to manifest errors of law when rejecting the sixth plea on rights of defence relating to the Commission's failure to provide its reasoning why it did not pursue claims against other airlines and a service provider. Moreover, the General Court distorted the clear sense of the evidence when assessing the e-mail of 22 July 2005 without taking into account that the key elements relied on by the General Court were actions by airlines against whom the Commission has dropped charges after the Statement of Objections.

The third ground of appeal relates to manifest errors in law when rejecting the third part of the fourth plea (first limb) in relation to the Commission's jurisdiction to make certain findings.

The fourth ground of appeal relates to manifest errors in law when rejecting the third part of the fourth plea (second limb) in relation to the Decision's ambiguity as regards to the geographical scope of the infringement.

Appeal brought on 9 June 2022 by British Airways plc against the judgment of the General Court (Fourth Chamber, Extended Composition) delivered on 30 March 2022 in Case T-341/17, British Airways v Commission

(Case C-378/22 P)

(2022/C 303/30)

Language of the case: English

Parties

Appellant: British Airways plc (represented by: A. Lyle-Smythe and R. O'Donoghue, advocaten, T. Sebastian, Barrister)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal in full, or in alternative, in part insofar as it rejects the appellant's fourth plea and the second part of the appellant's seventh plea;

— if the judgment under appeal is not set aside in full, set aside paragraph 4 of the operative part of the judgment insofar as it deals with the appellant's fourth plea and the second part of the appellant's seventh plea;

— annul the Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case AT.39258 — Airfreight) (the Decision) in whole or in part, specifically the first sentence of recital 1045 and recital 1046 in its entirety; and

— award the appellant the costs of the appeal.

Pleas in law and main arguments

The appellant seeks to set aside, in whole or in part, the judgment under appeal. The judgment under appeal resolved the appellant's application to annul, in whole or in part, the Decision.

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

First plea, that the General Court erred in law by substituting its own reasoning for that of the Commission and failed to identify any qualified effects on competition in the EU/EEA. This plea has two parts. First, that the Commission's cursory reasoning was plainly inadequate and the General Court erred by impermissibly substituting its own detailed reasoning in place of that reasoning. Second, that the Commission's substituted reasoning is in any event insufficient as it fails to identify a relevant and sufficient effect on competition in the EU/EEA.

Second plea, that the General Court erred in law in arriving at its conclusions on price effects in downstream goods markets located in the EU/EEA. The General Court distorted the evidence before it, improperly placed the burden of proof on the appellant to disprove material factual propositions and exceeded its competence by substituting its own reasoning for altogether different reasoning of the Commission.

Third plea, that the General Court erred in law and misconstrued the Decision mentioned above by relying on certain aspects of a single and continuous infringement, which had effects within the EU/EEA to establish jurisdiction over distinct foreign conduct, which was not shown to have generated qualified effects within EU/EEA territory.

Appeal brought on 9 June 2022 by Singapore Airlines Ltd, Singapore Airlines Cargo Pte Ltd against the judgment of the General Court (Fourth Chamber, Extended Composition) delivered on 30 March 2022 in Case T-350/17, Singapore Airlines and Singapore Airlines Cargo v Commission

(Case C-379/22 P)

(2022/C 303/31)

Language of the case: English

Parties

Appellants: Singapore Airlines Ltd, Singapore Airlines Cargo Pte Ltd (represented by: J.-P. Poitras and J. Wileur, avocats, and J. Ruiz Calzado, abogado)

Other party to the proceedings: European Commission

Form of order sought

The appellants claim that the Court should:

— set aside the judgment under appeal, in full or partially;

— annul the Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case AT.39258 — Airfreight) (the Decision) in its entirety insofar as it concerns the appellants or, in the alternative, partially annul the Decision insofar as:

  — Articles 1(2)(q)/(r) and 1(3)(q)/(r) of the Decision are based on the Commission having jurisdiction to apply Article 101 TFEU and Article 53 EEA Agreement to inbound EU/EEA airfreight services and, accordingly, reduce the fine imposed on the appellants to EUR 64 600 000 or to such amount as the Court sees fit;

  — the Decision finds that conduct adopted in the contest of the WOW alliance forms part of the single and continuous infringement and, accordingly, further reduce the fine imposed on the appellants by 15 % based on the General Court's limited involvement analysis or any other basis that the Court deems appropriate;

  — the Decision finds that conduct related to commissioning of surcharges forms part of the single and continuous infringement and, accordingly, further reduce the fine imposed on the appellants by 15 % consistent with the approach to limited involvement taken in both the Decision and the judgment under appeal or to whatever other amount the Court deems appropriate;

— annul Articles 1(1)(r)/(s) and 1(4)(r)/(s) of the Decision and further reduce the fine imposed on the appellants by 15 % applying the same methodology used by the General Court to reduce the respective fines in the cases Cathay Pacific Airways Ltd v European Commission (T-343/17, EU:T:2022:184) and Japan Airlines Co. Ltd v European Commission (T-340/17, EU:T:2022:181);

— order the Commission to pay the appellant's costs before the Court and the remaining two thirds of the costs of the proceedings before the General Court.

Pleas in law and main arguments

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

First plea, alleging several errors in law concerning the General Court's assessment of the Commission's jurisdiction under Article 101(1) TFEU.

Second plea, alleging errors of law and a failure to reason concerning the assessment of conduct in the context of a procompetitive and lawful global joint venture.

Third plea, alleging several errors in law concerning the assessment of whether coordination between competitors of their position in response to actual or threatened litigation constitutes a restriction of Article 101(1) TFEU 'by object'.

Fourth plea, alleging an error in law of the General Court for not raising of its own motion an issue of public policy related to the Commission's lack of power to impose penalties.

Appeal brought on 9 June 2022 by Deutsche Lufthansa AG, Lufthansa Cargo AG, Swiss International Air Lines AG against the judgment of the General Court (Fourth Chamber, Extended Composition) delivered on 30 March 2022 in Case T-342/17, Deutsche Lufthansa and Others v Commission

(Case C-380/22 P)

(2022/C 303/32)

Language of the case: English

Parties

Appellants: Deutsche Lufthansa AG, Lufthansa Cargo AG, Swiss International Air Lines AG (represented by: S. Völcker, Rechtsanwalt, and R. Benditz, avocat)

Other party to the proceedings: European Commission

Form of order sought

The appellants claim that the Court should:

— set aside the judgment under appeal;

— annul, in whole or in part, the Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case AT.39258 — Airfreight);

— in the alternative, if deemed necessary, remand the case to the General Court for reconsideration in accordance with the Court's judgment;

— order the Commission to bear its own costs and pay the appellant's costs, both for these proceedings and the proceedings before the General Court; and

— take any other measures that the Court considers appropriate.

Pleas in law and main arguments

In support of its appeal, the applicants rely on one plea in law consisting of four limbs.

First limb, alleging that the judgment under appeal errs in law in failing to show that the conduct restricts *'competition within the internal market'* pursuant to Article 101(1) TFEU.

Second limb, alleging that the judgment under appeal errs in law in finding that the Commission was entitled to take into account the effects of a single and continuous infringement as a whole.

Third limb, alleging that the General Court wrongly substituted its own assessment of qualified effects for that of the Commission.

Fourth limb, alleging that the judgment under appeal errs in law by holding that the relevant facts give rise to immediate, substantial and foreseeable effects under the qualified effects test.

Appeal brought on 9 June 2022 by Japan Airlines Co. Ltd against the judgment of the General Court (Fourth Chamber, Extended Composition) delivered on 30 March 2022 in Case T-340/17, Japan Airlines v Commission

(Case C-381/22 P)

(2022/C 303/33)

Language of the case: English

Parties

Appellant: Japan Airlines Co. Ltd (represented by: J.-F. Bellis, avocat, K. Van Hove, advocaat, and R Burton, Solicitor)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal insofar as it holds that Article 101 TFEU and Article 53 EEA apply to inbound airfreight services on EEA-third country routes;

— annul the Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case AT.39258 — Airfreight) (the Decision) in its entirety or, in the alternative, annul the Decision insofar as it finds that Article 101 TFEU and Article 53 EEA Agreement apply to inbound airfreight services on EEA-third country routes and reduce the fine imposed on the appellant to EUR 26 775 000 or to such other amount as the Court sees fit;

— order the Commission to bear all of the costs of these proceedings, including those before the General Court.

Pleas in law and main arguments

In its appeal, the appellant relies on the following pleas.

The General Court erred in law by refusing to address the appellant's plea that the Decision infringed Article 101 TFEU and Article 53 EEA Agreement by prohibiting conduct with respect to inbound airfreight services that do not restrict competition within the EEA and wrongly relying instead on the public international law concept of qualified effects to establish the Commission's jurisdiction under EU law; and

In the alternative, the General Court erred in law in its application of the qualified effects test in finding that the Commission had jurisdiction to apply Article 101 TFEU and Article 53 EEA Agreement in relation to inbound airfreight services on EEA-third country routes.

Appeal brought on 9 June 2022 by Cathay Pacific Airways Ltd against the judgment of the General Court (Fourth Chamber, Extended Composition) delivered on 30 March 2022 in Case T-343/17, Cathay Pacific Airways v Commission

(Case C-382/22 P)

(2022/C 303/34)

Language of the case: English

Parties

Appellant: Cathay Pacific Airways Ltd (represented by: J. Flynn, Solicitor, M. Rees and E. Estellon, avocats)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside paragraph 3 of the operative part of the judgment under appeal;

— grant the remaining forms of order sought in the judgment under appeal;

— annul each of the remaining findings of infringement set out in Article 1(1) to 1(4) of Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case AT.39258 — Airfreight) (the Decision) insofar as they concern the appellant; and

— set aside the remainder of the fine imposed on the appellant by Article 3 of the Decision; or

— in the alternative, annul or reduce, on the basis of Article 261 TFEU, the remainder of the fine imposed on the appellant, in the exercise of its unlimited jurisdiction on the basis of objective mistakes in the grounds and the reasoning of the judgment under appeal; and

— order the Commission to pay all the appellant's costs, including those incurred by the appellant before the General Court.

Pleas in law and main arguments

The appellant raises six grounds of appeal.

In the first ground of appeal, the appellant submits that the General Court incorrectly established Community jurisdiction over conduct relating to inbound flights, i.e. airfreight services from third countries to the EEA.

In the second ground of appeal, the appellant submits that the General Court wrongly characterised and failed to correctly apply the so-called 'State Compulsion Defence' raised by appellant and to have due regard to the principles of International comity and non-interference in the affairs of a sovereign third state.

In the third ground of appeal, the appellant submits that the General Court failed to adjudicate all of the arguments raised by the appellant, having decided to partially annul the infringements on limitation grounds.

In the fourth ground of appeal, the appellant submits that the General Court failed to establish adequate reasoning for its conclusion that the appellant participated in the single and continuous infringement and infringed the principle of equal treatment.

In the fifth ground of appeal, the appellant submits that the General Court erred in its approach to evidence that does not directly relate to the infringements now attributed to the appellant and failed to use cogent reasoning in relation to all of the evidence in finding that the appellant participated in the single and continuous infringement.

In the sixth ground of appeal, the appellant submits that the General Court erred in law in considering that the appellant's refusal to pay commission infringed Article 101 TFEU and/or formed a part of the single and continuous infringement.

Action brought on 9 June 2022 — European Commission v Kingdom of Spain

(Case C-384/22)

(2022/C 303/35)

Language of the case: Spanish

Parties

Applicant: European Commission (represented by: R. Tricot and E. Sanfrutos Cano, acting as Agents)

Defendant: Kingdom of Spain

Form of order sought

The applicant claims that the Court should:

— declare that, by not adopting, by 6 February 2018, all of the laws, regulations and administrative provisions necessary to comply fully with Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom, ([1]) or, in any event, by not communicating those provisions to the Commission, the Kingdom of Spain has failed to fulfil its obligations under Article 106 of that directive.

— order the Kingdom of Spain to pay the costs.

Pleas in law and main arguments

In accordance with Article 106 of Directive 2013/59/Euratom, Member States were required to bring into force the laws, regulations and administrative provisions necessary to comply with that directive by 6 February 2018, and to communicate those provisions to the Commission.

Given that the Kingdom of Spain has not yet incorporated all the provisions of Directive 2013/59/Euratom into Spanish legislation or, in any event, has not communicated those provisions to the Commission, as required by Article 106 thereof, the Commission decided, on 9 February 2022, to bring the present action before the Court of Justice for a declaration, under the second paragraph of Article 258 TFEU, that the Kingdom of Spain has failed to fulfil its obligations under Article 106 of Directive 2013/59/Euratom.

([1]) OJ 2014 L 13, p. 1.

Appeal brought on 13 June 2022 by Koninklijke Luchtvaart Maatschappij NV against the judgment of the General Court (Fourth Chamber, Extended Composition) delivered on 30 March 2022 in Case T-325/17, Koninklijke Luchtvaart Maatschappij v Commission

(Case C-385/22 P)

(2022/C 303/36)

Language of the case: English

Parties

Appellant: Koninklijke Luchtvaart Maatschappij NV (represented by: R. Wesseling and F. Brouwer, advocaten)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal insofar as it holds that the Commission has jurisdiction to apply Article 101 TFEU and Article 53 EEA Agreement to inbound airfreight services on EEA-third country routes; and

— annul, the entire Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case AT.39258 — Airfreight) (the Decision); or

— in the alternative, partly annul the Decision insofar as it finds that the appellant infringed Article 101 TFEU and Article 53 EEA Agreement with regard to inbound airfreight services on EEA-third country routes; and

— in any event, order the Commission to pay all the costs, including those incurred by the appellant before the Court.

Pleas in law and main arguments

In support of the action, the appellant relies on the following plea in law.

The General Court erred in law and infringed its duty to state reasons by concluding that the inbound freight services fall within the scope of Article 101 TFEU and Article 53 EEA Agreement.

First part: The General Court infringed its duty to state reasons, erred in law and violated Article 101 TFEU in concluding that inbound freight services sorted relevant effects in the EEA.

Second part: The General Court infringed its duty to state reasons, erred in law and violated Article 101 TFEU in concluding that inbound freight services sorted probable effects in the EEA.

Third part: The General Court erred in law by relying on arguments and evidence not advanced by the Commission.

Fourth part: The General Court erred in law and violated Article 101 TFEU by concluding that the single and continuous infringement can extend the Commission's jurisdiction over conduct outside the EEA.

Appeal brought on 13 June2022 by Martinair Holland NV against the judgment of the General Court (Fourth Chamber, Extended Composition) delivered on 30 March 2022 in Case T-323/17, Martinair Holland v Commission

(Case C-386/22 P)

(2022/C 303/37)

Language of the case: English

Parties

Appellant: Martinair Holland NV (represented by: R. Wesseling and F. Brouwer, advocaten)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal insofar as it holds that the Commission has jurisdiction to apply Article 101 TFEU and Article 53 EEA to inbound airfreight services on EEA-third country routes; and

— annul, the entire Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case AT.39258 — Airfreight) (the Decision); or

— in the alternative, partly annul the Decision insofar as it finds that the appellant infringed Article 101 TFEU and Article 53 EEA Agreement with regard to inbound airfreight services on EEA-third country routes; and

— in any event, order the Commission to pay all the costs, including those incurred by the appellant before the Court.

Pleas in law and main arguments

In support of the action, the appellant relies on the following plea in law.

The General Court erred in law and infringed its duty to state reasons by concluding that the inbound freight services fall within the scope of Article 101 TFEU and Article 53 EEA Agreement.

First part: The General Court infringed its duty to state reasons, erred in law and violated Article 101 TFEU in concluding that inbound freight services sorted relevant effects in the EEA.

Second part: The General Court infringed its duty to state reasons, erred in law and violated Article 101 TFEU in concluding that inbound freight services sorted probable effects in the EEA.

Third part: The General Court erred in law by relying on arguments and evidence not advanced by the Commission.

Fourth part: The General Court erred in law and violated Article 101 TFEU by concluding that the single and continuous infringement can extend the Commission's jurisdiction over conduct outside the EEA.

Appeal brought on 16 June 2022 by Cargolux Airlines International SA against the judgment of the General Court (Fourth Chamber, Extended Composition) delivered on 30 March 2022 in Case T-334/17, Cargolux Airlines v Commission

(Case C-401/22 P)

(2022/C 303/38)

Language of the case: English

Parties

Appellant: Cargolux Airlines International SA (represented by: E. Aliende Rodríguez, abogada)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal in full;

— in the first instance, annul Articles 1(1) and 1(4) of the Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case AT.39258 — Airfreight) (the Decision) in full, insofar as they relate to the appellant;

— in the alternative, annul Articles 1(1) and 1(4) of the Decision in part insofar as they relate to the appellant and to the conduct related to commissioning and/or the security surcharge, and/or annul Articles 1(2) and 1(3) insofar as they relate to the appellant and to inbound routes, and in each case reduce the fine imposed on the appellant in Article 3(f) of the Decision accordingly;

— annul the fine imposed on the appellant in Article 3(f) of the Decision on full or alternatively, substantially reduce it;

— in the alternative, if this Court finds it cannot give final judgment, refer the case back to the General Court;

— order the Commission to pay the appellant's costs of the proceedings before this Court and the General Court; and

— make any other order as may be appropriate in the circumstances of the case.

Pleas in law and main arguments

In support of the appeal, the appellant relies on the following four grounds in law.

In the first ground of appeal, the appellant submits that the General Court erred in law by upholding the Commission's jurisdiction to find and sanction an infringement of Article 101 TFEU and Article 53 EEA Agreement in respect of airfreight services from third countries to countries within the EEA (i.e. inbound routes). Specifically, the appellant submits that the Commission erred in law by applying the incorrect legal test to assert jurisdiction on the basis of public international and not EU law, and in any case, misapplied the qualified effects standard under public international law.

In the second ground of appeal, the appellant submits that the General Court erred in law in upholding the Commission's finding that the conduct in which the appellant participated amounted to an infringement by object. In particular, the General Court erred in law by upholding the Commission's finding that the conduct related to the non-payment of commissions on surcharges amounted to a by-object-infringement.

In the third ground of appeal, the appellant submits that the General Court erred in law by misstating and misapplying the legal test for establishing a single and continuous infringement and wrongly upholding the Decision sanctioning the appellant for such single and continuous infringement. In particular, the General Court erred in law in holding that the Commission correctly established the complementary and continuous nature of the conducts comprising the single and continuous infringement.

In the fourth ground of appeal, the appellant submits that, in the alternative, the General Court erred in law by finding the appellant liable for all aspects of the single and continuous infringement when it in fact had a limited participation, including by breaching the principle of equal treatment as regards its assessment of the appellant's participation in the non-payment of commissions on surcharges, and wrongly establishing the appellant's continued participation in the security surcharge during periods for which no evidence of such participation was adduced.

Appeal brought on 17 June 2022 by SAS Cargo Group A/S, Scandinavian Airlines System Denmark-Norway-Sweden, SAS AB against the judgment of the General Court (Fourth Chamber, Extended Composition) delivered on 30 March 2022 in Case T-324/17, SAS Cargo Group e.a. v Commission

(Case C-403/22 P)

(2022/C 303/39)

Language of the case: English

Parties

Appellants: SAS Cargo Group A/S, Scandinavian Airlines System Denmark-Norway-Sweden, SAS AB (represented by: B. Creve and M. Kofmann, advokater, and J. Killick and G. Forwood, avocats)

Other party to the proceedings: European Commission

Form of order sought

The appellants claim that the Court should:

— set aside the judgment under appeal insofar as it dismissed the appellants' action for annulment;

— annul in whole or in part the Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case AT.39258 — Airfreight) insofar as it relates to the appellants;

— cancel or substantially reduce the fine imposed;

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

— order the Commission to pay the costs of the appeal and the proceedings before the General Court.

Pleas in law and main arguments

In support of the action, the appellants rely on five grounds of appeal.

First ground of appeal, alleging errors of law regarding infringement of the rights of defence and right of access to file by failing to give access to inculpatory and exculpatory evidence.

Second ground of appeal, alleging errors of law regarding the right to be heard with regard to the qualified effects test and inbound routes.

Third ground of appeal, alleging errors of law regarding the application of the qualified effects test.

Fourth ground of appeal, alleging errors of law regarding the single and continuous infringement.

Fifth ground of appeal, alleging errors of law regarding the General Court's exercise of its unlimited jurisdiction to determine the fine.

GENERAL COURT

Judgment of the General Court of 15 June 2022 — Dumitrescu and Schwarz v Commission

(Case T-531/16) ([1])

(Civil service — Officials — 2014 reform of the Staff Regulations — Reimbursement of annual travel expenses — Place of origin located in a third country — Flat-rate payment calculated on the basis of the distance separating the place of employment from the capital of the Member State of which the official is a national)

(2022/C 303/40)

Language of the case: French

Parties

Applicants: Vasile Dumitrescu (Berchem-Sainte-Agathe, Belgium), Guido Schwarz (Brussels, Belgium) (represented by: L. Levi, lawyer)

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

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

Re:

Applications under Article 270 TFEU for annulment of the decisions to reduce, from 1 January 2014, the reimbursement of annual travel expenses enabling the applicants to maintain a connection with their place of origin and for an order requiring the Commission to make a reimbursement of annual travel expenses to the applicants' place of origin that covers their actual expenses.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Vasile Dumitrescu and Guido Schwarz to bear their own costs and to pay those incurred by the European Commission;

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

([1]) OJ C 89, 16.3.2015 (case initially registered before the European Civil Service Tribunal under Case No F-7/15 and transferred to the General Court of the European Union on 1.9.2016).

Judgment of the General Court of 15 June 2022 — YT and YU v Commission

(Case T-532/16) ([1])

(Civil service — Officials — 2014 reform of the Staff Regulations — Reimbursement of annual travel expenses — Place of origin located in a third country — Flat-rate payment calculated on the basis of the distance separating the place of employment from the capital of the Member State of which the official is a national)

(2022/C 303/41)

Language of the case: French

Parties

Applicants: YT, YU (represented by: J.-N. Louis, R. Metz, D. Verbeke, T. Van Lysebeth and N. Maes, lawyers)

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

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

Re:

Applications under Article 270 TFEU for annulment of the decisions to reduce, from 1 January 2014, the reimbursement of annual travel expenses enabling the applicants to maintain a connection with their place of origin.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders YT and YU to bear their own costs and to pay those incurred by the European Commission;

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

([1]) OJ C 89, 16.3.2015 (case initially registered before the European Civil Service Tribunal under Case No F-8/15 and transferred to the General Court of the European Union on 1.9.2016).

Judgment of the General Court of 15 June 2022 — YV and Others v Commission

(Case T-533/16) ([1])

(Civil service — Officials — 2014 reform of the Staff Regulations — Reimbursement of annual travel expenses — Place of origin located in a third country — Flat-rate payment calculated on the basis of the distance separating the place of employment from the capital of the Member State of which the official is a national)

(2022/C 303/42)

Language of the case: French

Parties

Applicants: YV, YW, YZ (represented by: J.-N. Louis, R. Metz, D. Verbeke, T. Van Lysebeth and N. Maes, lawyers)

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

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

Re:

Applications under Article 270 TFEU for annulment of the decisions to reduce or discontinue, from 1 January 2014, the reimbursement of annual travel expenses enabling the applicants to maintain a connection with their place of origin.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders YV, YW and YZ to bear their own costs and to pay those incurred by the European Commission;

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

(1) OJ C 89, 16.3.2015 (case initially registered before the European Civil Service Tribunal under Case No F-10/15 and transferred to the General Court of the European Union on 1.9.2016).

Judgment of the General Court of 15 June 2022 — Schaffrin v Commission

(Case T-538/16) (1)

(Civil service — Officials — 2014 reform of the Staff Regulations — Reimbursement of annual travel expenses — Place of origin located in a third country — Flat-rate payment calculated on the basis of the distance separating the place of employment from the capital of the Member State of which the official is a national)

(2022/C 303/43)

Language of the case: German

Parties

Applicant: Dora Schaffrin (Brussels, Belgium) (represented by: M. Müller-Trawinski, lawyer)

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

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

Re:

Application under Article 270 TFEU for, first, annulment of the decisions to reduce, from 1 January 2014, the reimbursement of annual travel expenses enabling the applicant to maintain a connection with her place of origin and, second, an order requiring the Commission to review the amount of the flat-rate payment of those annual travel expenses.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Dora Schaffrin to bear her own costs and to pay those incurred by the European Commission;

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

(1) OJ C 127, 20.4.2015 (case initially registered before the European Civil Service Tribunal under Case No F-15/15 and transferred to the General Court of the European Union on 1.9.2016).

Judgment of the General Court of 15 June 2022 — YY and ZA v Court of Justice of the European Union

(Case T-545/16) (1)

(Civil service — Officials — 2014 reform of the Staff Regulations — Reimbursement of annual travel expenses — Place of origin located in a third country — Flat-rate payment calculated on the basis of the distance separating the place of employment from the capital of the Member State of which the official is a national)

(2022/C 303/44)

Language of the case: French

Parties

Applicants: YY, ZA (represented by: J.-N. Louis, R. Metz, D. Verbeke, T. Van Lysebeth and N. Maes, lawyers)

Defendant: Court of Justice of the European Union (represented by: J. Inghelram and A. Ysebaert, acting as Agents)

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

Re:

Applications under Article 270 TFEU for annulment of the decisions to reduce or discontinue, from 1 January 2014, the reimbursement of annual travel expenses enabling the applicants to maintain a connection with their place of origin.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Order YY and ZA to bear their own costs and to pay those incurred by the Court of Justice of the European Union;

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

([1]) OJ C 146, 4.5.2015 (case initially registered before the European Civil Service Tribunal under Case No F-36/15 and transferred to the General Court of the European Union on 1.9.2016).

Judgment of the General Court of 22 June 2022 — Italy v Commission

(Case T-357/19) ([1])

(ERDF — Regional policy — Operational programmes coming under the 'Investment for growth and jobs' objective in Italy — Decision approving the financial contribution of the ERDF to the major project 'Major National Project Ultra Broadband — White Areas' — Ineligibility of the costs incurred by the beneficiary in respect of VAT — Article 69(3)(c) of Regulation (EU) No 1303/2013 — Concept of 'VAT that is recoverable under national VAT legislation')

(2022/C 303/45)

Language of the case: Italian

Parties

Applicant: Italian Republic (represented by: G. Palmieri, acting as Agent, and by P. Gentili, avvocato dello Stato)

Defendant: European Commission (represented by: L. Mantl and F. Tomat, acting as Agents)

Interveners in support of the applicant: Czech Republic (represented by: M. Smolek, J. Vláčil and O. Serdula, acting as Agents), Kingdom of Spain (represented by: I. Herranz Elizalde, acting as Agent)

Re:

By its action based on Article 263 TFEU, the applicant seeks annulment of Commission Implementing Decision C(2019) 2652 final of 3 April 2019 approving the financial contribution to the major project 'Major National Project Ultra Broadband — White Areas', selected in the context of operational programmes 'POR Abruzzo FESR 2014-2020', 'Basilicata', 'POR Calabria FESR FSE', 'Campania', 'POR Emilia Romagna FESR', 'POR Lazio FESR', 'POR Liguria FESR', 'POR Lombardia FESR', 'POR Marche FESR 2014-2020', 'POR Piemonte FESR', 'POR Puglia FESR-FSE', 'POR Sardegna FESR', 'Sicilia', 'Toscana', 'POR Umbria FESR', 'POR Veneto FESR 2014-2020' and 'Enterprises and competitiveness' in Italy, in so far as that decision excludes the costs incurred by the beneficiary in respect of value added tax (VAT) from EU funding.

Operative part of the judgment

The Court:

1. Annuls Commission Implementing Decision C(2019) 2652 final of 3 April 2019 approving the financial contribution to the major project 'Major National Project Ultra Broadband — White Areas', selected in the context of operational programmes 'POR Abruzzo FESR 2014-2020', 'Basilicata', 'POR Calabria FESR FSE', 'Campania', 'POR Emilia Romagna FESR', 'POR Lazio FESR', 'POR Liguria FESR', 'POR Lombardia FESR', 'POR Marche FESR 2014-2020', 'POR Piemonte FESR', 'POR Puglia FESR-FSE', 'POR Sardegna FESR', 'Sicilia', 'Toscana', 'POR Umbria FESR', 'POR Veneto FESR 2014-2020' and 'Enterprises and competitiveness' in Italy, in so far as that decision excludes the costs incurred by the beneficiary in respect of value added tax from EU funding;

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

3. Orders the Czech Republic and the Kingdom of Spain to bear their own costs.

([1]) OJ C 263, 5.8.2019.

Judgment of the General Court of 22 June 2022 — thyssenkrupp v Commission

(Case T-584/19) ([1])

(Competition — Concentrations — Market for the production and distribution of flat carbon steel — Decision declaring the concentration incompatible with the internal market and the EEA Agreement — Relevant market — Assessment of the effects of the transaction on competition — Commitments — Obligation to state reasons)

(2022/C 303/46)

Language of the case: English

Parties

Applicant: thyssenkrupp AG (Duisburg and Essen, Germany) (represented by: M. Klusmann, J. Ziebarth and M. Dästner, lawyers)

Defendant: European Commission (represented by: G. Conte, T. Franchoo, I. Zaloguin and C. Sjödin, acting as Agents)

Re:

Application pursuant to Article 263 TFEU for annulment of Commission Decision C(2019) 4228 final of 11 June 2019 declaring a concentration to be incompatible with the internal market and the functioning of the EEA Agreement (Case M.8713 — Tata Steel/thyssenkrupp/JV).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders thyssenkrupp AG to pay the costs.

([1]) OJ C 357, 21.10.2019.

Judgment of the General Court of 22 June 2022 — Ryanair v Commission (Finnair II; Covid-19)

(Case T-657/20) ([1])

(State aid — Finnish air-transport market — Aid granted by Finland to Finnair in the context of the COVID-19 pandemic — Recapitalisation of an airline by its public and private shareholders on a pro rata basis in proportion to the previously existing ownership structure — Decision not to raise any objections — Temporary Framework for State aid measures — Measure intended to remedy a serious disturbance in the economy of a Member State — Derogation from certain requirements of the temporary framework — No weighing of the beneficial effects of the aid against its adverse effects on trading conditions and the maintenance of undistorted competition — Equal treatment — Freedom of establishment — Freedom to provide services — Obligation to state reasons)

(2022/C 303/47)

Language of the case: English

Parties

Applicant: Ryanair DAC (Swords, Ireland) (represented by: F.-C. Laprévote, V. Blanc, E. Vahida, S. Rating and I.-G. Metaxas-Maranghidis, lawyers)

Defendant: European Commission (represented by: L. Flynn, S. Noë and F. Tomat, acting as Agents)

Interveners in support of the defendant: French Republic (represented by: T. Stéhelin and P. Dodeller, acting as Agents), Republic of Finland (represented by: H. Leppo and A. Laine, acting as Agents)

Re:

By its action on the basis of Article 263 TFEU, the applicant seeks annulment of European Commission Decision C(2020) 3970 final of 9 June 2020 on State aid SA.57410 (2020/N) — Finland COVID-19: Recapitalisation of Finnair.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Ryanair DAC to bear its own costs and to pay those incurred by the European Commission;

3. Orders the French Republic and the Republic of Finland to bear their own respective costs.

([1]) OJ C 433, 14.12.2020.

Judgment of the General Court of 22 June 2022 — Unite the Union v EUIPO — WWRD Ireland (WATERFORD)

(Case T-739/20) ([1])

(EU trade mark — Revocation proceedings — EU word mark WATERFORD — Action for annulment — Article 63(3) of Regulation (EU) 2017/1001 — Admissibility — Trade mark liable to mislead the public — Article 51(1)(c) of Regulation (EC) No 207/2009 (now Article 58(1)(c) of Regulation 2017/1001))

(2022/C 303/48)

Language of the case: English

Parties

Applicant: Unite the Union (London, United Kingdom) (represented by: B. O'Connor and M. Hommé, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: WWRD Ireland IPCO LLC (Wilmington, Delaware, United States) (represented by: M. Mortelé and B. Lieben, lawyers)

Re:

By its action under Article 263 TFEU, the applicant seeks the annulment and alteration of the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 25 September 2020 (Case R 2683/2019-2).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Unite the Union to bear its own costs and to pay those incurred by WWRD Ireland IPCO LLC;

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

(1) OJ C 62, 22.2.2021.

Judgment of the General Court of 22 June 2022 — Beveland v EUIPO — Super B (BUCANERO)

(Case T-29/21) (1)

(EU trade mark — Revocation proceedings — EU word mark BUCANERO — Genuine use of the trade mark — Article 18(1), second subparagraph, point (a) and Article 58(1) point (a) of Regulation 2017/1001 — Form differing in elements which do not alter the distinctive character of the mark — Proof of genuine use)

(2022/C 303/49)

Language of the case: Spanish

Parties

Applicant: Beveland, SA (Sant Joan les Fonts, Spain) (represented by: J. Carbonell Callicó, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Super B, SL (Talavera de la Reina, Spain) (represented by: K. Guridi Sedlak, lawyer)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 5 November 2020 (Case R 1046/2020-5), relating to revocation proceedings between Beveland and Super B.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Beveland, SA to pay the costs.

(1) OJ C 79, 8.3.2021.

Judgment of the General Court of 15 June 2022 — QI v Commission

(Case T-122/21) ([1])

(Civil service — Officials — Evaluation report — 2018 and 2019 evaluation exercises — Unsatisfactory evaluation of managerial performance — General implementing provisions of Article 43 of the Staff Regulations — Validation procedure — Principle of impartiality — Manifest error of assessment)

(2022/C 303/50)

Language of the case: French

Parties

Applicant: QI (represented by: N. de Montigny, lawyer)

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

Re:

By her action under Article 270 TFEU, lodged at the Court Registry on 25 February 2022, the applicant seeks annulment of her evaluation reports drawn up for the 2018 and 2019 evaluation exercises and of the decision of 16 November 2020 rejecting her complaint against those reports.

Operative part of the judgment

The Court:

1. Annuls QI's evaluation report drawn up for the 2019 evaluation exercise;

2. Dismisses the action as to the remainder;

3. Orders the parties to bear their own costs.

([1]) OJ C 138, 19.4.2021.

Judgment of the General Court of 22 June 2022 — Puma v EUIPO — V. Fraas (FRAAS)

(Case T-329/21) ([1])

(EU trade mark — Revocation proceedings — EU word mark FRAAS — Genuine use of a mark — Use in connection with the goods in respect of which the mark was registered — Article 51(1)(a) of Regulation (EC) No 207/2009 (now Article 58(1)(a) of Regulation (EU) 2017/1001) — Proof of genuine use)

(2022/C 303/51)

Language of the case: German

Parties

Applicant: Puma SE (Herzogenaurach, Germany) (represented by: M. Schunke, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: V. Fraas GmbH (Helmbrechts-Wüstenselbitz, Germany) (represented by: R. Kunze and F. Tyra, lawyers)

Re:

By its action under Article 263 TFEU, the applicant seeks annulment of the decision of the Fifth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 24 March 2021 (Case R 2714/2019-5).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Puma SE to bear its own costs and to pay those incurred by the European Union Intellectual Property Office (EUIPO) and by V. Fraas GmbH in the context of the present proceedings.

(1) OJ C 297, 26.7.2021.

Judgment of the General Court of 22 June 2022 — Future Motion v EUIPO — El Corte Inglés (HYPERCORE)

(Case T-356/21) (1)

(EU trade mark — Opposition proceedings — International registration designating the European Union — Word mark HYPERCORE — Earlier EU figurative mark HIPERCOR — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

(2022/C 303/52)

Language of the case: English

Parties

Applicant: Future Motion, Inc. (Santa Cruz, California, United States) (represented by: F.-M. Orou, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: El Corte Inglés, SA (Madrid, Spain) (represented by: J.L. Rivas Zurdo, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 26 April 2021 (Case R 1229/2020 1), relating to opposition proceedings between El Corte Inglés and Future Motion.

Operative part of the judgment

The Court:

1. Annuls the decision of the First Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 26 April 2021 (Case R 1229/2020-1);

2. Orders EUIPO, in addition to bearing its own costs, to pay those incurred by Future Motion, Inc.;

3. Orders El Corte Inglés, SA, to bear its own costs.

(1) OJ C 329, 16.8.2021.

Judgment of the General Court of 22 June 2022 — Haswani v Council

(Case T-479/21) (1)

(Common foreign and security policy — Restrictive measures adopted against Syria — Freezing of funds — Res judicata — Error of assessment — Proportionality — Obligation to state reasons — Rights of the defence — Right to a fair trial)

(2022/C 303/53)

Language of the case: French

Parties

Applicant: George Haswani (Yabroud, Syria) (represented by: G. Karouni, lawyer)

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

Re:

By his action, the applicant seeks, first, pursuant to Article 263 TFEU, annulment of Council Decision (CFSP) 2021/855 of 27 May 2021 amending Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2021 L 188, p. 90) and of Council Implementing Regulation (EU) 2021/848 of 27 May 2021 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2021 L 188, p. 18), in so far as those acts maintain his name on the lists annexed thereto and, second, pursuant to Article 268 TFEU, compensation for the non-material damage he allegedly suffered following the adoption of the abovementioned acts.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Mr George Haswani to pay the costs.

([1]) OJ C 412, 11.10.2021.

Judgment of the General Court of 22 June 2022 — Kubara v EUIPO (good calories)

(Case T-602/21) ([1])

(EU trade mark — Application for EU figurative mark good calories — Absolute grounds for refusal — No distinctive character — Descriptiveness — Article 7(1)(b) and (c) of Regulation (EU) 2017/1001 — Legal certainty — Legitimate expectations)

(2022/C 303/54)

Language of the case: Polish

Parties

Applicant: Kubara sp. z o.o. (Częstochowa, Poland) (represented by: A. Suskiewicz, lawyer)

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

Re:

By its action under Article 263 TFEU, the applicant seeks the annulment of the decision of the First Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 14 July 2021 (Case R 2167/2020-1).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Kubara sp. z o.o. to pay the costs.

([1]) OJ C 462, 15.11.2021.

Judgment of the General Court of 22 June 2022 — Tequila Revolución v EUIPO — Horizons Group (London) (Revolution Vodka)

(Case T-628/21) ([1])

(EU trade mark — Opposition proceedings — Application for EU word mark Revolution Vodka — Earlier EU word mark TEQUILA REVOLUCIÓN — Relative grounds for refusal — Article 8(1)(a) and (b) of Regulation (EU) 2017/1001 — Absence of genuine use — Article 47(2) of Regulation 2017/1001)

(2022/C 303/55)

Language of the case: French

Parties

Applicant: Tequila Revolución S.A.P.I. De C.V. (Mexico City, Mexico) (represented by: M. Pomares Caballero, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Horizons Group (London) Ltd (Reading, United Kingdom)

Re:

By its action under Article 263 TFEU, the applicant seeks the annulment and alteration of the decision of the Fifth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 22 July 2021 (Case R 2266/2020-5).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Tequila Revolución S.A.P.I. De C.V. to pay the costs.

([1]) OJ C 490, 6.12.2021.

Order of the General Court of 16 June 2022 — bonnanwalt v EUIPO — Bayerischer Rundfunk and Others (tagesschau)

(Case T-83/20) ([1])

(EU trade mark — Revocation proceedings — EU word mark tagesschau — Partial revocation — Representation by a lawyer who is not an independent third party with regard to the applicant — Inadmissibility)

(2022/C 303/56)

Language of the case: German

Parties

Applicant: bonnanwalt Vermögens- und Beteiligungsgesellschaft mbH (Bonn, Germany) (represented by: T. Wendt, lawyer)

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

Other parties to the proceedings before the Board of Appeal of EUIPO intervening before the General Court: Bayerischer Rundfunk (Munich, Germany) and the eight other interveners whose names are set out in the annex to the order (represented by: B. Krause, lawyer)

Re:

By its action based on Article 263 TFEU, the applicant seeks the annulment of the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 12 December 2019 (Case R 1487/2019-2).

Operative part of the order

1. The action is dismissed as inadmissible.

2. bonnanwalt Vermögens- und Beteiligungsgesellschaft mbH shall pay the costs.

(1) OJ C 114, 6.4.2020.

Order of the General Court of 7 June 2022 — Daimler v Commission

(Case T-509/20) (1)

(Environment — Regulation (EU) 2019/631 — Implementing Regulation (EU) 2017/1153 — Implementing Decision (EU) 2020/1035 — Carbon dioxide emissions — Testing methodology — Passenger cars — Amendment of the contested decision as regards the applicant — Action which has become devoid of purpose — No need to adjudicate)

(2022/C 303/57)

Language of the case: German

Parties

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

Defendant: European Commission (represented by: C. Hermes and K. Talabér-Ritz, acting as Agents)

Re:

By application lodged at the General Court Registry on 14 August 2020, the applicant brought the present action under Article 263 TFEU for annulment of Commission Implementing Decision (EU) 2020/1035 of 3 June 2020 confirming or amending the provisional calculation of the average specific emissions of CO2 and specific emissions targets for manufacturers of passenger cars and light commercial vehicles for the calendar year 2018 pursuant to Regulation (EU) 2019/631 of the European Parliament and of the Council (OJ 2020 L 227, p. 37).

Operative part of the order

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

2. The European Commission shall bear its own costs and pay those incurred by Daimler AG.

(1) OJ C 320, 28.9.2020.

Order of the General Court of 14 June 2022 — FZ and Others v Commission

(Case T-236/21) (1)

(Civil service — Officials — Remuneration — Commission staff posted to a third country — Interim update of correction coefficients — Manifest error of assessment — Retroactive effect — Legal certainty — Duty to have regard for the welfare of officials — Action manifestly lacking any foundation in law)

(2022/C 303/58)

Language of the case: French

Parties

Applicants: FZ and the 15 other applicants whose names are set out in the annex to the order (represented by: J.-N. Louis and N. Maes, lawyers)

Defendant: European Commission (represented by: B. Mongin, I. Melo Sampaio and A.-C. Simon, acting as Agents)

Re:

By their action under Article 270 TFEU, the applicants seek annulment of their pay slips established by the European Commission for the month of July 2020, by which it was decided to apply, for the first time, the correction coefficients laid down, with retroactive effect from 1 October 2019 and 1 January 2020.

Operative part of the order

1. The action is dismissed as manifestly lacking any foundation in law.

2. FZ and the other applicants whose names are set out in the annex shall pay the costs.

(1) OJ C 242, 21.6.2021.

Order of the General Court of 14 June 2022 — FJ and Others v EEAS

(Case T-246/21) (1)

(Civil Service — Officials — Remuneration — EEAS staff posted to a third country — Interim update of correction coefficients — Manifest error of assessment — Retroactive effect — Legal certainty — Duty to have regard for the welfare of officials — Action manifestly lacking any foundation in law)

(2022/C 303/59)

Language of the case: French

Parties

Applicants: FJ and the 6 other applicants whose names are listed in the annex to the order (represented by: J.-N. Louis and N. Maes, lawyers)

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

Re:

By their action under Article 270 TFEU, the applicants seek the annulment of their pay slips for the month of July 2020 drawn up by the European External Action Service (EEAS), by which it was decided to apply, for the first time, the correction coefficients fixed with retroactive effect from 1 October 2019 and 1 January 2020.

Operative part of the order

1. The action is dismissed as manifestly lacking any foundation in law.

2. FJ and the other applicants whose names are listed in the annex shall pay the costs.

(1) OJ C 242, 21.6.2021.

Order of the General Court of 13 June 2022 — Mendes de Almeida v Council

(Case T-334/21) ([1])

(Civil service — Appointment of the European Prosecutors of the European Public Prosecutor's Office — Appointment of one of the candidates nominated by Portugal — No dispute between the Union and one of its servants within the limits and under the conditions laid down in the Staff Regulations and the CEOS — Article 270 TFEU — Manifest lack of jurisdiction)

(2022/C 303/60)

Language of the case: Portuguese

Parties

Applicant: Ana Carla Mendes de Almeida (Sobreda, Portugal) (represented by: R. Leandro Vasconcelos, M. Marques de Carvalho and P. Almeida Sande, lawyers)

Defendant: Council of the European Union (represented by: K. Pleśniak and J. Gil, acting as Agents)

Re:

By her action based on Article 270 TFEU, the applicant seeks the annulment of Council Implementing Decision (EU) 2020/1117 of 27 July 2020 appointing the European Prosecutors of the European Public Prosecutor's Office (OJ 2020 L 244, p. 18), in so far as it appoints Mr José Eduardo Moreira Alves d'Oliveira Guerra as a European Prosecutor of the European Public Prosecutor's Office, and the annulment of the decision of the Council of the European Union of 8 March 2021 rejecting her complaint lodged on 10 February 2021 against the contested decision.

Operative part of the order

1. The action is dismissed.

2. Ms Ana Carla Mendes de Almeida shall pay the costs.

([1]) OJ C 320, 9.8.2021.

Order of the General Court of 9 June 2022 — Equinoccio-Compañía de Comercio Exterior v Commission

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

(Action for annulment — Instrument for Pre-Accession Assistance — Non-Member State — National public procurement — Termination of the contract by the contracting authority — Request for enforcement by the contracting authority of a bank guarantee — Countersignature by the Head of the EU Delegation in the non-Member State — Lack of jurisdiction)

(2022/C 303/61)

Language of the case: English

Parties

Applicant: Equinoccio-Compañía de Comercio Exterior, SL (Madrid, Spain) (represented by: R. Sciaudone and D. Luff, lawyers)

Defendant: European Commission (represented by: D. Bianchi and T. Van Noyen, acting as Agents)

Re:

By its application under Article 263 TFEU, the applicant seeks the annulment of the countersignature affixed on 29 April 2021 by the Delegation of the European Union in Ankara (Turkey) to the letter of enforcement of the bank guarantee of the Turkish Ministry of Science, Industry and Technology.

Operative part of the order

1. The action is dismissed.

2. Equinoccio-Compañía de Comercio Exterior, SL shall pay the costs.

(1) OJ C 452, 8.11.2021.

Order of the President of the General Court of 21 June 2022 — Ismailova v Council

(Case T-234/22 R)

(Interim Relief — Common foreign and security policy — Restrictive measures adopted in respect of Russia's actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine — Freezing of funds — Application for interim measures — No urgency — Balancing of interests)

(2022/C 303/62)

Language of the case: French

Parties

Applicant: Gulbakhor Ismailova (Tachkent, Uzbekistan) (represented by: J. Grand d'Esnon, lawyer)

Defendant: Council of the European Union (represented by: B. Dreissen and A. Vitro, acting as Agents)

Re:

By her application under Articles 278 and 279 TFEU, the applicant seeks, in essence, suspension of operation of, first, two acts by which the criteria for inclusion on the list of persons, entities and bodies subject to restrictive measures on the basis of their involvement in actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine was amended and, second, two acts by which her name was added to that list. Specifically, the applicant seeks, first, the suspension of operation of Council Decision (CFSP) 2022/582 of 8 April 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 110, p. 55), in so far as that act concerns her, of Council Implementing Regulation (EU) 2022/581 of 8 April 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 110, p. 3), in so far as that act concerns her, of Council Decision (CFSP) 2022/329 of 25 February 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 50, p. 1), and of Council Regulation (EU) 2022/330 of 25 February 2022 amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 51, p. 1); second, in the alternative, suspension of operation of Decision 2022/581 in so far as that act concerns her, of Article 1(2)(f) and (g) of Decision 2022/329 and of Article 1(1)(f) and (g) of Regulation 2022/330; and, third, that the Council of the European Union be ordered to pay her the sum of EUR 20 000 in respect of the costs which she incurred for defending her interests.

Operative part of the order

1. The application for interim relief is dismissed.

2. The costs are reserved.

Order of the President of the General Court of 21 June 2022 — Narzieva v Council

(Case T-238/22 R)

(Interim Relief — Common foreign and security policy — Restrictive measures adopted in respect of Russia's actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine — Freezing of funds — Application for interim measures — No urgency — Balancing of interests)

(2022/C 303/63)

Language of the case: French

Parties

Applicant: Saodat Narzieva (Tachkent, Uzbekistan) (represented by: J. Grand d'Esnon, lawyer)

Defendant: Council of the European Union (represented by: A. Vitro and B. Driessen, acting as Agents)

Re:

By her application under Articles 278 and 279 TFEU, the applicant seeks, in essence, suspension of operation of, first, two acts by which the criteria for inclusion on the list of persons, entities and bodies subject to restrictive measures on the basis of their involvement in actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine was amended and, second, two acts by which her name was added to that list. Specifically, the applicant seeks, first, the suspension of operation of Council Decision (CFSP) 2022/582 of 8 April 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 110, p. 55), in so far as that act concerns her, of Council Implementing Regulation (EU) 2022/581 of 8 April 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 110, p. 3), in so far as that act concerns her, of Council Decision (CFSP) 2022/329 of 25 February 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 50, p. 1), and of Council Regulation (EU) 2022/330 of 25 February 2022 amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 51, p. 1); second, in the alternative, suspension of operation of Decision 2022/581 in so far as that act concerns her, of Article 1(2)(f) and (g) of Decision 2022/329 and of Article 1(1)(f) and (g) of Regulation 2022/330; and, third, that the Council of the European Union be ordered to pay her the sum of EUR 20 000 in respect of the costs which she incurred for defending her interests.

Operative part of the order

1. The application for interim relief is dismissed.

2. The costs are reserved.

Action brought on 19 May 2022 — Kesaev v Council

(Case T-290/22)

(2022/C 303/64)

Language of the case: Dutch

Parties

Applicant: Igor Albertovich Kesaev (Usovo, Russia) (represented by: R. Moeyersons and A. De Jonge, lawyers)

Defendant: Council of the European Union

Form of order sought

— annul Council Implementing Regulation (EU) 2022/581 of 8 April 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine to the extent that it concerns the applicant;

— order the Council to reimburse the applicant's costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the applicant's inclusion in the sanctions list is based on factually incorrect grounds.

   — The actions of the applicant within *[confidential]* [1] do not call for the applicant's inclusion in the sanctions list. Not one of the reasons set out in Article 2 of Decision 2014/145/CFSP, as amended by Council Decision (CFSP) 2022/329 of 25 February 2022, is applicable to the applicant.

   — The applicant is not a shareholder of *[confidential]*. The applicant was only indirectly, via the company GlobalVoyenTreyding Ltd, a passive shareholder of *[confidential]*. The applicant transferred those shares to the management by agreements of 11 January 2022, and therefore prior to the military operation of the Russian armed forces in Ukraine.

   — The applicant has no links with 'the security forces' of the Russian Federation via *[confidential]*. The applicant has no active or executive role within that foundation, which is a charity, nor is he aware of whether or not the trustees of that foundation are former officials of the Russian security services, which the Council does not demonstrate.

2. Second plea in law, alleging that the applicant was never heard, which is a violation of the right to a fair trial. Had the applicant been properly informed and given the opportunity to submit observations in due time, the procedure would have had a different outcome.

3. Third plea in law, alleging that the applicant's inclusion in the sanctions list is, having regard to the first plea, contrary to Articles 6, 8, 16 and 17 of the Charter, in combination with Article 52 thereof.

4. Fourth plea in law, alleging breach of the principle of legal certainty. The criteria for placing persons on the sanctions list are vague and unclear and therefore lead to arbitrary decisions.

[1] Confidential information redacted.

Action brought on 30 May 2022 — Korres v EUIPO — Naos (EST. KORRES 1996 HYDRA-BIOME)

(Case T-328/22)

(2022/C 303/65)

Language in which the application was lodged: Greek

Parties

Applicant: Korres AE — Fysika Proionta (Metamorphosi, Attica, Greece) (represented by: S. Tsimikalis, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Naos SAS (Aix-en-Provence, France)

Details of the proceedings before EUIPO

Applicant for the trade mark at issue: Applicant before the Board of Appeal

Trade mark at issue: Application for registration designating the European Union in respect of the figurative mark EST. KORRES 1996 HYDRA-BIOME — Application No 18 197 304

Proceedings before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 23 March 2022 in Case R 1410/2021-5

Form of order sought

The applicant claims that the General Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

— Incorrect interpretation and application of Article 8(1)(b) of Regulation 2017/1001 of the European Parliament and of the Council.

Action brought on 2 June 2022 — TotalEnergies Marketing Nederland v Commission

(Case T-332/22)

(2022/C 303/66)

Language of the case: Dutch

Parties

Applicant: TotalEnergies Marketing Nederland NV (The Hague, Netherlands) (represented by: C. van Heezik, lawyer)

Defendant: European Commission

Form of order sought

— annul the Commission decision of 23 March 2022 in case numbers GASTDEM 2021/4203, 2021/4204, 2021/4205, 2021/4206 and 2021/4207 with a view to ensuring that the documents concerned must still be made public;

— order the Commission to pay the costs incurred by the applicant in these proceedings, including the costs incurred by it in connection with legal aid.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission wrongly and unlawfully failed to submit an inventory list and wrongly failed to provide reasons for why no inventory list was submitted. A full refusal of the inventory list is disproportionate and is disproportionate to the aim pursued. In particular, it is impossible to see how the provision of the inventory list sought will harm the commercial interests and investigations within the meaning of Article 4(2) of Regulation (EC) No 1049/2001.

2. Second plea in law, alleging that the Commission wrongly and unlawfully brought the data GESTDEM 2021/4203 and GESTDEM 2021/4204 within the scope of a general presumption of confidentiality. The applicant does not see how any communication between the Commission and the Netherlands competition authority should belong in the administrative file. Documents which are not part of that file cannot simply be brought within that presumption.

Action brought on 13 June 2022 — Aitana v EUIPO

(Case T-355/22)

(2022/C 303/67)

Language of the case: Spanish

Parties

Applicant: Aitana Actividades de Construcción y Servicios, SL (Alicante, Spain) (represented by: A. Martí Martín, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Form of order sought

The applicant claims that the General Court should:

— uphold the application of the rules governing the contract (Royal Decree-Law 3/2022). ([1])

— uphold the right of Aitana Actividades de Construcción y Servicios, SL (Aitana ACS, SL) to a review of the prices set out in the contract, pursuant to the doctrine of Rebus Sic Stantibus (unforeseeable risk).

— uphold the right of Aitana ACS, SL to a review of the prices set out in the contract, pursuant to the principle of legitimate expectations.

Pleas in law and main arguments

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

1. First plea in law, based on the supplementary application of Spanish law, as the law governing the contract.

   — In that regard, the applicant submits that Clause I.10.1 of the contract declares Spanish law to be applicable on a supplementary basis. Royal Decree-Law 3/2022 of 1 March is of supplementary application. It is appropriate to uphold the right to a review of the prices set out in the contract, pursuant to the provisions of Royal Decree-Law 3/2022.

2. Second plea in law, alleging that the contract prices should be updated, pursuant to the Principles and Rules of the European Union

   — In that regard, it is argued that unforeseeable risk, which produces excessive hardship for one party, should lead to a renegotiation of the contract. The situation of the Sars Cov 2 pandemic, and the war between the Ukrainian and Russian nations are clearly an unforeseeable risk. Such situations have produced an extraordinary increase in the prices of materials, which Aitana ACS, SL should not bear exclusively.

3. Third plea in law, alleging that the recognition of the right to a price review does not constitute breach of contract, nor does the principle of transparency and free competition.

   — In that regard, the applicant submits that the clause restricting price review does not include force majeure or unforeseeable risk. The extension of contractual liability to cases of unforeseeable circumstances requires express acceptance, which has not been given. The principles of transparency and free competition are not infringed by a price update, within the terms of Article 172 of Regulation 2018/1046. ([2])

4. Fourth plea in law, alleging that the right to an update of the contract prices should be recognised, pursuant to the principle of legitimate expectations.

   — In that regard, the applicant points out that the European Patent and Trade Mark Office recognised the appropriateness of the review of the prices set out in the contract. By virtue of that recognition, performance of the contractual obligations was maintained. The principle of legitimate expectations requires EUIPO to recognise the right to a price review.

([1]) Royal Decree Law 3/2022 of 1 March on measures to improve the sustainability of road freight transport and the functioning of the logistics chain, and transposing Directive (EU) 2020/1057 of 15 July 2020 laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector, and exceptional measures concerning the review of prices set out in public works contracts (BOE 2022, No 52, p. 24298).

([2]) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ 2018 L 193, p. 1).

Action brought on 17 June 2022 — Timchenko v Council

(Case T-361/22)

(2022/C 303/68)

Language of the case: French

Parties

Applicant: Elena Petrovna Timchenko (Cologny, Switzerland) (represented by: T. Bontinck, S. Bonifassi and E. Fedorova, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2022/582/CFSP ([1]) of 8 April 2022, in so far as it includes the applicant's name at No 903 of the annex to that decision;

— annul the Council Implementing Regulation (EU) 2022/581 ([2]) of 8 April 2022, in so far as it includes the applicant's name at No 903 of the annex to that decision;

— order the Council to pay provisional damages of EUR 1 000 000 for the non-material harm suffered by the applicant;

— order the Council to pay the costs.

Pleas in law and main arguments

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

1. First plea, alleging infringement of the right to effective judicial protection and of the obligation of the administration to give reasons.

2. Second plea, alleging manifest error of assessment as regards the grounds given by the Council.

3. Third plea, alleging infringement of the principle of proportionality, infringement of fundamental rights as regards the adoption of restrictive measures against the applicant, and unjustified interference with her fundamental rights, which are guaranteed by the Charter of Fundamental Rights of the European Union.

4. Fourth plea, alleging infringement of the Treaties.

(1) Council Decision (CFSP) 2022/582 of 8 April 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 110, p. 55).

(2) Council Implementing Regulation (EU) 2022/581 of 8 April 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 110, p. 3).

Action brought on 18 June 2022 — Bazhaev v Council

(Case T-362/22)

(2022/C 303/69)

Language of the case: French

Parties

Applicant: Musa Yusopovich Bazhaev (Moscow, Russia) (represented by: T. Bontinck, A. Guillerme and T. Payan, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2022/582 (1) of 8 April 2022, in so far as it includes the applicant's name in the annex to Council Decision 2014/145/CFSP of 17 March 2014;

— annul Council Implementing Regulation (EU) 2022/581 (2) of 8 April 2022, in so far as it includes the applicant's name in the annex to Council Regulation (EU) No 2014/269 of 17 March 2014;

— order the Council to pay provisional damages of EUR 1 000 000 for the non-material harm suffered by the applicant;

— order the Council to pay the costs.

Pleas in law and main arguments

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

1. First plea, alleging infringement of the rights of the defence and of the right to effective judicial protection.

2. Second plea, alleging manifest error of assessment as regards the grounds given by the Council.

3. Third plea, alleging infringement of the principle of proportionality and of equal treatment.

4. Fourth plea, alleging infringement of the applicant's fundamental rights.

(1) Council Decision (CFSP) 2022/582 of 8 April 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 110, p. 55).

(2) Council Implementing Regulation (EU) 2022/581 of 8 April 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 110, p. 3).

Action brought on 18 June 2022 — Shulgin v Council

(Case T-364/22)

(2022/C 303/70)

Language of the case: French

Parties

Applicant: Aleksandr Aleksandrovich Shulgin (Moscow, Russia) (represented by: T. Bontinck, F. Bélot, A. Guillerme and L. Burguin, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision 2022/582/CFSP of 8 April 2022, ([1]) in so far as it includes the applicant's name at No 911 of the annex to that decision;

— annul the Council Implementing Regulation (EU) 2022/581 of 8 April 2022, ([2]) in so far as it includes the applicant's name at No 911 of Annex I to that regulation;

— order the Council to pay the costs.

Pleas in law and main arguments

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

1. First plea, alleging infringement of the right to effective judicial protection and of the obligation to give reasons.

2. Second plea, alleging manifest error of assessment as regards the grounds given by the Council.

3. Third plea, alleging infringement of the principle of proportionality and infringement of fundamental rights.

4. Fourth plea, alleging infringement of the principle of equal treatment.

([1]) Council Decision (CFSP) 2022/582 of 8 April 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 110, p. 55).

([2]) Council Implementing Regulation (EU) 2022/581 of 8 April 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 110, p. 3).

Action brought on 21 June 2022 — PT v Commission

(Case T-367/22)

(2022/C 303/71)

Language of the case: French

Parties

Applicant: PT (represented by: S. Orlandi, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the decision of 4 October 2021 by which the authority authorised to conclude contracts calculated and paid the applicant's retirement pension rights, in so far as the applicant's pension rights transferred to the pension scheme of the institutions of the European Union which have no effect on her pension are not restored to her;

— order the European Commission 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, alleging that the fourth paragraph of Article 77 of the Staff Regulations of Officials of the European Union ('the Staff Regulations') is unlawful. The applicant submits that that provision does not provide for the reimbursement of transferred pension rights where those rights are not taken into account when calculating the amount of the pension to be paid.

2. Second plea in law, alleging that the general implementing provisions for Articles 11 and 12 of Annex VIII to the Staff Regulations on the transfer of pension rights are unlawful. According to the applicant, those provisions do not provide for the restitution of transferred rights which have given rise to a 'bonus' in the pension scheme of the institutions of the European Union where that 'bonus' does not give rise to any increase in the amount of the pension paid.

3. Third plea in law, alleging the existence of unjust enrichment. The applicant claims that the absence of a legal basis providing for the restitution of transferred pension rights that have no effect where the mechanism of the minimum subsistence figure referred to in the fourth paragraph of Article 77 of the Staff Regulations applies, in fact gives rise to unjust enrichment of the European Union.

Action brought on 22 June 2022 — Cassa Centrale v EUIPO — Bankia (BANQUÌ)

(Case T-368/22)

(2022/C 303/72)

Language in which the application was lodged: English

Parties

Applicant: Cassa Centrale Banca — Credito Cooperativo Italiano SpA (Trento, Italy) (represented by: J. Graffer, G. Locurto and A. Ottolini, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Bankia, SA (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 word mark BANQUÌ — Application for registration No 17 889 900

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 11 April 2022 in Case R 1318/2021-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision declaring the signs dissimilar and admitting the opposed application to registration;

— order the adverse parties to bear the costs of the present proceedings.

Plea in law

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

Action brought on 27 June 2022 — Montanari v EUCAP Sahel Niger

(Case T-371/22)

(2022/C 303/73)

Language of the case: French

Parties

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

Defendant: EUCAP Sahel Niger (Niamey, Niger)

Form of order sought

The applicant claims that the Court should:

— declare the present action admissible and well founded;

consequently,

— annul the decision of 28 April 2022, in so far as it rejects the applicant's claim for compensation dated 4 February 2022;

— order the defendant to pay compensation for non-material and financial harm valued respectively, ex aequo et bono, at EUR 10 000 and EUR 964 800;

— order the defendant to pay all the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging failure to uphold the worker's right to health and dignity, and alleging acts of psychological harassment suffered by the applicant.

2. Second plea in law, alleging an infringement of the right to sound administration and the duty of care.

Order of the General Court of 21 June 2022 — BAE Systems v Commission

(Case T-773/19) [1]

(2022/C 303/74)

Language of the case: English

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

[1] OJ C 45, 10.2.2020.

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