The General Court erred in law by grounding its refusal to acknowledge the existence of overriding public interests in disclosure only on the analysis of the arguments put forward by the applicant. This approach is contrary to the provisions of Regulation No. 1049/2001 as well as to relevant case law. In fact, the arguments put forward by an applicant in this respect cannot per se be the reason why the existence of overriding public interests is denied, because the law does not set the burden of proof of overriding circumstances on the applicant. The balance of the interests at stake in disclosure must be carried out by the institution concerned.

(1) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents. OJ L 145, p. 43

(2) 2005/370/EC: 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 L 124, p. 1

(3) Regulation (EC) No. 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies. OJ L 264, p. 13

## Appeal brought on 27 November 2013 by ClientEarth, Pesticide Action Network Europe (PAN Europe) against the judgment of the General Court (Sixth Chamber) delivered on 13 September 2013 in Case T-214/11: ClientEarth, Pesticide Action Network Europe (PAN Europe) v European Food Safety Authority (EFSA)

**(Case C-615/13 P)**

(2014/C 71/09)

*Language of the case: English*

### Parties

*Appellants:* ClientEarth, Pesticide Action Network Europe (PAN Europe) (represented by: P. Kirch, avocat)

*Other parties to the proceedings:* European Food Safety Authority, European Commission

### Form of order sought

The appellant claims that the Court should:

— set aside the General Court judgment of 13 September 2013 in case T-214/11;

— order EFSA to pay all costs.

### Pleas in law and main arguments

In support of the appeal, the appellants rely on three pleas in law.

1. First ground of appeal, alleging misapplication of the legal concept of 'personal data' as defined by Article 2 of Regulation No. 45/2001 (1).

   The General Court erred in finding that the combination of names and opinions constitutes personal data. The concept of 'personal data' does not include opinions provided in the course of participation in a public committee where experts, whose names and other personal details are publicly available, are called on to participate due to their renowned expertise.

2. Second ground of appeal, alleging misapplication of Articles 4(1)(b) of Regulation No. 1049/2001 (2) and Article 8(b) of Regulation No. 45/2001 with regard to the scope, procedure and substance of these provisions, in particular by failing to consider and balance all the interests protected by those measures.

   The General Court failed to fully consider all aspects of the provisions which were found to be applicable: Article 4(1)(b) of Regulation No. 1049/2001 and Article 8(b) of Regulation No. 45/2001. It failed to consider and take account of the different interests protected under both measures.

3. Third ground of appeal, alleging violation of Article 5 of the TEU by imposing a disproportionate burden of proof upon the Appellants in requiring them to show the necessity for the transfer of information and the scope of legitimate interests protected.

(1) Regulation (EC) No. 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. OJ L 8, p. 1

(2) Regulation (EC) No. 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents. OJ L 145, p. 43

## Request for a preliminary ruling from the Sąd Okręgowy w Gliwicach (Poland) lodged on 2 December 2013 — Adarco Invest sp. z o.o established in Petrosani (Romania), Polish branch in Tarnowskie Góry

**(Case C-629/13)**

(2014/C 71/10)

*Language of the case: Polish*

### Referring court

Sąd Okręgowy w Gliwicach

**Party to the main proceedings**

*Appellant:* Adarco Invest sp. z o.o established in Petrosani (Romania), Polish branch in Tarnowskie Góry

**Question referred**

Do Articles 49 and 54 of the Treaty on the Functioning of the European Union and Article 1 of the Eleventh Council Directive concerning disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another State [1] preclude refusal in a Member State to remove from the Krajowy Rejestr Sądowy (commercial register) a branch of a company established in another Member State in so far as that branch has not been wound up in accordance with the procedure laid down for winding up a domestic limited liability company, whereas such a procedure does not have to be carried out to remove a branch of a domestic company from the register? In the case of domestic companies, branches are entered only in the registration of the domestic company and that company is obliged to submit a consolidated financial statement covering the parent company and its branches, whilst branches of foreign companies are registered in the Krajowy Rejestr Sądowy (commercial register) and submit to the register only a financial statement for the branch.

[1] OJ 1989 L 395, p. 36.

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**Request for a preliminary ruling from the Sąd Najwyższy (Poland) lodged on 3 December 2013 — Polska Izba Informatyki i Telekomunikacji v Prezes Urzędu Komunikacji Elektronicznej**

**(Case C-633/13)**

(2014/C 71/11)

*Language of the case: Polish*

**Referring court**

Sąd Najwyższy

**Parties to the main proceedings**

*Applicant:* Polska Izba Informatyki i Telekomunikacji

*Defendant:* Prezes Urzędu Komunikacji Elektronicznej

**Question referred**

Must Article 13(1) of Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) [1] be interpreted as meaning that, in the context of obligations relating to price controls, national regulatory authorities may impose on operators with significant market power an obligation consisting in a prohibition on the application of excessive voice call termination rates in the telephone network of such operators?

[1] OJ 2002 L 108, p. 7.

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**Request for a preliminary ruling from the Juzgado de Primera Instancia de Barcelona (Spain) lodged on 5 December 2013 — Cajas Rurales Unidas, Sociedad Cooperativa de Crédito v Evaristo Méndez Sena and Others**

**(Case C-645/13)**

(2014/C 71/12)

*Language of the case: Spanish*

**Referring court**

Juzgado de Primera Instancia de Barcelona

**Parties to the main proceedings**

*Applicant:* Cajas Rurales Unidas, Sociedad Cooperativa de Crédito

*Defendants:* Evaristo Méndez Sena, Edelmira Pérez Vicente, Daniel Méndez Sena, Victoriana Pérez Bicéntez

**Questions referred**

1. Must the legislation of a Member State under which no provision is made for a right of appeal to a higher court in the event of the dismissal of an application, made in the course of mortgage enforcement proceedings, to have a contractual term disapplied on the ground that it is unfair, be interpreted as failing to provide adequate and effective means to prevent the continued use of unfair terms in contracts concluded with consumers by sellers or suppliers, and as failing to observe the right to take action before the competent national courts for a decision as to whether contractual terms drawn up for general use are unfair, so that those courts can apply appropriate and effective means to prevent the continued use of such terms?

2. If the answer to Question 1 is in the affirmative, may the national court — in order to ensure that consumers are adequately and effectively protected against unfair contractual terms — of its own motion grant a consumer the right to have a higher court review the decision at first instance dismissing the application by that consumer to have a contractual term disapplied on the ground that it is unfair?