Official Journal of the European Union

C 312

English edition

Information and Notices

Volume 62

16 September 2019

Contents

EN

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COURT OF JUSTICE OF THE EUROPEAN UNION

Last publications of the Court of Justice of the European Union in the *Official Journal of the European Union*

(2019/C 312/01)

Last publication

OJ C 305, 9.9.2019

Past publications

OJ C 295, 2.9.2019

OJ C 288, 26.8.2019

OJ C 280, 19.8.2019

OJ C 270, 12.8.2019

OJ C 263, 5.8.2019

OJ C 255, 29.7.2019

These texts are available on:

EUR-Lex: http://eur-lex.europa.eu

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Request for a preliminary ruling from the Tribunale Amministrativo Regionale per la Sardegna (Italy) lodged on 25 April 2019 — Telecom Italia SpA v Regione Sardegna

(Case C-338/19)

(2019/C 312/02)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per la Sardegna

Parties to the main proceedings

Appellant: Telecom Italia SpA

Respondent: Regione Sardegna

Questions referred

1. Must Article 16 of Regulation (EC) No 659/1999/EC of 22 March 1999, ([1]) applicable *ratione temporis*, which provides that '*Without prejudice to Article 23, the Commission may in cases of misuse of aid open the formal investigation procedure pursuant to Article 4(4). Articles 6, 7, 9 and 10, Article 11(1), Articles 12, 13, 14 and 15 shall apply mutatis mutandis*', be interpreted as meaning that a preliminary decision to recover aid must be adopted by the European Commission also in cases involving misuse of aid (without prejudice to the Commission's power to refer the matter directly to the Court of Justice of the European Union, pursuant to Article 23 of Regulation No 659/1999/EC)?

   If the previous question is answered in the negative, must Article 16 of Regulation No 659/1999/EC of 22 March 1999 be declared invalid on the basis that it is in breach of Article 108(2) of the Treaty on the Functioning of the European Union (formerly Article 88(2) EC)?

2. Must Article 9(1) and (2) of Commission Regulation (EC) No 794/2004 of 21 April 2004 (implementing Council Regulation (EC) No 659/1999 of 22 March 1999), ([2]) as amended by Commission Regulation (EC) No 271/2008 of 30 January 2008, ([3]) be interpreted as meaning that the interest rate stipulated in that provision for the recovery of incompatible and unlawful State aid also applies in the case where State aid authorised by a conditional decision and misused is to be recovered because the condition laid down therein was satisfied?

([1]) Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ 1999 L 83, p. 1).
([2]) Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ 2004 L 140, p. 1).
([3]) Commission Regulation (EC) No 271/2008 of 30 January 2008 amending Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ 2008 L 82, p. 1).

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 6 May 2019 — Telecom Italia SpA and Others v Roma Capitale and Others

(Case C-368/19)

(2019/C 312/03)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellants: Telecom Italia SpA, Wind Tre SpA, Vodafone Italia SpA and Lindam Srl
Respondents: Roma Capitale, Regione Lazio, Vodafone Italia SpA, Telecom Italia SpA, Wind Tre SpA and Wind Telecomunicazioni SpA

Question referred

Does EU law preclude a provision of national legislation, such as Article 8(6) of legge 22 febbraio 2001, n. 36 (Law No 36 of 22 February 2001), which is understood and applied as allowing individual local authorities to define siting criteria for mobile telephone apparatus, which may be expressed in the form of prohibitions, such as a prohibition on placing antennae in specific areas or within a certain distance of a certain type of building?

Appeal brought on 8 May 2019 by José-Ramón Herrero Torres against the order of the General Court (Eighth Chamber) delivered on 8 March 2019 in Case T 326/18 Herrero Torres v EUIPO — DZ Licores (CARAJILLO LICOR 43 CUARENTA Y TRES)

(Case C-369/19 P)

(2019/C 312/04)

Language of the case: Spanish

Parties

Appellant: José-Ramón Herrero Torres (represented by J. Donoso Romero, abogado)

Other parties to the proceedings: European Union Intellectual Property Office and DZ Licores S.L.U.

By order of 15 July 2019, the Court of Justice (Chamber determining whether appeals may proceed) ruled that the appeal should not be allowed to proceed and ordered José-Ramón Herrero Torres to bear his own costs.

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 13 May 2019 — Benedetti Pietro e Angelo S.S. and Others v Agenzia per le Erogazioni in Agricoltura (AGEA)

(Case C-377/19)

(2019/C 312/05)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellants: Benedetti Pietro e Angelo S.S., Capparotto Giampaolo e Lorenzino S.S., Gonzo Dino S.S., Soc. Agr. Semplice F.Lli Isolan, Mantovani Giuseppe e Giorgio S.S., Azienda Agricola Padovani Luigi, Az. Agr. La Pila di Mastrotto Piergiorgio e C. S.S., Azienda Agricola Mastrotto Giuseppe

Respondent: Agenzia per le Erogazioni in Agricoltura (AGEA)

Question referred

In circumstances such as those described, does Article 16 of Regulation (EC) No 595/2004 ([1]) preclude a national provision, such as that laid down in Article 9 of Decree-Law No 49/2003 in conjunction with Article 2(3) of Decree-Law No 157 of 24 June 2004, which lays down the criterion for identifying the priority category to which a levy unduly charged is to be refunded as whether or not the purchaser has made a regular monthly payment?

([1]) Commission Regulation (EC) No 595/2004 of 30 March 2004 laying down detailed rules for applying Council Regulation (EC) No 1788/2003 establishing a levy in the milk and milk products sector (OJ 2004 L 94, p. 22).

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 22 May 2019 — Autorità per le Garanzie nelle Comunicazioni v BT Italia SpA and Others

(Case C-399/19)

(2019/C 312/06)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellant: Autorità per le Garanzie nelle Comunicazioni

Respondents: BT Italia SpA, Basictel SpA, BT Enia Telecomunicazioni SpA, Telecom Italia SpA, PosteMobile SpA and Vodafone Italia SpA

Questions referred

1. Does Article 12(1)(a) of Directive 2002/20/EC ([1]) preclude national legislation which imposes on undertakings authorised under that directive the total administrative costs incurred by the national regulatory authority in organising and carrying out all the tasks, including regulatory, supervisory, dispute-resolution and sanctioning tasks, assigned to it under the European framework for electronic communications (laid down in Directives 2002/19/EC, ([2]) 2002/20/EC, 2002/21/EC ([3]) and 2002/22/EC), ([4]) or are the activities mentioned in Article 12(1)(a) of Directive 2002/20/EC co-extensive with the '*ex ante* regulatory activities' performed by the national regulatory authority?

2. Is Article 12(2) of Directive 2002/20/EC to be interpreted as meaning that the yearly overview of the administrative costs of the national regulatory authority and of the charges levied (a) may be published after the end of the financial year, in accordance with national laws on public accounting, in which the administrative charges have been levied and (b) permits the national regulatory authority to make the 'appropriate adjustments' even with reference to financial years that are not immediately consecutive?

([1]) Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) (OJ 2002 L 108, p. 21).
([2]) 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) (OJ 2002 L 108, p. 7).
([3]) Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ 2002 L 108, p. 33).
([4]) Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (OJ 2002 L 108, p. 51).

Appeal brought on 11 June 2019 by SA Close, Cegelec against the judgment of the General Court (Fourth Chamber) delivered on 9 April 2019 in Case T-259/15, Close and Cegelec v Parliament

(Case C-447/19 P)

(2019/C 312/07)

Language of the case: French

Parties

Appellants: SA Close, Cegelec (represented by: J.-L. Teheux, J.-M. Rikkers, lawyers)

Other party to the proceedings: European Parliament

Form of order sought

The appellants claim that the Court should:

— set aside the judgment under appeal;

— consequently, grant the form of order sought by the appellants at first instance and, accordingly, annul the decision taken on 19 March 2015 by the Parliament awarding the public works contract in respect of the '*Project to extend and modernise the Konrad Adenauer Building in Luxembourg*' lot 73 (energy unit), under reference INLO-D-UPIL-T-14-A04, to the consortium ENERGIE-KAD (formed of the companies MERSCH et SCHMITZ PRODUCTION SARL and ENERGOLUX SA) and, in turn, not selecting the appellants' tender;

— order the Parliament to pay the costs.

Grounds of appeal and main arguments

The appellants claim that the General Court failed to fulfil the obligation to state reasons for the purposes of Article 296 TFEU, Article 113(2) of the financial regulation and Article 161(2) and (3) of the rules of application of the financial regulation.

The General Court also distorted the scope of the second plea in law raised at first instance, attributed incorrect scope to the concept of manifest error of assessment, the principle of sound administration and the obligations stemming from that principle, and made an error of assessment that led to distortion of the facts and evidence.

Lastly, the appellants submit that the judgment under appeal lacks an adequate statement of reasons, in so far as it in no way addresses certain arguments put forward by them.

Appeal brought on 14 June 2019 by Amador Rodriguez Prieto against the judgment of the General Court (Eighth Chamber) delivered on 4 April 2019 in Case T-61/18, Rodriguez Prieto v Commission

(Case C-457/19 P)

(2019/C 312/08)

Language of the case: French

Parties

Appellant: Amador Rodriguez Prieto (represented by: S. Orlandi, T. Martin, lawyers)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court of 4 April 2019 in Case T-61/18 in so far as it dismisses the claim for compensation in respect of the non-material damage suffered by the appellant;

— order the Commission to compensate the appellant for the non-material damage suffered by paying him compensation fixed at a flat rate of EUR 100 000;

— order the Commission to pay the costs.

Grounds of appeal and main arguments

The appellant claims that the judgment under appeal is vitiated by an error of law regarding the unlawfulness of the Commission's conduct towards him during the criminal proceedings, particularly in the light of his status as the whistle-blower that gave rise to the '*Eurostat* case'.

Request for a preliminary ruling from the Hof van beroep te Brussel (Belgium) lodged on 4 July 2019 — Openbaar Ministerie, YU, ZV v AZ

(Case C-510/19)

(2019/C 312/09)

Language of the case: Dutch

Referring court

Hof van beroep te Brussel

Parties to the main proceedings

Appellants: Openbaar Ministerie, YU, ZV

Respondent: AZ

Questions referred

1. 1. Does the term 'judicial authority' as referred to in Article 6(2) [1] of the Framework Decision constitute an autonomous concept of EU law?

2. If the answer to Question 1.1 is in the affirmative: which criteria are to be applied for the purpose of determining whether an authority of the executing Member State is such a judicial authority and whether a European arrest warrant executed by that authority therefore constitutes such a judicial decision?

3. If the answer to Question 1.1 is in the affirmative: is the Netherlands Openbaar Ministerie (Public Prosecution Service), more specifically the Officier van Justitie (Public Prosecutor), covered by the concept of judicial authority, as referred to in Article 6(2) of the Framework Decision, and does the European arrest warrant executed by that authority thus constitute a judicial decision?

4. If the answer to Question 1.3 is in the affirmative: is it permissible for the initial surrender to be assessed by a judicial authority, more specifically, the Overleveringskamer (the court responsible for the surrender decision) in Amsterdam, in accordance with Article 15 of the Framework Decision, whereby, inter alia, the defendant's right to be heard and right of access to the courts are respected, whereas the supplementary surrender in accordance with Article 27 of the Framework Decision is assigned to a different authority, namely the Officier van Justitie, whereby the defendant is not guaranteed the right to be heard or to have access to the courts, with the result that there is a manifest lack of coherence within the Framework Decision without any reasonable justification?

5. If the answer to Questions 1.3 and 1.4 is in the affirmative: should Articles 14, 19 and 27 of the Framework Decision be interpreted as meaning that a public prosecution service acting as the executing judicial authority should first of all respect the defendant's right to be heard and right of access to the courts, before consent can be given for the prosecution, conviction or detention of a person with a view to the execution of a custodial sentence or measure for a criminal offence committed before his surrender under a European arrest warrant, that latter offence not being the criminal offence for which his surrender was requested?

2. Is the Officier van Justitie of the Openbaar Ministerie of the Amsterdam judicial district who acts in implementation of Article 14 of the Netherlands Wet van 29 april 2004 tot implementatie van het kaderbesluit van de Raad van de Europese Unie betreffende het Europees aanhoudingsbevel en de procedures van overlevering tussen de lidstaten van de Europese Unie (Overleveringswet), (Law of 29 April 2004 implementing the Framework Decision of the Council of the European Union on the European arrest warrant and the surrender procedures between Member States of the European Union (Law on the surrender of persons)) the executing judicial authority within the meaning of Article 6(2) of the Framework Decision which surrendered the requested person and which can grant consent within the meaning of Article 27(3)(g) and 27(4) of the Framework Decision?

([1]) Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ 2002 L 190, p. 1).

Appeal brought on 23 July 2019 by Recylex SA, Fonderie et Manufacture de Métaux, Harz-Metall GmbH against the judgment of the General Court (Eighth Chamber) delivered on 23 May 2019 in Case T-222/17: Recylex e.a. v Commission

(Case C-563/19 P)

(2019/C 312/10)

Language of the case: English

Parties

Appellants: Recylex SA, Fonderie et Manufacture de Métaux, Harz-Metall GmbH (represented by: M. Wellinger, avocat, S. Reinart and K. Bongs, Rechtsanwälte)

Other party to the proceedings: European Commission

Forms of order sought

The appellants claim that the Court should:

— set aside the judgment of the General Court of 23 May 2019 in Case T-222/17 in so far as it upholds the fine imposed on the appellants by the Contested Decision ([1]) and orders the appellants to pay the costs;

— annul the Contested Decision in so far as it imposes a fine of EUR 26 739 000 on the appellants;

— reduce the amount of the fine imposed on the appellants to EUR 5 877 732 on the basis of all three pleas; or at least to EUR 17 679 141 on the basis of the first plea only, to EUR 13 305 478 on the basis of the second plea only, to EUR 19 099 565 on the basis of the third plea only, to EUR 8 228 824 on the basis of the first and second pleas, to EUR 12 627 958 on the basis of the first and the third pleas, or to EUR 9 503 913 on the basis of the second and the third pleas; and

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

Pleas in law and main arguments

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

1) The contested judgment is vitiated by an error of law, first, because its reasoning is incoherent and unclear as regards the legal test applicable for the grant of partial immunity and, second, because, when applying a legal test, the contested judgment manifestly distorted the evidence and disregarded the rules on the burden of proof.

2) The contested judgment is vitiated by an error of law because it misconstrued and incorrectly applied the rules on partial immunity pursuant to the third paragraph of point 26 of the 2006 Leniency Notice.

3) The contested judgment is vitiated by an error of law in its application of Section III of the 2006 Leniency Notice when holding that an undertaking which is second to provide evidence of significant added value cannot take the place of the first undertaking to have provided such evidence but which does not meet the conditions to qualify for a reduction of its fine.

([1]) Commission Decision of 8 February 2017 (C(2017) 900 final) relating to a proceeding under Article 101 of the TFEU (Case AT.40018 — Car battery recycling).

Appeal brought on 26 July 2019 by European Road Transport Telematics Implementation Coordination Organisation — Intelligent Transport Systems & Services Europe (Ertico — ITS Europe) against the judgment of the General Court (Fourth Chamber) delivered on 22 May 2019 in Case T-604/15: Ertico — ITS Europe v Commisison

(Case C-572/19 P)

(2019/C 312/11)

Language of the case: English

Parties

Appellant: European Road Transport Telematics Implementation Coordination Organisation — Intelligent Transport Systems & Services Europe (Ertico — ITS Europe) (represented by: M. Wellinger and K. T'Syen, avocats)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— quash the judgment of the General Court of 22 May 2019 in Case T-604/15;

— annul the Contested Decision ([1]) and confirm the SME (micro, small and medium-sized enterprise) status of the appellant; and

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

Pleas in law and main arguments

In support of the appeal, the appellant relies on three pleas in law.

1) The contested judgment is vitiated by an error of law in that it finds that (i) sections 1.2.6 and 1.2.7 of the Annex to Commission Decision 2012/838/EU ([2]) of 18 December 2012 on the adoption of the Rules to ensure consistent verification of the existence and legal status of participants, as well as their operational and financial capacities, in indirect actions supported through the form of a grant under the Seventh Framework Programme of the European Community for research, technological development and demonstration activities and under the Seventh Framework Programme of the European Atomic Energy Community for nuclear research and training activities and (ii) Article 22 of Council Regulation No. 58/2003 ([3]) of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes relate to separate remedies.

2) The contested judgment misapplies and violates the SME Recommendation ([4]) and violates the fundamental legal principles of legal certainty and protection of legitimate expectations (and is therefore vitiated by an error of law) by finding that it is legally permitted to deny the appellant the status of SME based on the 'purpose and spirit' of the SME Recommendation despite the fact that the appellant formally satisfies the criteria of the SME Recommendation (which is not contradicted by the contested judgment).

3) The contested judgment is vitiated by a manifest error of assessment and substantively invalid, in so far as it finds that the appellant 'did not have to contend with the handicaps usually faced by SMEs' (and that the appellant therefore would not be an SME under the 'purpose and spirit' of the SME Recommendation).

([1]) Decision of the Validation Panel of the European Commission of 18 August 2015.
([2]) OJ 2012, L 359, p. 45.
([3]) OJ 2003, L 11, p. 1.
([4]) Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ 2003, L 124, p. 36).

GENERAL COURT

Action brought on 29 July 2019 — MU v Parliament

(Case T-40/16)

(2019/C 312/12)

Language of the case: Italian

Parties

Applicant: MU (represented by: A. Bruno, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— find and declare that the measure adopted by the European Parliament on 11 December 2015 refusing the additional payment for trainees with disabilities, provided for by Article 24(9) of the Internal Rules governing Traineeships and Study Visits in the Secretariat of the European Parliament, is unlawful;

— accordingly, declare that MU has a personal right to be awarded the additional payment provided for in Article 29(9) of the rules governing traineeships at the European Parliament, since he has a disability of 70 %;

— order the European Parliament to pay to the applicant the additional remuneration provided for in the applicable rules, together with interest and monetary indexation from the date of the administrative request to the date of actual payment;

— order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant claims:

1. The award of the additional payment to persons with disabilities, provided for in Article 24(9) of the Internal Rules governing Traineeships and Study Visits in the Secretariat of the European Parliament, is not a matter of discretion for the Parliament.

2. The percentage disability is confirmed or established by the European Parliament's medical adviser according to whether it is based on a national certificate or on a detailed opinion of the trainee's doctor, making reference to the 'European Guide for Assessment, for medical purposes, of Physical and Mental Impairments'.

3. The European Parliament's discretion, if it has any in the present case, has been exceeded without just cause. In this respect, it should be noted that the rules in question distinguish between, on the one hand, cases in which the disability is based on a certificate from the national authority, as here, in which case the disability is confirmed by the European Parliament's doctor, and, on the other hand, cases in which the disability is based on a report from the trainee's doctor. In the latter case, and only in that case, the percentage disability is established by the European Parliament's doctor.

Action brought on 4 July 2019 — ITV v Commission

(Case T-456/19)

(2019/C 312/13)

Language of the case: English

Parties

Applicant: ITV plc (London, United Kingdom) (represented by: J. Lesar, Solicitor, and K. Beal, QC)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Decision C(2019) 2526 final of 2 April 2019 on the State aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission wrongly applied Article 107(1) TFEU and/or made a manifest error of appraisal or assessment in its selection of the reference framework for the analysis of the tax regime. The Commission should have treated the reference framework as the UK's corporation tax regime, not simply the controlled foreign companies (CFC) regime itself.

2. Second plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU and/or made a manifest error of appraisal or assessment by adopting a flawed approach to the analysis of the CFC regime. The Commission at recitals (124) to (126) of the contested decision wrongly treated the provisions of Chapter 9 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 as a form of derogation from a general charge to tax found in Chapter 5 thereof.

3. Third plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU when finding at recitals (127) to (151) of the contested decision that the selectivity criterion was fulfilled in that undertakings in factually and legally comparable positions were treated differently.

4. Fourth plea in law, alleging that the 75 % exemption under section 371ID of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

5. Fifth plea in law, alleging that the imposition of a tax burden on CFCs meeting the exemptions contained in Chapter 9 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 as a class would breach the applicant's freedom of establishment contrary to Article 49 TFEU.

6. Sixth plea in law, alleging that there was a manifest error of appraisal or assessment in relation to the 75 % exemption and fixed ratio issue.

7. Seventh plea in law, alleging that the Commission's decision fails to comply with the general EU law principle of non-discrimination or equality.

8. Eighth plea in law, alleging that the Commission erred in law in applying by analogy or placing undue reliance upon the terms of Council Directive (EU) 2016/1164, ([1]) which was not applicable *ratione temporis*.

9. Ninth plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU by finding at recital (176) of the contested decision that a class of beneficiaries exists (including the applicant) and that the applicant had obtained any aid which needed to be recovered under Article 2(1) of the contested decision.

([1]) Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ 2016 L 193, p. 1).

Action brought on 4 July 2019 — Synthomer v Commission

(Case T-457/19)

(2019/C 312/14)

Language of the case: English

Parties

Applicant: Synthomer plc (Harlow, United Kingdom) (represented by: J. Lesar, Solicitor and K. Beal, QC)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Decision C(2019) 2526 final of 2 April 2019 on the State aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission wrongly applied Article 107(1) TFEU and/or made a manifest error of appraisal or assessment in its selection of the reference framework for the analysis of the tax regime. The Commission should have treated the reference framework as the UK's corporation tax regime, not simply the controlled foreign companies (CFC) regime itself.

2. Second plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU and/or made a manifest error of appraisal or assessment by adopting a flawed approach to the analysis of the CFC regime. The Commission at recitals (124) to (126) of the contested decision wrongly treated the provisions of Chapter 9 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 as a form of derogation from a general charge to tax found in Chapter 5 thereof.

3. Third plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU when finding at recitals (127) to (151) of the contested decision that the selectivity criterion was fulfilled in that undertakings in factually and legally comparable positions were treated differently.

4. Fourth plea in law, alleging that the 'full' exemption under section 371IB of the UK's Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

5. Fifth plea in law, alleging that the 75 % exemption under section 371ID of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

6. Sixth plea in law, alleging that there was a manifest error of appraisal or assessment in relation to the 75 % exemption and fixed ratio issue.

7. Seventh plea in law, alleging that the Commission's decision fails to comply with the general EU law principle of non-discrimination or equality.

8. Eighth plea in law, alleging that the Commission erred in law in applying by analogy or placing undue reliance upon the terms of Council Directive (EU) 2016/1164, ([1]) which was not applicable *ratione temporis*.

9. Ninth plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU by finding at recital (176) of the contested decision that a class of beneficiaries exists (including the applicant) and that the applicant had obtained any aid which needed to be recovered under Article 2(1) of the contested decision.

([1]) Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ 2016 L 193, p. 1).

Action brought on 4 July 2019 — Essentra and Others v Commission

(Case T-470/19)

(2019/C 312/15)

Language of the case: English

Parties

Applicants: Essentra plc (Milton Keynes, United Kingdom), ESNT Holdings (No.2) Ltd (Milton Keynes) and Essentra Finance Ltd (Milton Keynes) (represented by: J. Lesar, Solicitor, and K. Beal, QC)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission Decision C(2019) 2526 final of 2 April 2019 on the State aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission wrongly applied Article 107(1) TFEU and/or made a manifest error of appraisal or assessment in its selection of the reference framework for the analysis of the tax regime. The Commission should have treated the reference framework as the UK's corporation tax regime, not simply the controlled foreign companies (CFC) regime itself.

2. Second plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU and/or made a manifest error of appraisal or assessment by adopting a flawed approach to the analysis of the CFC regime. The Commission at recitals (124) to (126) of the contested decision wrongly treated the provisions of Chapter 9 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 as a form of derogation from a general charge to tax found in Chapter 5 thereof.

3. Third plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU when finding at recitals (127) to (151) of the contested decision that the selectivity criterion was fulfilled in that undertakings in factually and legally comparable positions were treated differently.

4. Fourth plea in law, alleging that the 75 % exemption under section 371ID of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

5. Fifth plea in law, alleging that the 'matched interest' exception under section 371IE of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

6. Sixth plea in law, alleging that the imposition of a tax burden on CFCs meeting the exemptions contained in Chapter 9 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 as a class would breach the applicants' freedom of establishment contrary to Article 49 TFEU.

7. Seventh plea in law, alleging that there was a manifest error of appraisal or assessment in relation to the 75 % exemption and fixed ratio issue.

8. Eighth plea in law, alleging that the Commission's decision fails to comply with the general EU law principle of non-discrimination or equality.

9. Ninth plea in law, alleging that the Commission erred in law in applying by analogy or placing undue reliance upon the terms of Council Directive (EU) 2016/1164, ([1]) which was not applicable *ratione temporis*.

10. Tenth plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU by finding at recital (176) of the contested decision that a class of beneficiaries exists (including the applicants) and that the applicants had obtained any aid which needed to be recovered under Article 2(1) of the contested decision.

([1]) Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ 2016 L 193, p. 1).

Action brought on 4 July 2019 — Eland Oil & Gas v Commission

(Case T-471/19)

(2019/C 312/16)

Language of the case: English

Parties

Applicant: Eland Oil & Gas plc (Aberdeen, United Kingdom) (represented by: J. Lesar, Solicitor, and K. Beal, QC)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Decision C(2019) 2526 final of 2 April 2019 on the State aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission wrongly applied Article 107(1) TFEU and/or made a manifest error of appraisal or assessment in its selection of the reference framework for the analysis of the tax regime. The Commission should have treated the reference framework as the UK's corporation tax regime, not simply the controlled foreign companies (CFC) regime itself.

2. Second plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU and/or made a manifest error of appraisal or assessment by adopting a flawed approach to the analysis of the CFC regime. The Commission at recitals (124) to (126) of the contested decision wrongly treated the provisions of Chapter 9 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 as a form of derogation from a general charge to tax found in Chapter 5 thereof.

3. Third plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU when finding at recitals (127) to (151) of the contested decision that the selectivity criterion was fulfilled in that undertakings in factually and legally comparable positions were treated differently.

4. Fourth plea in law, alleging that the 'full' exemption under section 371IB of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

5. Fifth plea in law, alleging that the 75 % exemption under section 371ID of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

6. Sixth plea in law, alleging that the 'matched interest' exception under section 371IE of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

7. Seventh plea in law, alleging that there was a manifest error of appraisal or assessment in relation to the 75 % exemption and fixed ratio issue.

8. Eighth plea in law, alleging that the Commission's decision fails to comply with the general EU law principle of non-discrimination or equality.

9. Ninth plea in law, alleging that the Commission erred in law in applying by analogy or placing undue reliance upon the terms of Council Directive (EU) 2016/1164, ([1]) which was not applicable *ratione temporis*.

10. Tenth plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU by finding at recital (176) of the contested decision that a class of beneficiaries exists (including the applicant) and that the applicant had obtained any aid which needed to be recovered under Article 2(1) of the contested decision.

([1]) Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ 2016 L 193, p. 1).

Action brought on 4 July 2019 — Diageo and Others v Commission

(Case T-473/19)

(2019/C 312/17)

Language of the case: English

Parties

Applicants: Diageo plc (London, United Kingdom), UDV (SJ) Ltd (London), Diageo US Investments (London), Diageo UK Turkey Ltd (London) and Diageo Investment Holdings Ltd (London) (represented by: J. Lesar, Solicitor, and K. Beal, QC)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission Decision C(2019) 2526 final of 2 April 2019 on the State aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission wrongly applied Article 107(1) TFEU and/or made a manifest error of appraisal or assessment in its selection of the reference framework for the analysis of the tax regime. The Commission should have treated the reference framework as the UK's corporation tax regime, not simply the controlled foreign companies (CFC) regime itself.

2. Second plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU and/or made a manifest error of appraisal or assessment by adopting a flawed approach to the analysis of the CFC regime. The Commission at recitals (124) to (126) of the contested decision wrongly treated the provisions of Chapter 9 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 as a form of derogation from a general charge to tax found in Chapter 5 thereof.

3. Third plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU when finding at recitals (127) to (151) of the contested decision that the selectivity criterion was fulfilled in that undertakings in factually and legally comparable positions were treated differently.

4. Fourth plea in law, alleging that the 75 % exemption under section 371ID of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

5. Fifth plea in law, alleging that the imposition of a tax burden on CFCs meeting the exemptions contained in Chapter 9 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 as a class would breach the applicants' freedom of establishment contrary to Article 49 TFEU.

6. Sixth plea in law, alleging that there was a manifest error of appraisal or assessment in relation to the 75 % exemption and fixed ratio issue.

7. Seventh plea in law, alleging that the Commission's decision fails to comply with the general EU law principle of non-discrimination or equality.

8. Eighth plea in law, alleging that the Commission also erred in law in applying by analogy or placing undue reliance upon the terms of Council Directive (EU) 2016/1164, ([1]) which was not applicable *ratione temporis*.

9. Ninth plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU by finding at recital (176) of the contested decision that a class of beneficiaries exists (including the applicants) and that the applicants had obtained any aid which needed to be recovered under Article 2(1) of the contested decision.

([1]) Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ 2016 L 193, p. 1).

Action brought on 4 July 2019 — Halma and Others v Commission

(Case T-474/19)

(2019/C 312/18)

Language of the case: English

Parties

Applicants: Halma plc (Amersham, United Kingdom), Halma Overseas Funding Ltd (Amersham) and Halma International Ltd (Amersham) (represented by: J. Lesar, Solicitor, and K. Beal, QC)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission Decision C(2019) 2526 final of 2 April 2019 on the State aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption;

— order the defendant to pay the costs

Pleas in law and main arguments

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

1. First plea in law, alleging that that the Commission wrongly applied Article 107(1) TFEU and/or made a manifest error of appraisal or assessment in its selection of the reference framework for the analysis of the tax regime. The Commission should have treated the reference framework as the UK's corporation tax regime, not simply the controlled foreign companies (CFC) regime itself.

2. Second plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU and/or made a manifest error of appraisal or assessment by adopting a flawed approach to the analysis of the CFC regime. The Commission at recitals (124) to (126) of the contested decision wrongly treated the provisions of Chapter 9 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 as a form of derogation from a general charge to tax found in Chapter 5 thereof.

3. Third plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU when finding at recitals (127) to (151) of the contested decision that the selectivity criterion was fulfilled in that undertakings in factually and legally comparable positions were treated differently.

4. Fourth plea in law, alleging that the 75 % exemption under section 371ID of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

5. Fifth plea in law, alleging that the imposition of a tax burden on CFCs meeting the exemptions contained in Chapter 9 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 as a class would breach the applicants' freedom of establishment contrary to Article 49 TFEU.

6. Sixth plea in law, alleging that there was a manifest error of appraisal or assessment in relation to the 75 % exemption and fixed ratio issue.

7. Seventh plea in law, alleging that the Commission's decision fails to comply with the general EU law principle of non-discrimination or equality.

8. Eighth plea in law, alleging that the Commission also erred in law in applying by analogy or placing undue reliance upon the terms of Council Directive (EU) 2016/1164, [1] which was not applicable *ratione temporis*.

9. Ninth plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU by finding at recital (176) of the contested decision that a class of beneficiaries exists (including the applicants) and that the applicants had obtained any aid which needed to be recovered under Article 2(1) of the contested decision.

---

[1] Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ 2016 L 193, p. 1).

Action brought on 4 July 2019 — Bunzl and Others v Commission

(Case T-475/19)

(2019/C 312/19)

Language of the case: English

Parties

Applicants: Bunzl plc (London, United Kingdom), Bunzl American Holdings (No.2) Ltd (London), Bunzl Overseas Holdings (No.2) Ltd (London) (represented by: J. Lesar, Solicitor, and K. Beal, QC)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission Decision C(2019) 2526 final of 2 April 2019 on the State aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission wrongly applied Article 107(1) TFEU and/or made a manifest error of appraisal or assessment in its selection of the reference framework for the analysis of the tax regime. The Commission should have treated the reference framework as the UK's corporation tax regime, not simply the controlled foreign companies (CFC) regime itself.

2. Second plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU and/or made a manifest error of appraisal or assessment by adopting a flawed approach to the analysis of the CFC regime. The Commission at recitals (124) to (126) of the contested decision wrongly treated the provisions of Chapter 9 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 as a form of derogation from a general charge to tax found in Chapter 5 thereof.

3. Third plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU when finding at recitals (127) to (151) of the contested decision that the selectivity criterion was fulfilled in that undertakings in factually and legally comparable positions were treated differently.

4. Fourth plea in law, alleging that the 'full' exemption under section 371IB of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

5. Fifth plea in law, alleging that the 75 % exemption under section 371ID of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

6. Sixth plea in law, alleging that the 'matched interest' exception under section 371IE of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

7. Seventh plea in law, alleging that the imposition of a tax burden on CFCs meeting the exemptions contained in Chapter 9 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 as a class would breach the applicants' freedom of establishment contrary to Article 49 TFEU.

8. Eighth plea in law, alleging that there was a manifest error of appraisal or assessment in relation to the 75 % exemption and fixed ratio issue.

9. Ninth plea in law, alleging that the Commission's decision fails to comply with the general EU law principle of non-discrimination or equality.

10. Tenth plea in law, alleging that the Commission also erred in law in applying by analogy or placing undue reliance upon the terms of Council Directive (EU) 2016/1164, ([1]) which was not applicable *ratione temporis*.

11. Eleventh plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU by finding at recital (176) of the contested decision that a class of beneficiaries exists (including the applicants) and that the applicants had obtained any aid which needed to be recovered under Article 2(1) of the contested decision.

([1]) Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ 2016 L 193, p. 1).

Action brought on 4 July 2019 — AstraZeneca and Others v Commission

(Case T-476/19)

(2019/C 312/20)

Language of the case: English

Parties

Applicants: AstraZeneca plc (Cambridge, United Kingdom), AstraZeneca Treasury Ltd (Cambridge) and AstraZeneca Intermediate Holdings Ltd (Cambridge) (represented by: J. Lesar, Solicitor, and K. Beal, QC)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission Decision C(2019) 2526 final of 2 April 2019 on the State aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission wrongly applied Article 107(1) TFEU and/or made a manifest error of appraisal or assessment in its selection of the reference framework for the analysis of the tax regime. The Commission should have treated the reference framework as the UK's corporation tax regime, not simply the controlled foreign companies (CFC) regime itself.

2. Second plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU and/or made a manifest error of appraisal or assessment by adopting a flawed approach to the analysis of the CFC regime. The Commission at recitals (124) to (126) of the contested decision wrongly treated the provisions of Chapter 9 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 as a form of derogation from a general charge to tax found in Chapter 5 thereof.

3. Third plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU when finding at recitals (127) to (151) of the contested decision that the selectivity criterion was fulfilled in that undertakings in factually and legally comparable positions were treated differently.

4. Fourth plea in law, alleging that the 75 % exemption under section 371ID of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

5. Fifth plea in law, alleging that the imposition of a tax burden on CFCs meeting the exemptions contained in Chapter 9 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 as a class would breach the applicants' freedom of establishment contrary to Article 49 TFEU.

6. Sixth plea in law, alleging that there was a manifest error of appraisal or assessment in relation to the 75 % exemption and fixed ratio issue.

7. Seventh plea in law, alleging that the Commission's decision fails to comply with the general EU law principle of non-discrimination or equality.

8. Eighth plea in law, alleging that the Commission also erred in law in applying by analogy or placing undue reliance upon the terms of Council Directive (EU) 2016/1164, [1] which was not applicable *ratione temporis*.

9. Ninth plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU by finding at recital (176) of the contested decision that a class of beneficiaries exists (including the applicants) and that the applicants had obtained any aid which needed to be recovered under Article 2(1) of the contested decision.

[1] Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ 2016 L 193, p. 1).

Action brought on 4 July 2019 — BT Group and Communications Global Network Services v Commission

(Case T-482/19)

(2019/C 312/21)

Language of the case: English

Parties

Applicants: BT Group plc (London, United Kingdom) and Communications Global Network Services Ltd (London) (represented by: J. Lesar, Solicitor, and K. Beal, QC)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission Decision C(2019) 2526 final of 2 April 2019 on the State aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission wrongly applied Article 107(1) TFEU and/or made a manifest error of appraisal or assessment in its selection of the reference framework for the analysis of the tax regime. The Commission should have treated the reference framework as the UK's corporation tax regime, not simply the controlled foreign companies (CFC) regime itself.

2. Second plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU and/or made a manifest error of appraisal or assessment by adopting a flawed approach to the analysis of the CFC regime. The Commission at recitals (124) to (126) of the contested decision wrongly treated the provisions of Chapter 9 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 as a form of derogation from a general charge to tax found in Chapter 5 thereof.

3. Third plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU when finding at recitals (127) to (151) of the contested decision that the selectivity criterion was fulfilled in that undertakings in factually and legally comparable positions were treated differently.

4. Fourth plea in law, alleging that the 75 % exemption under section 371ID of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

5. Fifth plea in law, alleging that the imposition of a tax burden on CFCs meeting the exemptions contained in Chapter 9 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 as a class would breach the applicants' freedom of establishment contrary to Article 49 TFEU.

6. Sixth plea in law, alleging that there was a manifest error of appraisal or assessment in relation to the 75 % exemption and fixed ratio issue.

7. Seventh plea in law, alleging that the Commission's decision fails to comply with the general EU law principle of non-discrimination or equality.

8. Eighth plea in law, alleging that the Commission erred in law in applying by analogy or placing undue reliance upon the terms of Council Directive (EU) 2016/1164, ([1]) which was not applicable *ratione temporis*.

9. Ninth plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU by finding at recital (176) of the contested decision that a class of beneficiaries exists (including the applicants) and that the applicants had obtained any aid which needed to be recovered under Article 2(1) of the contested decision.

([1]) Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ 2016 L 193, p. 1).

Action brought on 4 July 2019 — Meggitt and Cavehurst v Commission

(Case T-483/19)

(2019/C 312/22)

Language of the case: English

Parties

Applicants: Meggitt plc (Christchurch, United Kingdom) and Cavehurst Ltd (Christchurch) (represented by: J. Lesar, Solicitor and K. Beal, QC)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission Decision C(2019) 2526 final of 2 April 2019 on the State aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission wrongly applied Article 107(1) TFEU and/or made a manifest error of appraisal or assessment in its selection of the reference framework for the analysis of the tax regime. The Commission should have treated the reference framework as the UK's corporation tax regime, not simply the controlled foreign companies (CFC) regime itself.

2. Second plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU and/or made a manifest error of appraisal or assessment by adopting a flawed approach to the analysis of the CFC regime. The Commission at recitals (124) to (126) of the contested decision wrongly treated the provisions of Chapter 9 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 as a form of derogation from a general charge to tax found in Chapter 5 thereof.

3. Third plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU when finding at recitals (127) to (151) of the contested decision that the selectivity criterion was fulfilled in that undertakings in factually and legally comparable positions were treated differently.

4. Fourth plea in law, alleging that the 'full' exemption under section 371IB of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

5. Fifth plea in law, alleging that the 75 % exemption under section 371ID of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

6. Sixth plea in law, alleging that the imposition of a tax burden on CFCs meeting the exemptions contained in Chapter 9 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 as a class would breach the applicants' freedom of establishment contrary to Article 49 TFEU.

7. Seventh plea in law, alleging that there was a manifest error of appraisal or assessment in relation to the 75 % exemption and fixed ratio issue.

8. Eighth plea in law, alleging that the Commission's decision fails to comply with the general EU law principle of non-discrimination or equality.

9. Ninth plea in law, alleging that the Commission erred in law in applying by analogy or placing undue reliance upon the terms of Council Directive (EU) 2016/1164, ([1]) which was not applicable *ratione temporis*.

10. Tenth plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU by finding at recital (176) of the contested decision that a class of beneficiaries exists (including the applicants) and that the applicants had obtained any aid which needed to be recovered under Article 2(1) of the contested decision.

([1]) Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ 2016 L 193, p. 1).

Action brought on 4 July 2019 — Pearson Loan Finance and Others v Commission

(Case T-484/19)

(2019/C 312/23)

Language of the case: English

Parties

Applicants: Pearson Loan Finance Unlimited (London, United Kingdom), Pearson Overseas Holdings Ltd (London), and Pearson International Finance Ltd (London) (represented by: A. von Bonin and O. Brouwer, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission Decision C(2019) 2526 final of 2 April 2019 on the State aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging errors in law, manifest errors of assessment and failure to adequately state reasons in the identification, in the contested decision, of the reference system.

2. Second plea in law, alleging errors in law, manifest errors of assessment and failure to adequately state reasons in wrongly characterising, in the contested decision, the group financing exemption as a derogation from the normal operation of the reference system.

3. Third plea in law, alleging errors in law and manifest errors of assessment in finding, in the contested decision, that the group financing exemption discriminates between economic operators.

4. Fourth plea in law, alleging errors in law and manifest errors of assessment in the contested decision, in concluding that the group financing exemption is not justified by the nature or overall structure of the reference system.

Action brought on 4 July 2019 — Babcock International Group and Others v Commission

(Case T-485/19)

(2019/C 312/24)

Language of the case: English

Parties

Applicants: Babcock International Group plc (London, United Kingdom), Babcock Aviation Services (Holdings) Ltd (London) and Babcock Mission Critical Services Leasing Ltd (London) (represented by: J. Lesar, Solicitor, and K. Beal, QC)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission Decision C(2019) 2526 final of 2 April 2019 on the State aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission wrongly applied Article 107(1) TFEU and/or made a manifest error of appraisal or assessment in its selection of the reference framework for the analysis of the tax regime. The Commission should have treated the reference framework as the UK's corporation tax regime, not simply the controlled foreign companies (CFC) regime itself.

2. Second plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU and/or made a manifest error of appraisal or assessment by adopting a flawed approach to the analysis of the CFC regime. The Commission at recitals (124) to (126) of the contested decision wrongly treated the provisions of Chapter 9 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 as a form of derogation from a general charge to tax found in Chapter 5 thereof.

3. Third plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU when finding at recitals (127) to (151) of the contested decision that the selectivity criterion was fulfilled in that undertakings in factually and legally comparable positions were treated differently.

4. Fourth plea in law, alleging that the 75 % exemption under section 371ID of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

5. Fifth plea in law, alleging that the imposition of a tax burden on CFCs meeting the exemptions contained in Chapter 9 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 as a class would breach the applicants' freedom of establishment contrary to Article 49 TFEU.

6. Sixth plea in law, alleging that there was a manifest error of appraisal or assessment in relation to the 75 % exemption and fixed ratio issue.

7. Seventh plea in law, alleging that the Commission's decision fails to comply with the general EU law principle of non-discrimination or equality.

8. Eighth plea in law, alleging that the Commission erred in law in applying by analogy or placing undue reliance upon the terms of Council Directive (EU) 2016/1164, ([1]) which was not applicable *ratione temporis*.

([1]) Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ 2016 L 193, p. 1).

Action brought on 5 July 2019 — Spectris and Spectris Group v Commission

(Case T-486/19)

(2019/C 312/25)

Language of the case: English

Parties

Applicants: Spectris plc (Egham, United Kingdom) and Spectris Group Holdings Ltd (Egham) (represented by: C. McDonnell, Barrister, B. Goren and K. Desai, Solicitors, and M. Peristeraki, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— hold that there has been no unlawful State aid and (i) annul Article 1 of Commission Decision C(2019) 2526 final of 2 April 2019 on the State aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption, to the extent that it finds that there is unlawful State aid; and (ii) set aside the requirement for the UK to recover from the applicant the alleged unlawful State aid received in this context (Articles 2 and 3 of the contested decision);

— in the alternative, annul Articles 2 and 3 of the contested decision insofar as they require the UK to recover the alleged State aid from the applicants;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the contested decision is vitiated by manifest errors in the appreciation of the relevant facts and laws.

   — In particular, it is argued that the Commission misunderstands the way the UK controlled foreign companies (CFC) rules in question work with respect to the treatment of non-trading financial profits. In addition, the contested decision wrongly construed the group financing exemption (GFE) as a tax exemption.

2. Second plea in law, alleging that the Commission was wrong to find that the CFC rules constituted an aid measure within the meaning of Article 107(1) TFEU and as such, that the rules conferred a selective advantage on certain operators.

   — More precisely, it is argued that the Commission wrongly determined the reference system for the assessment of the effects of the CFC rules, and wrongly identified two different situations as being comparable to the situation where the GFE applies. As a result of either or both of these errors, the Commission was wrong to identify that these rules conferred a selective advantage on certain market operators. Moreover, the Commission wrongly identified the CFC rules as a distinct set of rules from the overall UK corporation tax system, while ignoring other features of the UK corporation tax system intended to work in conjunction with the CFC rules. As a result, the analysis of the Commission on comparability and selectivity is vitiated by manifest errors of appreciation of the relevant facts and errors in law.

3. Third plea in law, alleging that, even assuming that the CFC measures in question constituted aid in the meaning of Article 107(1) TFEU, the contested decision wrongly concluded that there was no justification that could apply to defend the compatibility of the measures in question with EU State aid rules. In addition, the contested decision is irrational and inconsistent, in that the Commission has correctly accepted that Chapter 9 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 is justified in cases where the only reason for a CFC charge to apply is the 'UK connected capital' test, on the basis that that test may be excessively difficult to operate in practice, but at the same time, and without providing adequate reasoning, the Commission contends that the said Chapter 9 is never justified in cases where the significant people functions (SPF) test causes a CFC charge to apply. In fact, the SPF test is excessively difficult to apply in practice such that the Commission should have found the said Chapter 9 to be justified in the context of that test as well and hence it should have concluded that there is no State aid.

4. Fourth plea in law, alleging that, if the contested decision is upheld, enforcement of it through recovery of the alleged State aid from the applicants will infringe fundamental principles of EU law, including the freedom of establishment and the freedom to provide services, noting that in the applicants' case the CFCs in question are situated in other Member States.

5. Fifth plea in law, the recovery order resulting from the contested decision is unfounded and contrary to fundamental principles of EU law.

6. Sixth plea in law, alleging that the Commission failed to provide adequate reasons for critical elements in the contested decision, such as the conclusion that the CFC charge under Chapter 5 of Part 9A of the UK's Taxation (International and Other Provisions) Act 2010 could be applied using the SPF test without difficulty or disproportionate burden.

7. Seventh plea in law, alleging that the contested decision also breaches the principle of good administration, which requires that the Commission allows transparency and predictability in its administrative procedures and renders its decisions within a reasonable time-frame. It is not reasonable for the Commission to take more than four years to issue its decision opening the investigation in the present case and to give a decision more than six years after the contested measure came into effect.

Action brought on 5 July 2019 — Weston Investment and Others v Commission

(Case T-490/19)

(2019/C 312/26)

Language of the case: English

Parties

Applicants: Weston Investment Co. Ltd (London, United Kingdom), Precis (1814) Ltd (London), British American Tobacco Holdings Belgium NV (Brussels, Belgium), British American Tobacco International Holdings (UK) Ltd (London) and British American Tobacco (GLP) Ltd (London) (represented by: M. Anderson, Solicitor)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission Decision C(2019) 2526 final of 2 April 2019 on the State aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption, in so far as it concerns the applicants;

— if the decision is not annulled in its entirety, order that in determining the amount of aid to be recovered, losses, reliefs or exemptions which were available to an applicant at the time when it claimed the group financing exemption (GFE), or which would have been available to an applicant at that time had it not claimed the GFE, should in either case be taken into account even if access to those losses, reliefs or exemptions is now time barred under UK law;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the defendant has failed to establish that the group financing exemption (GFE) constitutes an advantage. The applicants argue that the defendant has failed to show that there is an advantage in each case where the GFE has been claimed. Further, each applicant argues that it chose to claim the GFE exemption without considering whether its liability could have been lower if it had done an analysis under the significant people functions test in Section 371EB (the 'SPF test') of Chapter 5 of Part 9A of the Taxation (International and Other Provisions) Act 2010.

2. Second plea in law, alleging that there was no intervention by the State or through State resources. The applicants argue that the defendant has failed to prove that claiming the GFE has certainly led to a reduction in the UK corporate tax liability.

3. Third plea in law, alleging that the GFE does not favour certain undertakings or the production of certain goods. The applicants argue that the defendant has erred by (i) defining the reference system too narrowly as the rules in Part 9A of the abovementioned legislation instead of the wider UK corporate tax system; (ii) failing to understand that Chapter 9 of the said Part 9A

is not a derogation from Chapter 5 thereof; and (iii) failing to recognise that, even if the said Chapter 9 is a derogation from that Chapter 5, it is justified by the nature or general scheme of Part 9A of the legislation in question.

4. Fourth plea in law, alleging that the GFE does not affect trade between Member States. The applicants argue that the defendant has erred by concluding that the GFE is liable to influence choices made by multinational groups as to the location of their group finance functions and their head office within the EU.

5. Fifth plea in law, alleging that the GFE does not distort or threaten to distort competition. The applicants argue that the defendant has failed to prove that claiming the GFE has certainly led to a reduction in the UK corporate tax liability.

6. Sixth plea in law, alleging that recovery of the alleged aid would be contrary to general principles of EU law. The applicants argue that the SPF test lacks legal certainty, the UK had a margin of appreciation to address that uncertainty and that the defendant has breached its duty to carry out a complete analysis of all relevant factors. By ordering the recovery of aid, the defendant has acted contrary to Article 16(1) of Council Regulation (EU) 2015/1589 ([1]) which prohibits the recovery of aid where recovery would be contrary to a general principle of EU law.

7. Seventh plea in law, alleging that the selective advantage would be eliminated, and no recovery would be required, if the UK were retrospectively to extend the GFE to upstream lending and third-party lending. The applicants argue that the defendant has failed to acknowledge that taking such action would eliminate any selective advantage (assuming for the moment that there is one) and in such case there would be no unlawful state aid to be recovered under EU law.

8. Eighth plea in law, alleging that, in determining the amount of the aid to be recovered, losses, reliefs or exemptions which were available to an applicant at the time when it claimed the GFE, or which would have been available at that time had it not claimed the GFE, should be taken into account even if access to those losses, reliefs or exemptions is now time barred under UK law. The applicants argue that that is the correct interpretation of recital 203 of the contested decision but, insofar as that is not the case, the contested decision is incorrect because failing to take such losses, reliefs or exemptions into account would lead to over-calculation of the amount of the aid which would introduce a distortion into the internal market.

([1]) 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).

Action brought on 5 July 2019 — Vodafone Group and Others v Commission

(Case T-491/19)

(2019/C 312/27)

Language of the case: English

Parties

Applicants: Vodafone Group plc (Newbury, United Kingdom), Vodafone Consolidated Holdings Ltd (Newbury), Vodafone Finance UK Ltd (Newbury) and Vodafone Jersey Dollar Holdings Ltd (St Helier, Jersey) (represented by: J. Gardiner, QC, I. Taylor, M. Lane and J. Holland, Solicitors)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul in whole or in part the Commission's decision C(2019) 2526 final of 2 April 2019 in case SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption;

— in any event, order the Commission to pay the applicants' costs and expenses in connection with these proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission has failed to state adequate reasons and has erred in law by finding that the controlled foreign companies (CFC) rules are the relevant reference system.

2. Second plea in law, alleging that the Commission has erred in fact and in law and has failed to state adequate reasons in finding that the group financing exemption (GFE) constitutes a derogation.

3. Third plea in law, alleging that the Commission has made a manifest error of assessment and has failed to state adequate reasons in finding that the GFE, in so far as it relates to UK significant people functions, is not justified and therefore is selective.

4. Fourth plea in law, alleging that the Commission has erred in law and in fact and has failed to provide reasons in finding that the GFE constitutes an advantage for the purpose of Article 107(1) TFEU.

5. Fifth plea in law, alleging that the Commission has erred in law in finding that some persons entitled to the GFE received an advantage compared to the situation without applying the GFE.

6. Sixth plea in law, alleging that the Commission has failed to state adequate reasons and has made a manifest error of assessment in concluding that a 'CFC charge' that is levied on genuinely established EU companies is compliant with the EU principle of freedom of establishment.

Action brought on 5 July 2019 — GlaxoSmithKline Finance and Setfirst v Commission

(Case T-492/19)

(2019/C 312/28)

Language of the case: English

Parties

Applicants: GlaxoSmithKline Finance plc (Brentford, United Kingdom) and Setfirst Ltd (Brentford) (represented by: K. Bacon QC, and A. Lyle-Smythe, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission Decision C(2019) 2526 final of 2 April 2019 on the State Aid SA.44896 implemented by the United Kingdom concerning the Controlled Foreign Company (CFC) Group Financing Exemption in its entirety;

— in the alternative, annul the contested decision insofar as it does or may relate to CFCs actually established and carrying on genuine economic activities in another Member State;

— in the alternative, annul the contested decision insofar as it fails to provide sufficient information for the recipient to calculate the precise amount of aid to be recovered without overmuch difficulty;

— in the alternative, grant such partial annulment as the General Court deems appropriate; and

— in any event, order the Commission to pay the applicants' costs and expenses in connection with these proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission has erred in law and provided insufficient reasoning in finding that the group financing exemption (GFE) constitutes an advantage as, for CFCs which are genuinely established in another Member State, the effect of the *Cadbury Schweppes* case ([1]) is that their parent companies should not have been liable to any CFC charge (even a reduced charge levied as a result of the partial GFE).

2. Second plea in law, alleging that the Commission has erred in law, made a manifest error of assessment and has failed to state adequate reasons in finding that the GFE was not justified on the grounds of ensuring compliance with the freedom of establishment.

3. Third plea in law, alleging that the Commission has erred in law and made a manifest error of assessment in concluding that the GFE was not a justified derogation based on the need to avoid complex and disproportionately burdensome allocation of profit to significant people functions based on the OECD's approach to allocating profits to permanent establishments.

4. Fourth plea in law, alleging that the Commission has erred in law in failing to provide adequate information as to the parameters of recovery.

([1]) Judgment of 12 September 2006 in *Cadbury Schweppes and Cadbury Schweppes Overseas* v *Commissioner of Inland Revenue* (Case C-196/04, EU:C:2006:544).

Action brought on 5 July 2019 — International Personal Finance Investments v Commission

(Case T-493/19)

(2019/C 312/29)

Language of the case: English

Parties

Applicant: International Personal Finance Investments Ltd (Leeds, United Kingdom) (represented by: M. Anderson, Solicitor)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Decision C(2019) 2526 final of 2 April 2019 on the State aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption its entirety in insofar as it concerns the applicant;

— if the contested decision is not annulled in its entirety, (a) annul it insofar as it applies to the matched interest exemption within Chapter 9 of Part 9A of the Taxation (International and Other Provisions) Act 2010 and (b) order that in determining the amount of aid to be recovered, losses, reliefs or exemptions which were available to the applicant at the time when it claimed the group financing exemption (GFE), or which would have been available to the applicant at that time had it not claimed the GFE, should in either case be taken into account even if access to those losses, reliefs or exemptions is now time barred under UK law;

— order the defendant to pay the applicant's costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the defendant has failed to establish that the GFE constitutes an advantage in each case where the GFE has been claimed. Further, the applicant argues that it chose to claim the GFE, initially contemplating a 75 % exemption, without considering whether its liability could have been lower if it had done an analysis under the significant people functions (SPF) test in section 371EB of Chapter 5 of Part 9A of the Taxation (International and Other Provisions) Act 2010.

2. Second plea in law, alleging that there was no intervention by the State or through State resources. The applicant argues that the defendant has failed to prove that claiming the GFE has certainly led to a reduction in the UK corporate tax liability.

3. Third plea in law, alleging that the GFE does not favour certain undertakings or the production of certain goods. The applicant argues that the defendant has erred by (i) defining the reference system too narrowly as the rules in the said Part 9A instead of the wider UK corporate tax system; (ii) failing to understand that Chapter 9 of Part 9A of the Taxation (International and Other Provisions) Act 2010 is not a derogation from Chapter 5 thereof; and (iii) failing to recognise that, even if the said Chapter 9 is a derogation from that Chapter 5, it is justified by the nature or general scheme of Part 9A of the legislation.

4. Fourth plea in law, alleging that the GFE does not affect trade between Member States. The applicant argues that the defendant has erred by concluding that the GFE is liable to influence choices made by multinational groups as to the location of their group finance functions and their head office within the EU, particularly in view of the lack of a level playing field and absence of CFC rules in 15 other Member States before 2016.

5. Fifth plea in law, alleging that the GFE does not distort or threaten to distort competition. The applicant argues that the defendant has failed to prove that claiming the GFE has certainly led to a reduction in the UK corporate tax liability and that the GFE does not distort competition having regard to arguments made at the fourth plea above.

6. Sixth plea in law, alleging that recovery of the alleged aid would be contrary to general principles of EU law. The applicant argues that the SPF test lacks legal certainty, the UK had a margin of appreciation to address that uncertainty and that the defendant has breached its duty to carry out a complete analysis of all relevant factors. By ordering the recovery of aid, the defendant has acted contrary to Article 16(1) of Council Regulation (EU) 2015/1589, [1] which prohibits the recovery of aid where recovery would be contrary to a general principle of EU law.

7. Seventh plea in law, alleging that the selective advantage would be eliminated, and no recovery would be required, if the UK were retrospectively to extend the GFE to upstream lending and third-party lending. The applicant argues that the defendant has failed to acknowledge that taking such action would eliminate any selective advantage (assuming for the moment that there is one) and in such case there would be no unlawful state aid to be recovered under EU law.

8. Eighth plea in law, alleging that, in determining the amount of the aid to be recovered, losses, reliefs or exemptions which were available to the applicant at the time when it claimed the GFE, or which would have been available at that time had the applicant not claimed the GFE, should be taken into account even if access to those losses, reliefs or exemptions is now time barred under UK law. The applicant argues that that is the correct interpretation of recital 203 of the contested decision but, insofar as that is not the case, the contested decision is incorrect because failing to take such losses, reliefs or exemptions into account would lead to over-calculation of the amount of the aid which would introduce a distortion into the internal market.

9. Ninth plea in law, alleging that the defendant has failed to substantiate its reasons in relation to the matched interest exemption (MIE) and to carry out a complete analysis of all relevant factors. The applicant argues that the defendant has failed to distinguish between three separate exemptions under the said Chapter 9 which function independently and to understand that the MIE is not a proxy for the SPF test and that the existence of the MIE (which is inextricably linked to rules restricting the deductibility of interest expenses) in the said Chapter 9 demonstrates that the defendant has erred by defining the reference system narrowly as the rules in Part 9A of the legislation instead of the wider UK corporate tax system.

[1] 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).

Action brought on 9 July 2019 — Banco Cooperativo Español v SRB

(Case T-498/19)

(2019/C 312/30)

Language of the case: Spanish

Parties

Applicant: Banco Cooperativo Español (Madrid, Spain) (represented by D. Sarmiento Ramírez-Escudero and J. Beltrán de Lubiano Sáez de Urabain, lawyers)

Defendant: Single Resolution Board

Form of order sought

The applicant claims that the General Court should:

— Principally, annul the contested decision;

— In the alternative,

a. Declare, as set out in the application, that Articles 12 and 14 of Delegated Regulation 2015/63 are inapplicable; and

b. Annul the contested decision; and

— In any event, order the Single Resolution Board to pay the costs.

Pleas in law and main arguments

The present action is brought against the decision of the Single Resolution Board of 16 April 2019 on the calculation of *ex ante* contributions to the Single Resolution Fund for the 2019 contribution period (SRB/ES/SRF/2019/10).

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

1. First plea in law, alleging infringement of Article 12(2) of Commission Delegated Regulation (EU) 2015/63 ([1])

— In that regard, the applicant claims that Articles 12 and 14 of the delegated regulation should be interpreted as meaning that an institutional protection scheme established in 2018 is to be recognised for the purposes of calculating *ex ante* contributions to the Single Resolution Fund for the 2019 contribution period.

2. Second plea in law, in the alternative, based, pursuant to Article 277 TFEU, on a plea of illegality, and seeking that the General Court declare inapplicable Articles 12 and 14 of the delegated regulation on the ground of infringement of Article 103(2) and (7) of Directive 2014/59/EU ([2])

— In that regard, the applicant claims that, if Articles 12 and 14 of the delegated regulation are to be interpreted as meaning that an institutional protection scheme established in 2018 is not to be recognised for the purposes of calculating *ex ante* contributions to the Single Resolution Fund for the 2019 contribution period, then the aforementioned articles of the delegated regulation infringe Article 103(2) and (7) of Directive 2014/59/EU, in that they disregard the conditions for delegating power to the Commission, which require that (i) contributions to the Fund be in line with the risk profile of the contributing institution and (ii) contributions to the Fund take into account participation in an institutional protection scheme.

([1]) Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to *ex ante* contributions to resolution financing arrangements (OJ 2016 L 233, p. 1).

([2]) Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ 2014 L 173, p. 170).

Action brought on 12 July 2019 — Corneli v ECB

(Case T-501/19)

(2019/C 312/31)

Language of the case: Italian

Parties

Applicant: Francesca Corneli (Velletri, Italy) (represented by: F. Ferraro, lawyer)

Defendant: European Central Bank

Form of order sought

The applicant claims that the Court should:

— annul the ECB Executive Board's decision of 29 May 2019, ref L/LDG/19/182, refusing access to the ECB's decision to place Banca Carige S.p.A., having its registered office in Genoa, Italy, under special administration and to the relevant case file, and order the defendant to produce and submit to the Court the abovementioned decision and all prior, preparatory, related and consequent acts; and

— order the defendant to pay the costs.

Pleas in law and main arguments

This action has been brought for the annulment of the ECB Executive Board's decision of 29 May 2019, ref L/LDG/19/182, refusing access to the ECB's decision to place Banca Carige S.p.A., having its registered office in Genoa, Italy, under special administration and to the relevant case file, and for an order that the defendant produce and submit to the Court the abovementioned decision and all prior, preparatory, related and consequent acts.

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

1. First plea in law, alleging infringement of Article 4 of ECB Decision 2004/3 and misapplication of the exception relating to the confidentiality of information that is protected as such under EU law.

   — The applicant claims in this respect that the contested decision is unlawful in so far as it lacks actual evidence indicating the confidential parts of the document at issue, their function and their purpose within the ECB and the risks attached to their disclosure. It claims that, in weighing up the various interests, there is no doubt that savers' specific interest in protecting their shareholding as well as the efficiency and transparency of the governance of the company prevails over the general requirement — in respect of which no reasons are given — to protect supervision procedures.

2. Second plea in law, alleging failure to state reasons for the confidential nature of the document requested.

   — The applicant claims in this respect that the ECB fails to offer any reasons for its claim that the contested act is confidential, merely stating, as if it were obvious, that protecting its supervision procedures justifies the refusal of access.

3. Third plea in law, alleging infringement of Article 7(1) and 8(1) of ECB Decision 2004/3 and failure to state reasons.

   — The applicant claims in this respect serious infringement of Articles 7(1) and 8(1) of Decision 2004/3 and failure to state reasons, since the conditions for a general presumption of confidentiality are not satisfied and in any event the ECB failed to carry out a specific assessment of the documents to which access was requested.

4. Fourth plea in law, alleging infringement of the fundamental right to effective judicial protection (Article 47 of the Charter of Fundamental Rights of the European Union) and of Articles 7(3) and 8(2) of ECB Decision 2004/3.

   — The applicant claims in this respect that the ECB cannot completely thwart the interests of the parties to whom the measure is addressed, including the bank's shareholders, who have the right to effective protection under Article 47 of the Charter of Fundamental Rights of the European Union against the 'poor' exercise of official authority. The ECB also infringed Articles 7(3) and 8(2) of ECB Decision 2004/3 since on a number of occasions it has referred to an exceptionally high workload without providing any proof in that regard, in order to extend, by a further 20 days, the time limit laid down for replying to the applicant's request for access.

Action brought on 12 July 2019 — Corneli v ECB

(Case T-502/19)

(2019/C 312/32)

Language of the case: Italian

Parties

Applicant: Francesca Corneli (Velletri, Italy) (represented by: M. Condinanzi, L. Boggio and F. Ferraro, lawyers)

Defendant: European Central Bank

Form of order sought

The applicant claims that the Court should:

— declare the contested decision to be unlawful and thus null and void;

— order the defendant to pay the costs; and

— order, as a measure of organisation of procedure, that the contested decision and the subsequent renewal decision, in their respective full versions, be submitted to the Court.

Pleas in law and main arguments

This action has been brought against Decision ECB-SSM-2019-ITCAR-11 of the Governing Council of the European Central Bank of 1 January 2019, adopted on the basis of a draft decision of the Supervisory Board pursuant to Article 26(8) of Council Regulation (EU) No 1024/2013, ([1]) pursuant to Articles 69octiesdecies, 70 and 98 of decreto legislativo n. 385 del 1° settembre 1993 (Legislative Decree No 385 of 1 September 1993; 'the TUB'), transposing Article 29 of Directive 2014/59/EU of the European Parliament and of the Council, in conjunction with Article 9(2) of Regulation (EU) 1024/2013, to dissolve the administrative and supervisory bodies of Banca Carige S.p.A., having its registered office in Genoa, and to replace them with three special administrators and with a supervisory committee formed of three members, respectively.

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

1. First plea in law, alleging failure to observe the principle of proportionality and infringement of Articles 28 and 29 of Directive 2014/59/EU ([2]) and Article 69octiesdecies et seq. of the TUB.

   — The applicant claims in this respect that early intervention measures need to be introduced gradually, which was not the case here. The most intrusive measure is, therefore, unlawful and void.

2. Second plea in law, alleging failure to give adequate reasoning as regards the requirements of proportionality and of taking a gradual approach imposed by the overall early intervention system.

3. Third plea in law, alleging infringement of the last sentence of Article 29(1) of Directive 2014/59/EU and failure to observe the principle of sound public administration.

   — The applicant claims in this respect that the appointment of members of the former board of directors as temporary administrators amounts to a failure to comply with the obligation to avoid conflicts of interest.

4. Fourth plea in law, alleging infringement of Article 70 of the TUB, misuse of powers and a failure to provide sufficient reasoning.

   — The applicant claims in this respect that imposing the special administration on the grounds of serious infringements or irregularities renders the measure contradictory and inconsistent.

5. Fifth plea in law, alleging infringement of the rules relating to the rights of shareholders contained in Directive (EU) 1132/2017 ([3]) and the Italian Civil Code, as well as those which may be enforced through the fundamental principles enshrined in the Charter of Fundamental Rights of the European Union, in the European Convention on Human Rights and in the Italian Constitution on the protection of property, savings, private economic initiative and the right to self-determination of citizens in personal choices.

([1]) Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ 2013 L 287, p. 63).

([2]) Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms (OJ 2014 L 173, p. 190).

([3]) Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (OJ 2017 L 169, p. 46).

Action brought on 12 July 2019 — Crédit Lyonnais v ECB

(Case T-504/19)

(2019/C 312/33)

Language of the case: French

Parties

Applicant: Crédit Lyonnais (Lyon, France) (represented by: A. Champsaur and A. Delors, lawyers)

Defendant: European Central Bank

Form of order sought

The applicant claims that the Court should:

— annul, on the basis of Articles 256 and 263 TFEU, Decision ECB-SSM-2019-FRCAG-39 adopted by the ECB on 3 May 2019, in so far as it refuses to authorise the applicant to exclude from the calculation of the leverage ratio 34 % of its exposures to the Caisse des dépôts et consignations ('the CDC');

— order the ECB to pay all 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 infringement of Article 266 TFEU and of the force of res judicata of the General Court's judgment. The applicant submits that, by basing its decision on grounds which have already been examined and dismissed by the General Court in the judgment of 13 July 2018, *Crédit agricole* v *ECB* (T-758/16, EU:T:2018:472) and by continuing to highlight a theoretical risk of default by the French State and a risk of catastrophic sale of assets without demonstrating the cogency of those allegations, the European Central Bank infringed Article 266 TFEU and res judicata.

2. Second plea in law, alleging, first, infringement of Article 429(14) and of Article 400(1)(a) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ 2013 L 176, p. 1) and, second, the misuse of powers by the ECB. The applicant considers that, by basing its decision on the existence of a concentration risk on the Caisse des dépôts et consignations ('the CDC') to entirely refuse to exclude the Crédit Lyonnais ('LCL') exposures to CDC from its leverage ratio, the ECB imposes a prudential requirement on LCL in respect of the concentration on sovereign exposures which Article 400(1)(a) of Regulation (EU) No 575/2013 does not allow it to impose and uses its powers under Article 429(14) of the that regulation for purposes other than those provided for in that Article.

3. Third plea in law, alleging a manifest error of assessment by the ECB by persisting in failing to take into account the specific characteristics of regulated savings, thereby breaching its obligation to examine, with care and impartiality, all the relevant elements of the case at hand and to draw the necessary conclusions from it. The applicant considers that in so doing the ECB also makes a manifest error of assessment of the prudential risks relating to regulated savings.

Action brought on 17 July 2019 — Lux v Commission

(Case T-513/19)

(2019/C 312/34)

Language of the case: French

Parties

Applicant: Catherine Lux (Strasbourg, France) (represented by: N. de Montigny, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the PMO.4 of 21 September 2018 to consider the transfer of the applicant's contract from EFSA to EASA as a new employment contract and not to apply to her the transitional measures laid down in Articles 21 and 22 of Annex XIII to the Staff Regulations;

— Order the defendant to pay the 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 infringement of Articles 21 and 22 of Annex XIII to the Staff Regulations of Officials of the European Union, in that the Commission misinterpreted the concept of entry into service.

2. Second plea in law, alleging infringement of Articles 10 and 12 of the general implementing provisions, on the ground that those provisions were adopted in order to promote inter-agency mobility, thereby confirming the possibility of a European career within the agencies.

3. Third plea in law, alleging infringement of the principles of legal certainty and non-retroactivity. The applicant submits in that respect that her decision to continue her role within EASA in 2017 was based on the confirmation by the EASA Human Resources Department that this continuation would also ensure the continuation of the conditions relating to her pension rights acquired within EFSA.

4. Fourth plea in law, alleging infringement of the principle of continuity of career and employment of temporary staff. The applicant submits that the Commission cannot exclude the application of Articles 10 and 12 of the general implementing provisions in so far as the Commission itself established a principle of continuous joint analysis of the employment of a temporary agent within agencies.

5. Fifth plea in law, alleging infringement of the principle of equal treatment. The applicant submits in this respect that there are no grounds to justify the difference in treatment between an official and another servant in terms of pension rights within the European Union.

Action brought on 22 July 2019 — Heitec v EUIPO — Hetec Datensysteme (HEITEC)

(Case T-520/19)

(2019/C 312/35)

Language in which the application was lodged: German

Parties

Applicant: Heitec AG (Erlangen, Germany) (represented by: G. Wagner, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Hetec Datensysteme GmbH (Germering, Germany)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: EU word mark HEITEC — EU trade mark No 774 331

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 23 April 2019 in Case R 1171/2018-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Pleas in law

— Infringement of Article 95(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 58(1)(a) of Regulation (EU) 2017/1001 of the European Parliament and of the Council, in conjunction with Rule 22(3) and (4) of Commission Regulation (EC) No 2868/95.

Action brought on 26 July 2019 — Sánchez Cano v EUIPO — Grupo Osborne (EL TORO BALLS Fini)

(Case T-527/19)

(2019/C 312/36)

Language in which the application was lodged: Spanish

Parties

Applicant: Sánchez Cano, SA (Molina del Segura, Spain) (represented by C. Giner Mas and M. González Aleixandre, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Grupo Osborne, SA (El Puerto de Santa María, Spain)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union figurative mark EL TORO BALLS Fini — Application for registration No 15 648 595

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 22 March 2019 in Case R 2690/2017-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision in its entirety;

— order the defendant to pay to the applicant the costs relating to and occasioned by the present application, as well as the costs incurred by the applicant before the Board of Appeal; or, in the event that the other party in the contested decision appears as an intervener, order that the defendant and the other party in the contested decision be held jointly and severally liable to pay to the applicant the costs relating to and occasioned by the present application, as well as the costs incurred by the applicant before the Board of Appeal.

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 26 July 2019 — Nord Stream v Parliament and Council

(Case T-530/19)

(2019/C 312/37)

Language of the case: English

Parties

Applicant: Nord Stream AG (Zug, Suisse) (represented by: M. Raible, C. von Köckritz and J. von Andreae, lawyers)

Defendants: European Parliament and Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Directive (EU) 2019/692 of the European Parliament and of the Council of the European Union of 17 April 2019 amending Directive 2009/73/EC concerning common rules for the internal market in natural gas, insofar as Article 1 (9) of this Directive introduced Article 49a (3) first sentence of Directive 2009/73 stipulating that '[d]ecisions pursuant to paragraphs 1 and 2 shall be adopted by 24 May 2020';

— order the European Parliament and/or the Council of the European Union to pay the Applicant's 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 deadline for obtaining potential derogation decisions under the newly inserted Article 49a of Directive 2009/73 is excessively short and thereby violates the general legal principle of proportionality as laid down in article 5(4) TEU.

2. Second plea in law, alleging that the amending Directive must be partially annulled for violation of Article 296 TFEU since it is vitiated by a failure to state reasons for the introduction of the excessively short deadline in the contested provision.

3. Third plea in law, alleging that the contested provision violates the principle of legitimate expectations as it unjustly limits the possibility to obtain derogations under the newly introduced Article 49a of Directive 2009/73. The possibility of obtaining such derogations is legally required in order to protect the legitimate expectations of operators of offshore third country pipelines which were completed and in operation when the amending directive entered into force.

Action brought on 29 July 2019 — EC Brand Comércio, Importação e Exportação de Vestuário em Geral v EUIPO (pantys)

(Case T-532/19)

(2019/C 312/38)

Language of the case: English

Parties

Applicant: EC Brand Comércio, Importação e Exportação de Vestuário em Geral LTDA (Sorocaba, Brazil) (represented by: B. Bittner and U. Heinrich, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for European Union figurative mark pantys– Application for registration No 17 869 310

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 22 May 2019 in Case R 314/2019-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision in so far as it dismissed the appeal regarding the following goods and services:

class 05: hygienic absorbents, sanitary napkins, sanitary towels, incontinence pads;

class 35: online retail trade services of women's sanitary products;

— order EUIPO to pay the costs.

Pleas in law

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

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

— Widely use in the European Union.

Action brought on 29 July 2019 — Artur Florêncio & Filhos, Affsports v EUIPO — Anadeco Gestion (sflooring)

(Case T-533/19)

(2019/C 312/39)

Language of the case: English

Parties

Applicant: Artur Florêncio & Filhos, Affsports Lda (Sintra, Portugal) (represented by: D. Martins Pereira Soares, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Anadeco Gestion, SA (Cartagena, Spain)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union figurative mark sflooring in colours black, white and grey — Application for registration No 11 943 586

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 20 May 2019 in Case R 1870/2018-4

Form of order sought

The applicant claims that the Court should:

— totally admit this appeal

— completely revoke the contested decision;

— amend the contested decision, based on the grounding in this appeal and declare the granting of European Union trademark No 11 943 588 sflooring;

— condemn the EUIPO in the costs incurred by the appellant, including in the costs made in the case that run before EUIPO;

— condemn the other party to bear the appellant's costs in the EUIPO proceedings.

Pleas in law

— Insufficiency of the proofs of genuine use of earlier trademark T-FLOORING

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

Action brought on 30 July 2019 — H.R. Participations v EUIPO — Hottinger Investment Management (JCE HOTTINGUER)

(Case T-535/19)

(2019/C 312/40)

Language in which the application was lodged: French

Parties

Applicant: H.R. Participations SA (Luxembourg, Luxembourg) (represented by: P. Wilhelm and J. Rossi, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Hottinger Investment Management Ltd (London, United Kingdom)

Details of the proceedings before EUIPO

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

Trade mark at issue: EU word mark JCE HOTTINGUER — EU trade mark No 10 093 391

Procedure before EUIPO: Proceedings for a declaration of invalidity

Contested decision: Decision of the Second Board of Appeal of EUIPO of 3 May 2019 in Case R 2078/2018-2

Form of order sought

The applicant claims that the Court should:

— declare the application admissible and well-founded;

— annul the contested decision;

— order EUIPO to bear all the costs incurred by the applicant.

Pleas in law

— Infringement of essential procedural requirements, in so far as the application for a declaration of invalidity before the Cancellation Division was flawed.

— Infringement of Article 60(1)(c) of Regulation (EU) 2017/1001 of the European Parliament and of the Council, read in conjunction with Article 8(4) of that regulation.

Action brought on 7 August 2019 — Isigny-Sainte Mère v EUIPO (Shape of a golden container with a type of wave)

(Case T-546/19)

(2019/C 312/41)

Language of the case: French

Parties

Applicant: Isigny-Sainte Mère (Isigny-sur-Mer, France) (represented by: D. Mallo Saint-Jalmes, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for a three-dimensional EU trade mark (Shape of a golden container with a type of wave) — Application for registration No 17 871 521

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 22 May 2019 in Case R 1513/2018-5

Form of order sought

The applicant claims that the Court should annul the contested decision.

Plea in law

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

ISSN 1977-091X (electronic edition)
ISSN 1725-2423 (paper edition)

Publications Office of the European Union
L-2985 Luxembourg
LUXEMBOURG

EN