

4. Fourth plea in law, alleging that the application of the penalty interest rate of 4.5 % to the periods covered by the interim measures orders violates the principle of proportionality. It would be disproportionate to penalise the applicant through the application of interest at the rate provided for in Article 86(2)(b) of the Implementing Rules, in circumstances where i) the fine is not enforceable, and ii) the EU judicature has established that it cannot pay the fine or provide a suitable bank guarantee.

(¹) Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ 2002 L 357, p. 1), as amended.

Action brought on 29 January 2013 — Donnici v Parliament

(Case T-43/13)

(2013/C 79/52)

Language of the case: Italian

Parties

Applicant: Beniamino Donnici (Castrolibero, Italy) (represented by: V. Vallefucio and J. Van Gysegghem, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the General Court should find serious fault on the part of the European Parliament in relation to its decision adopted on 24 May 2007 to the applicant's disadvantage, subsequently annulled by the judgment of the Court of Justice of 30 April 2009 and, thus, order the European Parliament to make good the material and non-material damage suffered or to be suffered by him as a result of that unlawful measure, even on an equitable basis which amounts to EUR 1 720 470, or in such lesser amount as the Court considers appropriate. The applicant claims that the European Parliament should pay the costs.

Pleas in law and main arguments

The applicant in the present proceedings — who is also the applicant in Cases T-215/07 and C-9/08 *Donnici v Parliament* — seeks compensation for the damage suffered as a result of the defendant's refusal to recognise the validity of his mandate as a member of the European Parliament. That decision was subsequently annulled by the Court of Justice of the European Union.

In support of his action, the applicant submits that in the present case all the conditions established by the case-law for a declaration that the institutions of the European Union are non-contractually liable are satisfied; this applies in particular to:

- the unlawfulness of the conduct alleged;
- the requirement for the damage to be real;
- the existence of a causal link, and
- fault on the part of the European Union, or the degree of infringement by it. In that regard, the applicant states that, through the decision giving rise to the present proceedings, the defendant has disregarded in a sufficiently serious manner a rule intended to confer rights on individuals.

Action brought on 29 January 2013 — AbbVie v EMA

(Case T-44/13)

(2013/C 79/53)

Language of the case: English

Parties

Applicants: AbbVie, Inc. (Wilmington, United States); and AbbVie Ltd (Maidenhead, United Kingdom) (represented by: P. Bogaert, G. Berrisch, lawyers, and B. Kelly, Solicitor)

Defendant: European Medicines Agency

Form of order sought

The applicant claims that the Court should:

- Annul the Decision of the European Medicines Agency EMA/748792/2012 of 14 January 2013 granting access to documents from the marketing authorisation dossier of a medicinal product; and
- Order the European Medicines Agency to pay the applicants' costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Decision violates Article 4(2) of the Transparency Regulation (¹) and the applicants' fundamental rights to the protection of confidential commercial information.
2. Second plea in law, alleging that the Decision violates Article 4(4) of the Transparency Regulation and the principle of good administration.