

Re:

APPLICATION for stay of execution of a number of acts of the Parliament relating to the recovery of parliamentary allowances wrongly received.

Operative part

1. The application for interim measures is dismissed.
2. Costs are reserved.

**Judgment of the General Court (Seventh Chamber) of 21 October 2010 —
Agapiou Joséphidès v Commission and EACEA**

(Case T-439/08)

(Access to documents — Regulation (EC) No 1049/2001 — Documents relating to the award of a Jean Monnet Centre of Excellence to the University of Cyprus — Documents emanating from a third party — Partial refusal of access — Action for annulment — Time-limit for action — Inadmissibility — Objection of illegality — Exception relating to the protection of the privacy and integrity of the individual — Exception relating to the protection of commercial interests — Duty to give reasons)

1. *Actions for annulment — Conditions for admissibility — Action brought against the author of the contested measure — Exceptions — Measures adopted under delegated powers imputable to the delegating institution — Conditions (Art. 230 EC) (see paras 34-38)*

2. *Actions for annulment — Actionable measures — Concept — Decision of the Education, Audiovisual and Culture Executive Agency (EACEA) partially rejecting an application for access to documents under Regulation No 1049/2001 — Decision-making competence of EACEA distinct from that of the Commission — Inclusion in the concept (Art. 230 EC) (see paras 42-45)*

3. *Plea of illegality — Scope — Measures the illegality of which may be pleaded — General measure providing the basis of the contested decision — Need for a legal connection between the contested measure and the contested general measure (Arts 230 EC and 241 EC) (see paras 49-51, 53-54)*

4. *European Communities — Community institutions and bodies — Right of public access to documents — Article 255 EC and Article 1, second indent, EU — Direct effect — None — Effect (Art. 255 EC; Art. 1, second para., EU) (see paras 62-63)*

5. *Actions for annulment — Actionable measures — Concept — Measures producing binding legal effects — Decision of the Education, Audiovisual and Culture Executive Agency (EACEA) partially to refuse access to Commission documents following a fresh application — Assessment as to whether that decision definitive or otherwise — Obligation to bring a fresh confirmatory application for access — None (European Parliament and Council Regulation No 1049/2001, Arts 4(1), (3) and (7), 6(1), 7 and 8(1)) (see paras 73-75, 78)*

6. *European Communities — Community institutions and bodies — Right of public access to documents — Obligation of institutions or bodies to develop sound administrative practices (European Parliament and Council Regulation No 1049/2001, Art. 15(1)) (see paras 88-90)*

7. *European Communities — Community institutions and bodies — Right of public access to documents — Regulation No 1049/2001 — Exceptions to the right of access to documents — Documents originating from third parties — Prior consultation of third parties concerned — Scope — Mandatory nature — None — Discretion of the institutions (European Parliament and Council Regulation No 1049/2001, Art. 4(4)) (see para. 95)*

8. *European Communities — Community institutions and bodies — Right of public access to documents — Regulation No 1049/2001 — Exceptions to the right of access to documents — Conditions — Restrictive interpretation — Principle of proportionality — Obligation on the institution or body to make a concrete and individual examination of documents — Possibility of granting partial access to documents (European Parliament and Council Regulation No 1049/2001, Arts 4(2), (3) and (6)) (see paras 105-108)*

9. *European Communities — Community institutions and bodies — Right of public access to documents — Regulation No 1049/2001 — Exceptions to the right of access to documents — Protection of privacy and the integrity of the individual — Obligation on the institution or body to make a concrete and individual examination of documents — Scope — Possibility of granting partial access to documents (European Parliament and Council Regulation No 1049/2001, Arts 4(1)(b) and (6)) (see paras 111-112, 114-120)*

10. *European Communities — Community institutions and bodies — Right of public access to documents — Regulation No 1049/2001 — Exceptions to the right of access to documents — Protection of the commercial interests of a legal person — Obligation on the institution or body to make a concrete and individual examination of documents — Possibility of granting partial access to documents (European Parliament and Council Regulation No 1049/2001, Art. 4(2), first indent) (see paras 125-127, 129)*

11. *European Communities — Community institutions and bodies — Right of public access to documents — Regulation No 1049/2001 — Exceptions to the right of access to documents — Overriding public interest justifying the disclosure of documents — Concept — Obligation on the institution or body to balance the interests at stake (European Parliament and Council Regulation No 1049/2001, Arts 4(2) and (3)) (see paras 136-137, 139-142)*

12. *Acts of the institutions — Statement of reasons — Obligation — Scope (Art. 253 EC; European Parliament and Council Regulation No 1049/2001, Arts 4(1)(b), (2) and (3)) (see paras 146-150)*

13. *Actions for annulment — Time-limits — Point from which time starts to run — Measure not published and not notified to the applicant — Precise knowledge of the content and reasons — Duty to request the whole text of the decision within a reasonable time once its existence is known — Request formulated more than four months after existence of the contested decision became known — Unreasonable delay — Inadmissibility of the application (Art. 230, fifth para., EC) (see paras 157-161)*

14. *Procedure — Introduction of new pleas during the proceedings — Head of claim first raised at the reply stage — Inadmissibility (Rules of Procedure of the General Court, Art. 48(2)) (see paras 168-169)*

Re:

ANNULMENT, firstly, of the decision of the EACEA of 1 August 2008, concerning a request for access to certain documents relating to the award of a Jean Monnet Centre of Excellence to the University of Cyprus and, secondly, of Commission Decision C(2007) 3749 of 8 August 2007 relating to an individual decision to award a subsidy within the framework of the Lifelong Learning Programme, Jean Monnet sub-programme.

Operative part

1. Dismisses the action;
2. Orders Ms Kalliope Agapiou Joséphidès to pay the costs.

Judgment of the General Court (Seventh Chamber) of 21 October 2010 — Umbach v Commission

(Case T-474/08)

(Access to documents — Regulation (EC) No 1049/2001 — Documents relating to a contract concluded under the TACIS programme — Request for access concerning a dispute between the applicant and the Commission before a Belgian civil court — Partial refusal of access — Request for access based on the principles deriving from the EU Treaty — Overriding public interest)

1. *Actions for annulment — Actionable measures — Concept — Measures producing binding legal effects — Silence or inaction of an institution — Assimilation to an implied decision of refusal — Not included — Limits (Art. 230 EC) (see paras 35-36)*
2. *European Communities — Institutions — Right of public access to documents — Regulation (EC) No 1049/2001 — Exceptions to the right of access to documents — Overriding public interest justifying the disclosure of documents — Concept — Individual interest of the applicant — Not included (European Parliament and Council Regulation No 1049/2001, Arts 2(1) and 4(2)) (see paras 56, 58-59, 71)*