Official Journal of the European Union

C 201

English edition

Information and Notices

Volume 63

15 June 2020

Contents

EN

General Court

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*

(2020/C 201/01)

Last publication

OJ C 191, 8.6.2020

Past publications

OJ C 175, 25.5.2020

OJ C 162, 11.5.2020

OJ C 161, 11.5.2020

OJ C 137, 27.4.2020

OJ C 129, 20.4.2020

OJ C 114, 6.4.2020

These texts are available on:

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

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Appeal brought on 22 July 2019 by Hochmann Marketing GmbH against the order of the General Court (Third Chamber) delivered on 22 May 2019 in Case T-754/18, Hochmann Marketing GmbH v European Parliament

(Case C-557/19 P)

(2020/C 201/02)

Language of the case: German

Parties

Appellant: Hochmann Marketing GmbH (represented by: J Jennings, Rechtsanwalt)

Other party to the proceedings: European Parliament

By order of 30 April 2020, the Court of Justice of the European Union (Seventh Chamber) dismissed the appeal as being manifestly unfounded and ordered the appellant to bear its own costs.

Appeal brought on 15 September 2019 by BP against the order of the General Court (Fifth Chamber) delivered on 11 July 2019 in Case T-917/16 REV, BP v FRA

(Case C-682/19 P)

(2020/C 201/03)

Language of the case: English

Parties

Appellant: BP (represented by: E. Lazar, avocat)

Other party to the proceedings: European Union Agency for Fundamental Rights

By order of 19 March 2020 the Court of Justice (Eighth Chamber) held that the appeal was, in part inadmissible and part, manifestly unfounded.

Ordered the appellant to bear her own costs.

Request for a preliminary ruling from the Curtea de Apel Cluj (Romania) lodged on 12 November 2019 — SC Panavitrans SRL v Administrația Județeană a Finanțelor Publice Cluj, Administrația Fondului pentru Mediu

(Case C-828/19)

(2020/C 201/04)

Language of the case: Romanian

Referring court

Curtea de Apel Cluj

Parties to the main proceedings

Applicant: SC Panavitrans SRL

Defendants: Administrația Județeană a Finanțelor Publice Cluj, Administrația Fondului pentru Mediu

Question referred

Must Article 110 of the Treaty on the Functioning of the European Union be interpreted as precluding national legislation which, for the purposes of refunding a tax found to be contrary to Community law, lays down a shorter limitation period than the general limitation period laid down in national law as regards tax claims?

Request for a preliminary ruling from the Înalta Curte de Casație și Justiție (Romania) lodged on 19 November 2019 — Criminal proceedings against N.C.

(Case C-840/19)

(2020/C 201/05)

Language of the case: Romanian

Referring court

Înalta Curte de Casație și Justiție

Party to the main proceedings

N.C.

Other party to proceedings

Parchetul de pe lângă Înalta Curte de Casație și Justiție — Direcția Națională Anticorupție

Questions referred

1. Must Article 19(1) of the Treaty on European Union, Article 325(1) of the Treaty on the Functioning of the European Union, and Article 4 of Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law, ([1]) adopted pursuant to Article 83(2) of the Treaty on the Functioning of the European Union, be interpreted as *precluding the adoption of a decision by a body outside the judicial system, the Curtea Constituțională a României (Constitutional Court of Romania), which requires re-examination of corruption cases decided within a specific period, and which are at the appeal stage, on grounds of failure to establish, within the supreme court, panels seized of the cases which specialise in that field, also recognising the speciality of the judges of which they were composed?*

2. Must Article 2 of the Treaty on European Union and [the second paragraph of] Article 47 of the Charter of Fundamental Rights of the European Union be interpreted as *precluding a body outside the judicial system from declaring unlawful the composition of the panel seized of the case of a chamber of the supreme court (panel composed of judges in office who, at the time of their promotion, satisfied, inter alia, the specialisation requirement laid down for promotion to the supreme court)?*

3. Must the primacy of Europe Union law be interpreted as *permitting a national court to disapply a decision of the constitutional court delivered in a case relating to a constitutional dispute, which is binding under national law?*

(1) OJ 2017 L 198, p. 29.

Request for a preliminary ruling from the Înalta Curte de Casație și Justiție (Romania) lodged on 26 November 2019 — Criminal proceedings against FX, CS and ND

(Case C-859/19)

(2020/C 201/06)

Language of the case: Romanian

Referring court

Înalta Curte de Casație și Justiție

Defendants

FX, CS and ND

Other party to the proceedings

Parchetul de pe lângă Înalta Curte de Casație și Justiție — Direcția Națională Anticorupție

Questions referred

1. Are Article 19(1) of the Treaty on European Union, Article 325(1) of the Treaty on the Functioning of the European Union, Article 58 of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, (1) [and] Article 4 of Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law, (2) [which was] adopted on the basis of Article 83(2) of the Treaty on the Functioning of the European Union [and which replaced the Convention] on the protection of the European Communities' financial interests of 26 July 1995, to be interpreted as precluding the adoption of a decision by a body outside the judiciary — the Curtea Constituțională a României (Constitutional Court of Romania) — which requires corruption cases decided within a specified period and currently at the appeal stage to be referred back to the court of first instance for re-examination on the ground that there has been a failure to establish, at the level of the supreme court, panels hearing cases specialising in that field, although it recognises the specialisation of the judges of which those panels were composed?

2. Are Article 2 of the Treaty on European Union and [the second paragraph of] Article 47 of the Charter of Fundamental Rights of the European Union to be interpreted as precluding a body outside the judiciary from finding that the composition of panels hearing cases within a chamber of the supreme court (panels composed of serving judges who, at the time of their promotion, satisfied, inter alia, the specialisation condition required for promotion to the Criminal Chamber of the supreme court) is unlawful?

3. Is the primacy of EU law to be interpreted as permitting a national court to disapply a decision of the constitutional court which has been handed down in a case concerning a constitutional dispute and is binding under national law?

(1) OJ 2015 L 141, p. 73.
(2) OJ 2017 L 198, p. 29.

Appeal brought on 10 December 2019 by European Food SA against the judgment of the General Court (Eighth Chamber) delivered on 10 October 2019 in Case T-536/18, Société des produits Nestlé v EUIPO — European Food (FITNESS)

(Case C-908/19 P)

(2020/C 201/07)

Language of the case: English

Parties

Appellant: European Food SA (represented by: R. Dincă, I. Speciac, V. Stănese, I.-F. Cofaru, avocați)

Other parties to the proceedings: Société des produits Nestlé, European Union Intellectual Property Office

By order of 18 March 2020, the Court of Justice (Chamber determining whether appeals may proceed) decided that the appeal should not be allowed to proceed and ordered the appellant to bear its own costs.

Request for a preliminary ruling from the Curtea de Apel Iași (Romania) lodged on 11 December 2019 — BX v Unitatea administrativ-teritorială D.

(Case C-909/19)

(2020/C 201/08)

Language of the case: Romanian

Referring court

Curtea de Apel Iași

Parties to the main proceedings

Appellant: BX

Respondent: Unitatea administrativ-teritorială D.

Questions referred

1. Is Article 2(1) of Directive 2003/88/EC concerning certain aspects of the organisation of working time [1] to be interpreted as meaning that the period of time during which a worker attends mandatory vocational training courses after completing his or her normal hours of work, at the premises of the training services provider, away from his or her place of work, and without performing any of his or her service duties, constitutes 'working time'?

2. In the event that the first question is answered in the negative, are Article 31(2) of the Charter of Fundamental Rights of the European Union and Article 2(2), Article 3, Article 5 and Article 6 of Directive 2003/88/EC to be interpreted as precluding national legislation which, while establishing the need for employees to undertake vocational training, does not oblige employers to observe workers' rest periods in so far as concerns the time during which training courses are to be attended?

[1] Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ 2003 L 299, p. 9).

Request for a preliminary ruling from the Înalta Curte de Casație și Justiție (Romania) lodged on le 18 December 2019 — Criminal proceedings against BR, CS, DT, EU, FV, GW

(Case C-926/19)

(2020/C 201/09)

Language of the case: Romanian

Referring court

Înalta Curte de Casație și Justiție

Parties to the main proceedings

BR, CS, DT, EU, FV, GW

Other parties to the proceedings

Parchetul de pe lângă Înalta Curte de Casație și Justiție — Direcția Națională Anticorupție, Parchetul de pe lângă Înalta Curte de Casație și Justiție — Direcția de Investigare a Infracțiunilor de Criminalitate Organizată și Terorism — Structura centrală, Parchetul de pe lângă Înalta Curte de Casație și Justiție — Secția pentru investigarea infracțiunilor din justiție, Agenția Națională de Administrare Fiscală, HX, IY, SC Uranus Junior 2003 Srl

Questions referred

1. Must Article 19(1) of the Treaty on European Union, Article 325(1) of the Treaty on the Functioning of the European Union, Article 58 of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, ([1]) [and] Article 4 of Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law ([2]), drawn up on the basis of Article 83(2) of the Treaty on the Functioning of the European Union, be interpreted as *precluding the adoption of a decision by a body outside the judicial system, the Curtea Constituțională a României (Constitutional Court of Romania), which adjudicates on a procedural objection alleging that the composition of the panel seized of the case is unlawful, in the light of the principle that the judges of the Înalta Curte de Casație și Justiție (High Court of Cassation and Justice, Romania) must be specialised (not provided for in the Romanian Constitution), and which obliges a judicial body to refer cases which are at the (full-merits) appeal stage for re-examination within the first procedural cycle before the same court?*

2. Must Article 2 of the Treaty on European Union and Article 47[(2)] of the Charter of Fundamental of the European Union be interpreted *as precluding a body outside the judicial system from declaring unlawful the composition of the panel seized of the case of a chamber of the supreme court (panel composed of judges in office who, at the time of their promotion, satisfied, inter alia, the specialisation requirement laid down for promotion to the Criminal chamber of the supreme court)?*

3. Must the principle of the primacy of EU law be interpreted as *permitting a national court to disapply a decision of the constitutional court which interprets a rule of lower ranking than the Constitution, concerning the organisation of the Înalta Curte de Casație și Justiție (High Court of Cassation and Justice), contained in domestic legislation on the prevention, detection and punishment of offences of corruption, a rule which has been consistently interpreted in the same way, for 16 years, by a court?*

4. On a proper interpretation of Article 47 of the Charter of Fundamental Rights of the European Union[,] *[d]oes the principle of unfettered access to justice encompass the specialisation of judges and the establishment of specialist panels in a supreme court?*

([1]) OJ 2015 L 141, p. 73.
([2]) OJ 2017 L 198, p. 29.

Request for a preliminary ruling from the Înalta Curte de Casație și Justiție (Romania) lodged on 18 December 2019 — Criminal proceedings against CD

(Case C-929/19)

(2020/C 201/10)

Language of the case: Romanian

Referring court

Înalta Curte de Casație și Justiție

Defendant in the main proceedings

CD

Other parties to the proceedings

CLD, GLO, ȘDC, PVV, SC Complexul Energetic Oltenia SA, Parchetul de pe lângă Înalta Curte de Casație și Justiție — Direcția Națională Anticorupție, and Agenția Națională de Administrare Fiscală

Questions referred

1. Are Article 19(1) of the Treaty on European Union, Article 325(1) of the Treaty on the Functioning of the European Union and Articles 2 and 4 of Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law [1] to be interpreted as precluding the adoption of a decision by a body outside the judiciary — the Curtea Constituțională a României (Constitutional Court of Romania) — which provides generally for the re-examination of every corruption case that was decided by the Criminal Chamber of the supreme court ruling at first instance within a given period (2003 to January 2019) and that is currently under appeal?

2. Are Article 2 and [Article] 19(1) of the Treaty on European Union and [the second paragraph of] Article 47 of the Charter of Fundamental Rights of the European Union to be interpreted as precluding a body outside the judiciary from finding that the composition of panels hearing cases within a chamber of the supreme court is unlawful, contrary to the interpretation supported by the consistent and unanimous organisational and judicial practices of that court?

3. Is the primacy of EU law to be interpreted as permitting a national court to disapply a decision of the constitutional court which has been handed down in a case concerning a constitutional dispute and is binding under national law?

4. May the expression 'previously established by law' contained in [the second paragraph of] Article 47 of the Charter of Fundamental Rights of the European Union be interpreted as including the formal designation of specialised panels distinct from the specialisation of the judges of which those panels are composed?

[1] OJ 2017 L 198, p. 29.

Appeal brought on 20 December 2019 by Rubik's Brand Ltd against the judgment of the General Court (Eighth Chamber) delivered on 24 October 2019 in Case T-601/17, Rubik's Brand Ltd v EUIPO — Simba Toys

(Case C-936/19 P)

(2020/C 201/11)

Language of the case: English

Parties

Appellant: Rubik's Brand Ltd (represented by: K. Szamosi, M. Borbás, ügyvédek)

Other parties to the proceedings: European Union Intellectual Property Office, Simba Toys GmbH & Co. KG

By order of 23 April 2020, the Court of Justice (Chamber determining whether appeals may proceed) decided that the appeal should not be allowed to proceed and ordered the appellant to bear its own costs.

Appeal brought on 14 January 2020 by Neoperl AG against the judgment of the General Court (Second Chamber) delivered on 14 November 2019 in Case T-669/18, Neoperl AG v European Union Intellectual Property Office (EUIPO)

(Case C-14/20 P)

(2020/C 201/12)

Language of the case: German

Parties

Appellant: Neoperl AG (represented by: H. Börjes-Pestalozza and G. Schultz, Rechtsanwälte)

Other party to the proceedings: European Union Intellectual Property Office

By order of 23 April 2020, the Court of Justice of the European Union (Chamber determining whether appeals may proceed) refused the request that the appeal be allowed to proceed and ordered the appellant to bear its own costs.

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 27 January 2020 — Staatssecretaris van Financiën v Jumbocarry Trading GmbH

(Case C-39/20)

(2020/C 201/13)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: Staatssecretaris van Financiën

Defendant: Jumbocarry Trading GmbH

Questions referred

1. Are Articles 103(3)(b) and 124(1)(a) of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code [1] applicable to a customs debt that was incurred before 1 May 2016 and whose period of limitation had not yet expired as of that date?

2. If the answer to the first question is in the affirmative, does the principle of legal certainty or the principle of legitimate expectations preclude that applicability?

---

[1] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ 2013 L 269, p. 1).

Request for a preliminary ruling from the Nederlandstalige rechtbank van eerste aanleg Brussel (Belgium) lodged on 6 February 2020 — NV Vogel Import Export v Belgische Staat

(Case C-62/20)

(2020/C 201/14)

Language of the case: Dutch

Referring court

Nederlandstalige rechtbank van eerste aanleg Brussel

Parties to the main proceedings

Applicant: NV Vogel Import Export

Defendant: Belgische Staat

Questions referred

1. Should the [Combined Nomenclature] [1]— in the light also of the various language versions of tariff heading 4409 and the HS Explanatory Notes to tariff headings 4407 and 4409 — be interpreted as meaning that the goods which are the subject of the main proceedings, namely, planed wooden boards the four corners of which have been rounded over the entire length of the board, are to be regarded as being 'continuously shaped' and accordingly should be classified under tariff heading 4409 or can the rounding of the corners not be regarded as being 'continuously shaped' and should the goods therefore be classified under tariff heading 4407?

2. Is the size of the rounding determinative for classification under tariff heading 4407 or tariff heading 4409?

[1] Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 1987 L 256, p. 1)

Appeal brought on 5 February 2020 by Ms Sigrid Dickmanns in respect of the Order of the General Court (Sixth Chamber) of 18 November 2019 in Case T-181/19 Sigrid Dickmanns v European Union Intellectual Property Office (EUIPO)

(Case C-63/20 P)

(2020/C 201/15)

Language of the case: German

Parties

Appellant: Sigrid Dickmanns (represented by: H. Tettenborn, Rechtsanwalt)

Other party to the proceedings: European Union Intellectual Property Office (EUIPO)

Form of order sought by the appellant

The appellant claims that the Court of Justice of the European Union should:

1. set aside in full the order of the General Court of the European Union (Sixth Chamber) of 18 November 2019 in Case T-181/19 and then refer the case back to the General Court;

2. order the European Union Intellectual Property Office (EUIPO) to pay the costs of the appeal proceedings before the Court of Justice.

Grounds of appeal and main arguments

In support of her appeal, the applicant relies on a single ground of appeal, namely an erroneous interpretation and application of Article 90 and 91, in particular, of the Staff Regulations; concomitantly, the appellant's fundamental rights to a fair trial and to sound administration have been seriously breached.

The appellant claims that the General Court erred in regarding her complaint as having been lodged out of time under Article 90(2) of the Staff Regulations. Her complaint was raised within 3 months of a reasoned decision of the EUIPO, not — under the third indent of Article 90(2) of the Staff Regulations — within 3 months of an earlier implied decision rejecting a request made by her.

In that connection, the appellant claims that the General Court's interpretation of Article 90(2) of the Staff Regulations does not follow the wording of that provision. She maintains that her complaint was not made pursuant to an implied decision under the third indent of Article 90(2) of the Staff Regulations, but pursuant to the second indent of Article 90(2) of the Staff Regulations following a decision notified to her, and is therefore admissible according to the wording of that provision. It does not follow from the wording of the third sentence of Article 90(1), the second indent of Article 90(2) or from the third indent of Article 90(2) of the Staff Regulations that, in the case of an implied decision rejecting a request, the second indent of Article 90(2) is inapplicable or that application of the third indent should be given priority. The express decision of the EUIPO was not a mere confirmation of the implied decision, since the EUIPO did not refer to the implied decision. Moreover, certain elements inconsistent with a mere confirmatory decision suggest that there was a fresh decision.

The appellant then claims that the General Court's interpretation runs counter to the spirit of the second and third sentences of Article 90(1) of the Staff Regulations and legal certainty. The purpose of those rules is, above all, to protect the applicant and not for the authority with which the request is lodged — which is the consequence of the General Court's interpretation — to gain procedurally from the breach of an obligation. The objective of legal certainty would be greater served by the applicant's interpretation. First, that interpretation is consistent with the wording of Article 90(2) of the Staff Regulations and does not run counter to it — as does the General Court's interpretation. Second, the deadline would, according to the General Court's interpretation, be longer or shorter in respect of an authority's express reasoned decision, depending on whether or not that express decision was preceded by an implied decision.

In addition, the appellant relies on a serious breach of her fundamental rights to a fair trial and to sound administration. The breach of the right to a fair trial consists, in particular, in the fact that the authority can intentionally use a breach of an obligation (namely its obligation to adopt a decision on a request within 4 months under Article 90(1) of the Staff Regulations) so as to shorten the time which an applicant has to respond to the grounds for the decision rejecting a request given by the authority. Furthermore, the General Court's interpretation to the contrary of second sentence and third indent of Article 90(2) of the Staff Regulations entails a significantly higher risk that an action brought by an applicant will be lost on account of being out of time. An interpretation of Article 90(2) of the Staff Regulations in conformity with fundamental rights can lead only to the result advocated by the appellant.

Request for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 12 February 2020 — YL v Altenrhein Luftfahrt GmbH

(Case C-70/20)

(2020/C 201/16)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Applicant: YL

Defendant: Altenrhein Luftfahrt GmbH

Question referred

Does a hard landing, albeit still made within the normal operating range of an aircraft, which results in injury to a flight passenger constitute an accident within the meaning of Article 17(1) of the Convention for the Unification of Certain Rules for International Carriage by Air concluded on 28 May 1999 in Montreal, signed on 9 December 1999 by the European Community and approved on its behalf by Council Decision 2001/539/EC of 5 April 2001? ([1])

([1]) 2001/539/EC: Council Decision of 5 April 2001 on the conclusion by the European Community of the Convention for the Unification of Certain Rules for International Carriage by Air (the Montreal Convention) (OJ 2001 L 194, p. 38).

Appeal brought on 14 February 2020 by Lazarus Szolgáltató és Kereskedelmi Kft. 'in liquidation' against an order of the General Court (Tenth Chamber) delivered on 18 December 2019 in case T-763/18, Lazarus Szolgáltató és Kereskedelmi v Commission

(Case C-85/20 P)

(2020/C 201/17)

Language of the case: Hungarian

Parties

Appellant: Lazarus Szolgáltató és Kereskedelmi Kft. 'in liquidation' (represented by L. Szabó, ügyvéd)

Other party to the proceedings: European Commission

Form of order sought by the applicant

— The appellant requests that the Court of Justice declare the appeal admissible and well founded and consequently annul the order given by the General Court (Tenth Chamber) on 18 December 2019 in Case T-763/18, *Lazarus Szolgáltató és Kereskedelmi* v *Commission*, of which the appellant was notified that same day.

— Further, the appellant requests that the Court of Justice refer the case back to the General Court for it to rule on the issues relating to the plea of inadmissibility which were not resolved by the order given at first instance.

— The appellant requests that the Court of Justice order the respondent to pay the costs of the first-instance proceedings and of the appeal, unless it refers the case back to the General Court, in which case it requests that the Court of Justice refrain from ruling on the costs of the first-instance proceedings and of the appeal, and that the decision be reserved until final judgment.

Pleas in law and main arguments

I. **Error in the legal characterisation of the facts and inadequacy of the statement of reasons.**

By its first ground of appeal, the appellant submits that the General Court did not take due account of the legal uncertainty arising from its knowledge of the contested decisions of the Commission.

The case-law referred to by the General Court deals with knowledge of the existence of decisions concerning or referring to the appellant.

The appellant brought an action against the decision taken by the national court to stay the proceedings because it disputed that the European Union's resolution on the contested decisions of the Commission constituted a preliminary question to be adjudicated in relation to the action for damages brought by Lazarus Kft. The appellant and its legal representative can only be considered to be one and the same person for legal purposes with regard to the case referred to in the general power of attorney to litigate executed by both of them, namely the action for damages brought before the national court.

Given that the power granted by the appellant to its legal representative referred exclusively to the action for damages brought before the national court, the legal representative did not have a duty to inform the appellant within a reasonable period, for the purposes of EU law, nor did they have an obligation to request the complete text of the decisions at issue, since their power did not extend that far. The appellant itself could only have made such a request personally from the moment it had knowledge that it was concerned by EU legislation.

II. **Error in the interpretation and application of the case-law on the 'reasonable period'**

The case-law referred to by the General Court cannot be applied to the present case since the facts of the cases relied on are not identical to the present case.

III. **Error in the characterisation of the Commission's letter of 24 February 2017**

The national court delivered a judgment dismissing the complaint from OPS Újpest Kft., on the basis of the contested informative letter from the respondent. That judgment harmed the appellant's interests and substantially altered its legal position, given that the national court declared, on the basis of the letter referred to, that the national authority had lawfully granted the aid.

IV. **Infringement of the applicant's rights of defence. Infringement and misapplication of Article 126 of the Rules of Procedure of the General Court.**

Although the General Court decided to adopt measures of organisation of procedure, it did not give the parties notice to submit observations on whether the application had been made within the prescribed period. The General Court examined the issue of late submission for the first time in the order and rejected the application on that ground, without allowing the parties, and in particular the appellant, to make submissions or objections in that respect.

Given that that notice was not given, it was not possible to submit a document that could have supported the appellant's position that the application had been made within the prescribed period.

Request for a preliminary ruling from the Finanzgericht Düsseldorf (Germany) lodged on 25 February 2020 — Rottendorf Pharma GmbH v Hauptzollamt Bielefeld

(Case C-92/20)

(2020/C 201/18)

Language of the case: German

Referring court

Finanzgericht Düsseldorf

Parties to the main proceedings

Applicant: Rottendorf Pharma GmbH

Defendant: Hauptzollamt Bielefeld

Question referred

Is the second indent of Article 239(1) of Council Regulation (EEC) No 2913/92 [1] of 12 October 1992 establishing the Community Customs Code to be interpreted as meaning that, in a case such as that in the main proceedings, in which the non-Community goods imported by the person concerned were re-exported from the Community customs area and the circumstances that gave rise to the customs debt may not be attributed to obvious negligence on the part of the person concerned, the duty may be repaid?

[1] OJ 1992 L 302, p. 1.

Request for a preliminary ruling from the Bezirksgericht Schwechat (Austria) lodged on 25 February 2020 — JU v Air France Direktion für Österreich

(Case C-93/20)

(2020/C 201/19)

Language of the case: German

Referring court

Bezirksgericht Schwechat

Parties to the main proceedings

Claimant: JU

Defendant: Air France Direktion für Österreich

Questions referred

1. Is Article 31(2) in conjunction with Article 31(4) of the Convention for the Unification of Certain Rules for International Carriage by Air (Montreal Convention) [1] to be interpreted as meaning that damage to checked baggage which occurred on board the aircraft or during a period within which the checked baggage was in the charge of the carrier must, in the case of a delayed delivery, be notified to the carrier, at the latest, within seven days from the date on which the baggage was placed at the disposal of the person entitled to delivery, and that, otherwise, no action is to lie against the carrier save in the case of fraud on its part?

2. (If the answer to the first question is no:)

   Is Article 31(2) in conjunction with Article 31(4) of the Montreal Convention to be interpreted as meaning that damage to checked baggage which occurred on board the aircraft or during a period within which the checked baggage was in the charge of the carrier must, in the case of a delayed delivery, be notified to the carrier within 21 days from the date on which the baggage was placed at the disposal of the person entitled to delivery, and that, otherwise, no action is to lie against the carrier save in the case of fraud on its part?

[1] 2001/539/EC: Council Decision of 5 April 2001 on the conclusion by the European Community of the Convention for the Unification of Certain Rules for International Carriage by Air (the Montreal Convention) (OJ 2001 L 194, p. 38).

Request for a preliminary ruling from the Landesgericht Linz (Austria) lodged on 25 February 2020 — Land Oberösterreich v KV

(Case C-94/20)

(2020/C 201/20)

Language of the case: German

Referring court

Landesgericht Linz

Parties to the main proceedings

Appellant: Land Oberösterreich

Respondent: KV

Questions referred

1. Is Article 11 of Directive 2003/109/EC ([1]) to be interpreted as precluding national legislation, such as Paragraph 6(9) and (11) of the Oberösterreichisches Wohnbauförderungsgesetz (Upper Austrian Law on Housing Subsidies; 'the oöWFG'), which allows EU citizens, EEA nationals and family members within the meaning of Directive 2004/38/EC ([2]) to receive a social benefit in the form of housing assistance without proof of language proficiency, while requiring third country nationals with long-term resident status within the meaning of Directive 2003/109 to provide particular proof of a basic command of German, where that housing assistance is intended to absorb unreasonable burdens in the form of housing costs even though minimum subsistence levels (including the need for housing) should also be ensured by way of another social benefit (needs-based guaranteed minimum benefits in accordance with the Oberösterreichisches Mindestsicherungsgesetz (Upper Austrian Law on Guaranteed Minimum Benefits)) for individuals suffering social hardship?

2. Is the prohibition of 'direct or indirect discrimination' based on 'racial or ethnic origin' in accordance with Article 2 of Directive 2000/43/EC ([3]) to be interpreted as precluding national legislation, such as Paragraph 6(9) and (11) of the oöWFG, which allows EU citizens, EEA nationals and family members within the meaning of Directive 2004/38 to receive a social benefit (housing assistance in accordance with the oöWFG) without proof of language proficiency, while requiring third country nationals (including those with long-term resident status within the meaning of Directive 2003/109) to provide particular proof of a basic command of German?

3. If the answer to question 2 is in the negative:

   Is the principle of non-discrimination on grounds of ethnic origin in accordance with Article 21 of the Charter of Fundamental Rights of the European Union to be interpreted as precluding national legislation such as Paragraph 6(9) and (11) oöWFG, which allows EU citizens, EEA nationals and family members within the meaning of Directive 2004/38 to receive a social benefit (housing assistance in accordance with the oöWFG) without proof of language proficiency, while requiring third country nationals (including those with long-term resident status within the meaning of Directive 2003/109) to provide particular proof of a basic command of German?

([1]) Council Directive 2003/109 of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ 2004 L 16, p. 44).

([2]) Directive 2004/38 of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004 L 158, p. 77).

([3]) Council Directive 2000/43 of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ 2000 L 180, p. 22).

Request for a preliminary ruling from the Finanzgericht Berlin-Brandenburg (Germany) lodged on 27 February 2020 — HR v Finanzamt Wilmersdorf

(Case C-108/20)

(2020/C 201/21)

Language of the case: German

Referring court

Finanzgericht Berlin-Brandenburg

Parties to the main proceedings

Applicant: HR

Defendant: Finanzamt Wilmersdorf

Question referred

Are Articles 167 and 168(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ([1]) to be interpreted as precluding the application of national law under which input tax deductions are not to be allowed where, when turnover tax fraud about which a taxable person knew or should have known was committed at a preceding stage, the taxable person, through the transaction carried out with him or her, did not participate in and was not connected to the turnover tax fraud and did not encourage or facilitate the turnover tax fraud committed?

([1]) OJ 2006 L 347, p. 1.

Request for a preliminary ruling from the Augstākā tiesa (Senāts) (Latvia) lodged on 28 February 2020 — Līga Šenfelde v Lauku atbalsta dienests

(Case C-119/20)

(2020/C 201/22)

Language of the case: Latvian

Referring court

Augstākā tiesa (Senāts)

Parties to the main proceedings

Applicant at first instance and respondent on appeal on a point of law: Līga Šenfelde

Other party to the proceedings: Lauku atbalsta dienests

Questions referred

Must Article 19(1)(a) of Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005, ([1]) in conjunction with other provisions of the aforementioned regulation and the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020, be interpreted as meaning that:

1. a farmer loses his or her 'young farmer' status solely by virtue of having received small farm development aid, as provided for in Article 19(1)(a)(iii) of the Regulation, two years previously;

2. those provisions authorise Member States to enact legislation to the effect that a farmer is not to be paid the aid provided for in Article 19(1)(a)(i) of the Regulation if he or she has already been granted the aid provided for in Article 19(1)(a)(iii);

3. a Member State is has the power to refuse to cumulate aid for a farmer in the case where the cumulation sequence laid down in the rural development programme agreed with the European Commission has not been complied with?

([1]) OJ 2013 L 347, p. 487.

Request for a preliminary ruling from the Hanseatisches Oberlandesgericht Hamburg (Germany) lodged on 5 March 2020 — Bank Melli Iran, a public limited company under Iranian law v Telekom Deutschland GmbH

(Case C-124/20)

(2020/C 201/23)

Language of the case: German

Referring court

Hanseatisches Oberlandesgericht Hamburg

Parties to the main proceedings

Applicant: Bank Melli Iran, a public limited company under Iranian law

Defendant: Telekom Deutschland GmbH

Questions referred

1. Does the first paragraph of Article 5 of Regulation No 2271/96 ([1]) only apply where the acting EU operator within the meaning of Article 11 of that Regulation is issued directly or indirectly with an official or court order on the part of the United States of America or does it suffice for its application that the action of the EU operator is predicated on compliance with secondary sanctions without any such order?

2. If the answer to Question 1 is that the second alternative applies: Does the first paragraph of Article 5 of Regulation No 2271/96 preclude an understanding under national law that the party giving notice of termination is also able to terminate a continuing obligation with a contracting party named on the Specially Designated Nationals and Blocked Persons List held by the US Office of Foreign Assets Control, including where termination is motivated by compliance with US sanctions, without the need to give a reason for termination and therefore without having to show and prove in civil proceedings that the reason for termination was not to comply with US sanctions?

3. If Question 2 is answered in the affirmative: Must ordinary termination in breach of the first paragraph of Article 5 of Regulation No 2271/96 necessarily be regarded as ineffective or can the purpose of the Regulation be satisfied through other penalties, such as a fine?

4. If the answer to Question 3 is that the first alternative applies: Considering Articles 16 and 52 of the Charter of Fundamental Rights of the European Union, on the one hand, and the possibility of an exemption being authorised under the second paragraph of Article 5 of Regulation No 2271/96, on the other, does that apply even where maintaining the business relationship with the listed contracting party would expose the EU operator to considerable economic losses on the US market (in this case: 50 % of group turnover)?

([1]) Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom (OJ 1996 L 309, p. 1), as amended by Commission Delegated Regulation (EU) 2018/1100 of 6 June 2018 amending the Annex to Council Regulation (EC) No 2271/96 (OJ 2018 L 199 I, p. 1).

Request for a preliminary ruling from the Juzgado de lo Social n.º3 de Barcelona (Spain) lodged on 9 March 2020 — YJ v Instituto Nacional de la Seguridad Social (INSS)

(Case C-130/20)

(2020/C 201/24)

Language of the case: Spanish

Referring court

Juzgado de lo Social n.º3 de Barcelona

Parties to the main proceedings

Applicant: YJ

Defendant: Instituto Nacional de la Seguridad Social (INSS)

Question referred

Can a provision like Article 60(4) of the General Law on Social Security (Ley General de la Seguridad Social), which excludes the maternity supplement for women who retire [early] voluntarily, as opposed to those who retire, also voluntarily, at the normal age provided for, or who retire early but on the basis of work performed throughout their working lives, by reason [of] disability, or because they ceased employment before taking retirement through no fault of their own, be considered to constitute direct discrimination for the purposes of Directive 79/7? ([1])

([1]) Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security OJ 1979 L 6, p. 24.

Action brought on 16 March 2020 — European Commission v Republic of Poland

(Case C-139/20)

(2020/C 201/25)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: M. Siekierzyńska and A. Armenia, acting as Agents)

Defendant: Republic of Poland

Form of order sought

The applicant claims that the Court should:

— declare that, by implementing a law which grants an exemption from excise duty for energy products used by energy-intensive businesses covered by the EU Emissions Trading System, the Republic of Poland has failed to fulfil its obligations under Article 17(1)(b) and Article 17(4) of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity; ([1])

— order the Republic of Poland to pay the costs.

Pleas in law and main arguments

The Republic of Poland has introduced into its national legislation an exemption from excise duty for energy products used by energy-intensive businesses covered by the EU Emissions Trading System ('the EU ETS').

In the Commission's view, this constitutes a failure to fulfil obligations under Article 17(1)(b) and Article 17(4) of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity. According to those provisions, exemption from or reduction of the level of taxation applied to energy products used by energy-intensive businesses is possible only where agreements are concluded with undertakings or associations of undertakings, or where tradable permit schemes or equivalent arrangements are implemented, as far as they lead to the achievement of environmental protection objectives or to improvements in energy efficiency. The EU ETS cannot, in the Commission's view, be regarded as a 'tradable permit [scheme]' for the purposes of those provisions.

([1]) OJ 2003 L 283, p. 51.

Request for a preliminary ruling from the Administratīvā rajona tiesa (Latvia) lodged on 27 March 2020 — AS LatRailNet, VAS Latvijas dzelzceļš v Valsts dzelzceļa administrācija

(Case C-144/20)

(2020/C 201/26)

Language of the case: Latvian

Referring court

Administratīvā rajona tiesa

Parties to the main proceedings

Applicants: AS LatRailNet, VAS Latvijas dzelzceļš

Defendant: Valsts dzelzceļa administrācija

Questions referred

1. Must Article 56(2) of Directive [2012/34] ([1]) be interpreted as meaning that it confers on the regulatory body the power to adopt on its own initiative a decision ordering the undertaking performing the essential functions of a railway infrastructure manager, as mentioned in Article 7(1) of that directive, to make to provisions relating to the calculation of infrastructure charges (the charging scheme) certain amendments that are unrelated to discrimination against applicants?

2. If the first question is answered in the affirmative, is the regulatory body empowered to set out, in that decision, the conditions that must be laid down by such amendments, for example by laying down an obligation to exclude from the criteria for determining infrastructure charges pre-scheduled costs covered by the State budget or by local authority budgets which passenger transport operators cannot meet out of transport revenue?

3. Must Article 32(1) of Directive [2012/34] be interpreted as meaning that the obligation imposed on Member States in that paragraph to guarantee optimal competitiveness of rail market segments, by establishing mark-ups on infrastructure charges, also applies to the determination of infrastructure charges in market segments where there is no competition, because, for example, in the market segment concerned, transport is delivered exclusively by a single rail operator which has been given the exclusive right under Article 2(f) of Regulation No 1370/2007 ([2]) to provide transport in that market segment?

([1]) Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ 2012 L 343, p. 32).

([2]) Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ 2007 L 315, p. 1).

Action brought on 8 April 2020 — European Commission v Kingdom of Denmark

(Case C-159/20)

(2020/C 201/27)

Language of the case: Danish

Parties

Applicant: European Commission (represented by: M. Konstantinidis, I. Naglis and U. Nielsen, acting as Agents)

Defendant: Kingdom of Denmark

Form of order sought

The applicant claims that the Court should:

— declare that Denmark has failed to fulfil its obligations under Article 13 of Regulation (EU) No 1151/2012 ([1]) on quality schemes for agricultural products and foodstuffs by failing to prevent or stop Danish dairies using the name Feta for cheese that does not comply with the product specification in Commission Regulation (EC) No 1829/2002; ([2])

— declare that, by allowing Danish dairies to produce and sell imitations of Feta, Denmark is in breach of Article 4(3) of the Treaty on European Union (TEU) in conjunction with Article 1(1) and Article 4 of Regulation (EU) No 1151/2012;

— order the Kingdom of Denmark to pay the costs.

Pleas in law and main arguments

The Commission claims that the Danish authorities have failed to fulfil their obligations under the regulation on quality schemes by allowing Danish undertakings unlawfully to use the name 'Feta' for cheese produced in Denmark.

In particular, it states that the name 'Feta' is being used in Denmark in breach of the regulation on quality schemes and that, as a result, that Member State must take the appropriate administrative and judicial steps to prevent or stop that practice. Since Denmark refuses to comply with the abovementioned legislation, the Commission concludes that Denmark has failed to fulfil its obligations under Article 13(3) of the regulation on quality schemes and is therefore in breach of EU law.

By allowing Danish dairies to produce and sell imitations of 'Feta', Denmark is also in breach of Article 4(3) TEU in conjunction with Article 1(1) and Article 4 of Regulation (EU) No 1151/2012, by jeopardising the achievement of the European Union's objectives with regard to ensuring fair competition for farmers and producers of agricultural products and foodstuffs having value-adding characteristics and attributes, helping producers of products linked to a geographical area secure a fair return for the qualities of their products and ensuring protection of the names as an intellectual property right in the territory of the Union.

The Commission also considers that, by failing to prevent or stop the infringement of the rights in the registered protected designation of origin (PDO) 'Feta', which occurs when Danish milk producers export counterfeit cheese from the European Union to third countries, Denmark is undermining the Union's position in international negotiations intended to ensure the protection of the EU's quality schemes, and is in breach of the principle of cooperation in good faith in Article 4(3) TEU.

([1]) Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ 2012 L 343, p. 1).

([2]) Commission Regulation (EC) No 1829/2002 of 14 October 2002 amending the Annex to Regulation (EC) No 1107/96 with regard to the name 'Feta' (OJ 2002 L 277, p. 10).

GENERAL COURT

Judgment of the General Court of 29 April 2020 — Tilly-Sabco v Commission

(Case T-437/18) ([1])

(Non-contractual liability — Agriculture — Export refunds — Poultrymeat — Annulment of Implementing Regulation (EU) No 689/2013 by a judgment of the Court of Justice — Damage)

(2020/C 201/28)

Language of the case: French

Parties

Applicant: Tilly-Sabco (Guerlesquin, France) (represented by: R. Milchior and S. Charbonnel, lawyers)

Defendant: European Commission (represented by: A. Lewis and B. Hofstötterer, acting as Agents)

Re:

Application based on Article 268 TFEU seeking compensation for the damage allegedly suffered by the applicant as a result of the adoption of Commission Implementing Regulation (EU) No 689/2013 of 18 July 2013 fixing the export refunds on poultrymeat (OJ 2013 L 196, p. 13).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Tilly-Sabco to pay the costs.

([1]) OJ C 364, 8.10.2018.

Judgment of the General Court of 29 April 2020 — Cimpress Schweiz v EUIPO — Impress Media (CIMPRESS)

(Case T-37/19) ([1])

(EU trade mark — Opposition proceedings — Application for EU word mark CIMPRESS — Earlier EU figurative mark impress — Earlier national word mark Impress-Media — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2020/C 201/29)

Language of the case: German

Parties

Applicant: Cimpress Schweiz GmbH (Winterthur, Switzerland) (represented by: C. Eckhartt, P. Böhner and A. von Mühlendahl, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Impress Media GmbH (Mönchengladbach, Germany) (represented by: F. Remmertz, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 30 October 2018 (Joined Cases R 1716/2017-2 and R 1786/2017-2) relating to opposition proceedings between Impress Media and Cimpress Schweiz.

Operative part of the judgment

The Court:

1. Authorises Impress GmbH to replace Impress Media GmbH as intervener;

2. Dismisses the action;

3. Orders Cimpress Schweiz GmbH to bear its own costs and pay the costs incurred by the European Union Intellectual Property Office (EUIPO) and Impress.

([1]) OJ C 82, 4.3.2019.

Order of the General Court of 29 April 2020 — Lidl Stiftung v EUIPO — Plásticos Hidrosolubles (green cycles)

(Case T-78/19) ([1])

(EU trade mark — Revocation proceedings — European Union figurative mark green cycles — Genuine use of the mark — Article 18(1) of Regulation (EU) 2017/1001 — Article 58(1)(a) of Regulation 2017/1001 — Article 10(3) and (4) of Delegated Regulation (EU) 2018/625 — Form differing in elements which do not alter the distinctive character — Lack of use of the sign as a company logo)

(2020/C 201/30)

Language of the case: English

Parties

Applicant: Lidl Stiftung & Co. KG (Neckarsulm, Germany) (represented by: A. Marx, K. Bonhagen and M. Wolter, lawyers)

Defendant: European Union Intellectual Property Office (represented by: S. Scardocchia and J. Crespo Carrillo, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO intervening before the General Court: Plásticos Hidrosolubles, SL (Rafelbuñol, Spain) (represented by: C. Sueiras Villalobos, lawyer)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 29 November 2018 (Case R 778/2018-5) relating to revocation proceedings between Lidl Stiftung and Plásticos Hidrosolubles.

Operative part of the order

1. Annuls the decision of the Fifth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 29 November 2018 (Case R 778/2018-5) in so far as it found genuine use of the contested mark in respect of the goods in Class 20.

2. Dismisses the action as to the remainder.

3. Orders Lidl Stiftung & Co. KG, EUIPO and Plásticos Hidrosolubles, SL, to each bear their own costs incurred during the proceedings before the Court.

(1) OJ C 122, 1.4.2019.

Judgment of the General Court of 29 April 2020 — Kerry Luxembourg v EUIPO — Döhler (TasteSense By Kerry)

(Case T-108/19) (1)

(EU trade mark — Opposition proceedings — Application for the EU figurative mark TasteSense By Kerry — Earlier EU word mark MultiSense — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

(2020/C 201/31)

Language of the case: English

Parties

Applicant: Kerry Luxembourg Sàrl (Luxembourg, Luxembourg) (represented by: A. von Mühlendahl and H. Hartwig, lawyers)

Defendant: European Union Intellectual Property Office (represented by: J. Ivanauskas and H. O'Neill, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO: Döhler GmbH (Darmstadt, Germany)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 27 November 2018 (Case R 1179/2018 2), relating to opposition proceedings between Döhler and Kerry Luxembourg

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Kerry Luxembourg Sàrl to pay the costs.

(1) OJ C 139, 15.4.2019.

Order of the General Court of 2 April 2020 — Thai World Import & Export v EUIPO — Elvir (Yaco)

(Case T-3/19) (1)

(EU trade mark — Opposition proceedings — Withdrawal of the opposition — No need to adjudicate)

(2020/C 201/32)

Language of the case: French

Parties

Applicant: Thai World Import & Export Co. Ltd (Bangkok, Thailand) (represented by: S. Bénoliel-Claux, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO intervening before the General Court: Elvir (Condé-sur-Vire, France) (represented by: M. Lhotel, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 2 October 2018 (Case R 319/2018-2) relating to opposition proceedings between Elvir and Thai World Import & Export Co.

Operative part of the order

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

2. Thai World Import & Export Co. Ltd and Elvir shall bear their own costs and shall each pay half of the costs incurred by the European Union Intellectual Property Office (EUIPO).

(1) OJ C 72, 25.2.2019.

Order of the General Court of 2 April 2020 — SQlab v EUIPO (Innerbarend)

(Case T-307/19) (1)

(Action for annulment — EU trade mark — Application for EU word mark Innerbarend — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EU) 2017/1001 — Action manifestly lacking any foundation in law)

(2020/C 201/33)

Language of the case: German

Parties

Applicant: SQlab GmbH (Taufkirchen, Germany) (represented by: A. Koelle, lawyer)

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

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 18 March 2019 (Case R 2180/2018-4) relating to an application for registration of the word sign Innerbarend as an EU trade mark.

Operative part of the order

1. The action is dismissed.

2. SQlab GmbH is ordered to pay the costs.

(1) OJ C 230, 8.7.2019.

Order of the President of the General Court of 20 April 2020 — Leonardo v Frontex

(Case T-849/19 R)

(Interim measures — Public service contracts — Application for interim measures — Lack of urgency)

(2020/C 201/34)

Language of the case: Italian

Parties

Applicant: Leonardo SpA (Rome, Italy) (represented by: A. Parrella, lawyer)

Defendant: European Border and Coast Guard Agency (represented by: S. Drew, H. Caniard, C. Georgiadis and A. Gras, acting as Agents, and by M. Vanderstraeten, F. Biebuyck and V. Ost, lawyers)

Re:

Application on the basis of Article 278 TFEU and 279 TFEU seeking the grant of interim measures as regards a stay of execution of the call for tender published on 18 October 2019 by Frontex, entitled 'Remotely Piloted Aircraft Systems (RPAS) for Medium Altitude Long Endurance Maritime Aerial Surveillance'.

Operative part of the order

1. The application for interim measures is dismissed.

2. The costs are reserved.

Order of the President of the General Court of 30 April 2020 — Nouryon Industrial Chemicals and Others v Commission

(Case T-868/19 R)

(Interim measures — REACH — Dimethyl ether substance — Compliance check — Commission decision — Obligation to provide certain information requiring testing on animals — Application for suspension of operation of a measure — No urgency)

(2020/C 201/35)

Language of the case: English

Parties

Applicants: Nouryon Industrial Chemicals BV (Amsterdam, Netherlands), Knoell NL BV (Maarssen, Netherlands), Grillo-Werke AG (Duisburg, Germany), PCC Trade & Services GmbH (Duisburg) (represented by: R. Cana and G. David, lawyers, and Z. Romata, Solicitor)

Defendant: European Commission (represented by: R. Lindenthal and K. Mifsud-Bonnici, Agents)

Re:

Application pursuant to Articles 278 and 279 TFEU seeking, first, the suspension of operation of Commission Implementing Decision C(2019) 7336 final of 16 October 2019 on the compliance check of a registration of dimethyl ether referred by the European Chemicals Agency to the Commission pursuant to Article 51(7) of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ 2006 L 396, p. 1, corrigendum OJ 2007 L 136, p. 3), and, secondly, the grant of any other interim measures which the Court considers appropriate.

Operative part of the order

1. The application for interim measures is dismissed.

2. The costs are reserved.

Order of the President of the General Court of 22 April 2020 — Aquind and Others v Commission

(Case T-885/19 R)

(Application for interim relief — Energy — Trans-European energy infrastructure — Regulation (EU) No 347/2013 — Commission Delegated Regulation amending Regulation No 347/2013 — Application for suspension of operation — No urgency)

(2020/C 201/36)

Language of the case: English

Parties

Applicants: Aquind Ltd. (Wallsend, United Kingdom), Aquind Energy Sàrl (Luxembourg, Luxembourg), Aquind SAS (Rouen, France) (represented by: S. Goldberg, C. Davis and J. Bille, Solicitors, and by E. White, lawyer)

Defendant: European Commission (represented by: O. Beynet, Y. Marinova and B. De Meester, acting as Agents)

Re:

Application pursuant to Articles 278 and 279 TFEU seeking the suspension of the operation of the Commission Delegated Regulation of 31 October 2019 amending Regulation (EU) No 347/2013 of the European Parliament and of the Council as regards the list of projects of common interest of the Union.

Operative part of the order

1. The application for interim measures is dismissed.

2. The costs are reserved.

Action brought on 28 February 2020 — IV v Commission

(Case T-145/20)

(2020/C 201/37)

Language of the case: French

Parties

Applicant: IV (represented by: J. Lemmer, lawyer)

Defendant: European Commission

Forms of order sought

The applicant claims that the Court should:

— order the European Commission and the Centre Polyvalent de l'Enfance Interinstitutionnel, jointly and severally to communicate to (X) the attendance records of his child (Y) for the years 2019 and 2020 in their possession, subject to a non-committal penalty payment of EUR 500 (five hundred euros) for each day of delay from the date of delivery of the decision to be adopted;

— order the defendant to pay to the applicant the sum of EUR 1 500 by way of irrecoverable costs which the applicant had to incur in order to enforce his rights, as well as the costs and expenses of the present proceedings.

Plea in law and main arguments

In support of the action, the applicant puts forward a single plea in law, alleging infringement by the defendant of Article 42 'Right of access to documents' of the Charter of Fundamental Rights of the European Union, which provides that 'Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to documents of the institutions, bodies, offices and agencies of the Union, whatever their medium'.

Action brought on 8 March 2020 — Csordas and Others v Commission

(Case T-146/20)

(2020/C 201/38)

Language of the case: French

Parties

Applicants: Annamaria Csordas (Luxembourg, Luxembourg), Adrian Sorin Cristescu (Luxembourg), Jean Putz (Esch-sur-Alzette, Luxembourg), Miguel Vicente-Nunez (Luxembourg) (represented by: M.-A. Lucas, lawyer)

Defendant: European Commission

Forms of order sought

The applicants claim that the Court should:

before ruling:

— invite the Commission, as a measure of inquiry or organisation of procedure, to indicate, after checking with the trade unions or staff associations ('OSPs') that submitted list No 3, the number of candidates on that list submitted by each of them, distinguishing between full members and alternate members, and the distribution formula between full members and alternate members on the basis of the representativeness of a pair of candidates;

ruling on the action:

— declare unlawful the Commission's failure to prevent or censure:

  — the refusal of 28 October 2019 of the president of the polling station to publish a communication informing the staff of the agreement reached on 14 October 2019 between FFPE, R&D, Solidarité européenne, TAO-AFI, USF-L and U4U for the sharing of the representativeness of their common list 'Ensemble au Luxembourg';

  — the publication by the polling station, on an unspecified date during the ballot, of that agreement, which did not indicate that some OSPs had combined or grouped together and the number of candidates put forward by each of them;

  — the absence of indication of the OSP represented by each of the candidates on list No. 3 'Ensemble au Luxembourg' to any of the OSPs which presented it, even though they belonged to different trade union families and some of them were based in Brussels and had no record of that list;

— the results of the elections published by polling station note of 26 November 2019;

— the composition of the Luxembourg local section of the Staff Committee following the November 2019 elections;

— decisions on the appointment by the Luxembourg local section of the Staff Committee of its representatives on the Central Committee;

— annul the adjustment of the representativeness of the OSPs which stood in the November 2019 elections of the CLPL adopted by the Commission after the publication of those results on the basis of the representativeness-sharing agreement of 14 October 2019;

— annul any decision to allocate to the OSPs that are signatories to the agreement of 14 October 2019 additional resources to those available to them on the basis of their recognised representativeness following the 2016 elections of the CLPL;

— order the European Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law alleging breach of the principle of free and democratic elections, in so far as, because the polling station failed to publish the agreement on shared representation before the start of the ballot, the logos appearing on the electoral poster for list No 3 'Ensemble Luxembourg' were such that voters thought that list was presented by five professional trade union organisations (OSPs), as named therein, represented equally by the 20 pairs of candidates, whereas the agreement had resulted in the list being presented by six OSPs, two of which had other names and were unequally represented.

2. Second plea in law, alleging breach of the principle of free and democratic elections, in so far as the publication during the ballot by the polling station of the agreement on shared representation was such that some voters thought that list No 3 was presented by six OSPs represented by the 20 pairs of candidates on that list in the proportions indicated in the agreement, whereas it was presented by three OSPs and a group of three others, one of the latter being able to represent the other two, thus not represented by candidates on the list, at least in the proportion indicated.

3. Third plea in law, alleging an infringement of the freedom of choice between the candidates on list No 3 and the risk of confusion as to the OSP supported therein, in so far as neither list No 3 'Ensemble Luxembourg' nor the corresponding electoral poster mentioned the OSP represented by each of the candidates on that list, even though it was a list presented by six different OSPs, or by three OSPs and a group or association of three others, which belonged to different trade union families, based in Luxembourg but also in Brussels, and which had not all expressed their support for the common list.

4. Fourth plea in law, alleging breach of the principle of free and democratic elections, in so far as the publication during the ballot by the polling station of the agreement on shared representativeness was such as to lead voters to believe that the OSPs which presented list No 3 were represented on it by a number of candidates corresponding to the share indicated for each of them, whereas this was not the case, or at any rate that R&D had benefited from a share of the representativeness of Solidarité européenne, whereas it was USF-L, FFPE and U4U which had ceded a share of their representativeness to R&D.

Action brought on 19 March 2020 — IY v Parliament

(Case T-154/20)

(2020/C 201/39)

Language of the case: French

Parties

Applicant: IY (represented by: T. Bontinck and A. Guillerme, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the General Court should:

Principally:

— annul the decision of 4 July 2019 dismissing the applicant;

— order the European Parliament to pay compensation in the sum of EUR 20 000 in respect of the non-material harm suffered;

— order the European Parliament to pay the costs;

In the alternative:

— find that the decision dissolving the political group ENF was unlawful;

— accordingly, annul the decision of 4 July 2019 dismissing the applicant;

— order the European Parliament to pay compensation in the sum of EUR 20 000 in respect of the non-material harm suffered;

— order the European Parliament to pay the costs.

Pleas in law and main arguments

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

1. First plea, alleging manifest error of assessment. The applicant takes the view that the dismissal decision, which was based exclusively on the alleged dissolution of the European political group ENF, is vitiated by a manifest error of assessment.

2. Second plea, alleging misuse of powers, in that the European Parliament used its powers to disguise a simple measure changing the name of a European political group as the dissolution of a political group.

3. Third plea, alleging infringement of the right to be heard. The applicant takes the view that his right to be heard prior to any dismissal decision has not been respected.

4. Fourth plea, alleging infringement of the principle of equal treatment, in that the Parliament applied separate procedures to the staff of the political group that had allegedly been dissolved.

5. Fifth plea, alleging infringement of the principle of sound administration and the duty to have regard for the welfare of officials.

In the alternative, the applicant pleads the unlawfulness of the decision dissolving the European political group ENF. The applicant argues that since the dissolution decision was unlawful, as it was vitiated by a manifest error of assessment and a misuse of powers, the dismissal decision — which was based exclusively on that dissolution — is itself, therefore, unlawful and must be annulled.

Action brought on 19 March 2020 — IZ v Parliament

(Case T-155/20)

(2020/C 201/40)

Language of the case: French

Parties

Applicant: IZ (represented by: T. Bontinck and A. Guillerme, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the General Court should:

Principally:

— annul the decision of 4 July 2019 dismissing the applicant;

— order the European Parliament to pay compensation in the sum of EUR 20 000 in respect of the non-material harm suffered;

— order the European Parliament to pay the costs;

In the alternative:

— find that the decision dissolving the political group ENF was unlawful;

— accordingly, annul the decision of 4 July 2019 dismissing the applicant;

— order the European Parliament to pay compensation in the sum of EUR 20 000 in respect of the non-material harm suffered;

— order the European Parliament to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies, principally, on five pleas in law that are identical or similar to those relied upon in Case T-154/20, *IY* v *Parliament*.

In the alternative, the applicant pleads the unlawfulness of the decision dissolving the European political group ENF. The applicant argues that since the dissolution decision was unlawful, as it was vitiated by a manifest error of assessment and a misuse of powers, the dismissal decision — which was based exclusively on that dissolution — is itself, therefore, unlawful and must be annulled.

Action brought on 19 March 2020 — JA v Parliament

(Case T-156/20)

(2020/C 201/41)

Language of the case: French

Parties

Applicant: JA (represented by: T. Bontinck and A. Guillerme, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the General Court should:

Principally:

— annul the decision of 4 July 2019 dismissing the applicant;

— order the European Parliament to pay compensation in the sum of EUR 20 000 in respect of the non-material harm suffered;

— order the European Parliament to pay the costs;

In the alternative:

— find that the decision dissolving the political group ENF was unlawful;

— accordingly, annul the decision of 4 July 2019 dismissing the applicant;

— order the European Parliament to pay compensation in the sum of EUR 20 000 in respect of the non-material harm suffered;

— order the European Parliament to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies, principally, on five pleas in law that are identical or similar to those relied upon in Case T-154/20, *IY* v *Parliament*.

In the alternative, the applicant pleads the unlawfulness of the decision dissolving the European political group ENF. The applicant argues that since the dissolution decision was unlawful, as it was vitiated by a manifest error of assessment and a misuse of powers, the dismissal decision — which was based exclusively on that dissolution — is itself, therefore, unlawful and must be annulled.

Action brought on 23 March 2020 — JB v Cedefop

(Case T-159/20)

(2020/C 201/42)

Language of the case: Greek

Parties

Applicant: JB (represented by: V. Christianos, lawyer)

Defendant: European Centre for the Development of Vocational Training ('CEDEFOP')

Form of order sought

The applicant claims that the Court should:

— annul CEDEFOP's implied rejection decision of 19 January 2020;

— order CEDEFOP to pay to the applicant the total sum of EUR 442 276,78.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Article 41 of the Charter of Fundamental Rights of the European Union.

2. Second plea in law, alleging infringement of the right to sound administration by reason of the examination of the applicant's claim for compensation by an official of CEDEFOP with the status of an incriminating witness; infringement of Article 11a of the Staff Regulations of Officials of the European Union ('the Staff Regulations').

3. Third plea in law, alleging infringement of the presumption of innocence in the context of the examination of the applicant's request under Article 90(1) of the Staff Regulations, as confirmed by the implied decision rejecting the complaint lodged under Article 90(2) of the Staff Regulations.

4. Fourth plea in law, alleging that the defendant downgraded the applicant professionally and decided not to promote her, in breach of the Staff Regulations and the principle of impartiality.

Action brought on 27 March 2020 — 3M Belgium v ECHA

(Case T-160/20)

(2020/C 201/43)

Language of the case: English

Parties

Applicant: 3M Belgium (Diegem, Belgium) (represented by: J.-P. Montfort and T. Delille, lawyers)

Defendant: European Chemicals Agency

Form of order sought

The applicant claims that the Court should:

— annul ECHA Decision of 16 January 2020 (ECHA/01/2020) regarding the 'Inclusion of substances of very high concern in the Candidate List for eventual inclusion in Annex XIV' of the REACH Regulation [1], as regards the listing of 'Perfluorobutane sulfonic acid ("PFBS") and its salts';

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the contested decision was adopted in breach of the Article 57(f) of the REACH Regulation requirements and that the defendant manifestly erred in its assessment, since it has not demonstrated that the Substance is causing probable serious effects to human health and the environment.

2. Second plea in law, alleging that the contested Decision was adopted in breach of the principle of legal certainty, including that of foreseeability, given that the applicant was not placed in a position to identify or ascertain in any manner the definition, criteria or factors used by ECHA to support its decision.

---

[1] Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC, OJ L 396, 2006, p. 1

Action brought on 28 March 2020 — UPL Europe and Indofil Industries (Netherlands) v EFSA

(Case T-162/20)

(2020/C 201/44)

Language of the case: English

Parties

Applicants: UPL Europe Ltd (Warrington Cheshire, United Kingdom), Indofil Industries (Netherlands) BV (Amsterdam, Netherlands) (represented by: C. Mereu and S. Englebert, lawyers)

Defendant: European Food Safety Authority

Form of order sought

The applicants claim that the Court should:

— declare the application admissible and well-founded;

— annul the decision of the European Food Safety Authority ('EFSA') of 28 January 2020, notified to the applicants on 29 January 2020, on the assessment of the confidentiality claims made in relation to certain parts of the EFSA Conclusion on the Peer Review of the Pesticide Risk Assessment of the Active Substance Mancozeb (the *'Contested Decision'*); and

— order the defendant to pay all the costs and expenses of 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 procedural breach of Article 12 of Commission Implementing Regulation 844/2012 ([1]): the contested decision was reached on the basis of procedural errors of fact and law.

2. Second plea in law, alleging substantive breach of Article 13 of Commission Implementing Regulation 844/2012: the contested decision was reached on the basis of substantive errors of fact and law.

3. Third plea in law, alleging misapplication of Articles 38, 39 and 40 of Regulation 178/2002 ([2]): the defendant misinterprets and misapplies the confidentiality provisions set forth under Articles 38, 39 and 40 of Regulation 178/2002.

4. Fourth plea in law, alleging infringement of Article 63 of Regulation 1107/2009 ([3]): the defendant has infringed Article 63 of Regulation 1107/2009 by deciding to publish the information which the applicants sought to have sanitized, which might undermine their commercial interests.

5. Fifth plea in law, alleging lack of competence: the defendant acted ultra vires since the European Chemicals Agency is the only authority legally responsible for classification or re-classification of substances, as set out in Regulation 1272/2008 ([4]), and not the defendant.

6. Sixth plea in law, alleging breach of fundamental principles of EU law: the principles of legality, legal certainty, legitimate expectation, sound administration and proportionality, as well as the duty of diligent, impartial examination: the contested decision was adopted in breach of fundamental principles of European Union law.

(1) Commission Implementing Regulation (EU) No 844/2012 of 18 September 2012 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market (OJ 2012 L 252, p. 26).

(2) Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ 2002 L 31, p. 1).

(3) Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ 2009 L 309, p. 1).

(4) Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ 2008 L 353, p. 1).

Action brought on 19 March 2020 — BG v Parliament

(Case T-164/20)

(2020/C 201/45)

Language of the case: English

Parties

Applicant: BG (represented by: A. Tymen, L. Levi, and A. Champetier, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul the defendant's decision dated 20 May 2019 rejecting the applicant's request for assistance of July 2017;

— if needed, annul the defendant's decision dated 10 December 2019 rejecting the applicant's complaint dated 20 August 2019;

— grant compensation of the applicant's moral harm suffered by the fault of the defendant, evaluated at the sum of 50 000 Euro;

— reimburse the applicant's incurred costs.

Pleas in law and main arguments

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

1. First plea in law, alleging the violation of the fundamental right to be heard (article 41, paragraph 2, a) of the Charter).

2. Second plea in law, alleging the violation of the fundamental right to have his affairs treated impartially and fairly (article 41, paragraph 1, of the Charter) and the violation of article 24 SR and of the duty of care.

3. Third plea in law, alleging the violation of the fundamental right to receive a decision that states reasons (article 41, paragraph 2, c) of the Charter and article 25 SR).

4. Fourth plea in law, alleging an error of assessment and breach of articles 12a and 24 SR.

On the request for compensation, the applicant exposes the fault committed by the defendant, the damage she suffered and the link between the fault and the damage.

Action brought on 3 April 2020 — JD v EIB

(Case T-166/20)

(2020/C 201/46)

Language of the case: English

Parties

Applicant: JD (represented by: H. Hansen, lawyer)

Defendant: EIB

Form of order sought

The applicant claims that the Court should:

— annul the decision (i) requiring the applicant to sign an addendum to his employment contract waiving certain social security rights and (ii) preventing the applicant from entering into the EIB's service unless he sign said addendum;

— thus order that the defendant withdraw its letter proposing said addendum and the associated demand that the applicant sign the addendum in question as a precondition for entry into service;

— order the defendant to allow the applicant to enter into the service of the EIB with retroactive remuneration and benefits as from the contractual date of entry into service;

— order that the costs shall be borne exclusively by the defendant; and

— reserve any and all rights of the applicant.

Pleas in law and main arguments

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

1. First plea in law, alleging violation of data protection requirements.

— It is argued that the defendant infringed Article 15(1)(c) of Regulation (EU) 2018/1725. [1] The defendant used the answers to a medical questionnaire to restrict coverage in the case of death and invalidity, even though the data protection notice in the questionnaire did not state that it might be used for such a purpose.

2. Second plea in law, alleging that there is no legal basis for the exclusion from coverage sought by the EIB.

— It is argued that the defendant infringed Article 33d of Staff Regulations II and Article 9.1.2 of the Staff Rules. The legal basis relied on by the EIB (Article 6-1 of the Pension Scheme Regulations) cannot reasonably be construed as proposed by the EIB. Said construction fails to take into account the definition and stated purpose of the pre-employment medical assessment as defined in Article 2.1.1.A of Annex X to the Staff Rules.

3. Third plea in law, alleging that there is no legal basis for the requirement to sign an addendum.

— It is argued that the defendant infringed Article 13 of Staff Regulations II. There is no rule in the body of EIB regulations requiring a person who has concluded an employment contract with the EIB and been declared fit to work by the EIB's occupational health physician to sign an addendum to his employment contract waiving certain social security rights (*in specie* coverage for death and invalidity).

4. Fourth plea in law, alleging discrimination and in particular infringement of Articles 21(1) and 34(1) of the Charter of Fundamental Rights of the European Union.

— It is argued that, by virtue of the criticised decision, the defendant is seeking to withhold essential social security rights (*in specie* coverage in the event of death and invalidity) from the applicant on the basis of perceived genetic features and/or an alleged disability. By requiring that the applicant waive said social security rights under the threat of termination of his employment contract, the EIB has acted in violation of the applicant's fundamental rights. The defendant's behaviour is discriminatory in that it seeks to restrict the applicant's fundamental social security rights based on an arbitrary reason (the existence of a 'very/extremely low' risk of invalidity in the future) and for an arbitrary time period (5 years).

(1) Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ 2018 L 295, p. 39).

Action brought on 7 April 2020 — JE v Council and Conference of the Representatives of the Governments of the Member States

(Case T-180/20)

(2020/C 201/47)

Language of the case: English

Parties

Applicant: JE (represented by: N. Forwood, QC)

Defendants: Council of the European Union and Conference of the Representatives of the Governments of the Member States

Form of order sought

The applicant claims that the Court should:

— partially annul the Declaration of the Representatives of the Governments of the Member States on the consequences of the withdrawal of the United Kingdom from the European Union for the Advocates-General of the Court of Justice of the European Union, dated 29 January 2020, as published by the Council under Council document reference XT 21018/20;

— order the defendants to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant contends that the act adopted by the defendants should be partially annulled on grounds of lack of competence, infringement of an essential procedural requirement, infringement of the Treaties and rules of law relation to their application, and for misuse of powers.

Action brought on 9 April 2020 — JE v Court of Justice of the European Union

(Case T-184/20)

(2020/C 201/48)

Language of the case: English

Parties

Applicant: JE (represented by: N. Forwood, QC)

Defendant: Court of Justice of the European Union

Form of order sought

The applicant claims that the Court should:

— partially annul the Decision of the President of the Court of Justice of 31 January 2020 to declare vacant the applicant's post as Advocate-General and to initiate the procedure for the appointment of a successor;

— order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant alleges that the challenged act should be annulled on grounds of lack of competence, infringement of an essential procedural requirement, and infringement of the Treaties and rules of law relation to their application.

Action brought on 9 April 2020 — FCA Italy v EUIPO — Bettag (Pandem)

(Case T-191/20)

(2020/C 201/49)

Language of the case: English

Parties

Applicant: FCA Italy SpA (Torino, Italy) (represented by: F. Jacobacci and E. Truffo, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Christoph Bettag (Aachen, Germany)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Application for European Union word mark Pandem — Application for registration No 17 297 029

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 4 February 2020 in Case R 1483/2019-5

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 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Serious distortion of the facts.

Action brought on 10 April 2020 — Eternit v EUIPO — Eternit Österreich (Panels)

(Case T-193/20)

(2020/C 201/50)

Language of the case: English

Parties

Applicant: Eternit (Kapelle-op-den-Bos, Belgium) (represented by: J. Muyldermans and P. Maeyaert, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Eternit Österreich GmbH (Vöcklabruck, Austria)

Details of the proceedings before EUIPO

Proprietor of the design at issue: Applicant before the General Court

Design at issue: European Union design No 2 538 140-0001

Contested decision: Decision of the Third Board of Appeal of EUIPO of 5 February 2020 in Case R 1661/2018-3

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO and the intervener to bear their own costs and to pay those incurred by the applicant.

Plea in law

— Infringement of Article 6 of Council Regulation (EC) No 6/2002.

Action brought on 27 March 2020 — JF v EUCAP Somalia

(Case T-194/20)

(2020/C 201/51)

Language of the case: English

Parties

Applicant: JF (represented by: A. Kunst, lawyer)

Defendant: EUCAP Somalia (Mogadishu, Somalia)

Form of order sought

The applicant claims, on the basis of an action for annulment (Article 263 TFEU) and an action for damages for non-contractual liability (Article 268 TFEU and Article 340(2) TFEU), that the Court should:

— annul the decision of the Head of Mission of EUCAP Somalia of 18 January 2020 terminating the applicant's employment;

— annul the decision of the Head of Mission of EUCAP Somalia of 31 January 2020, rejecting the applicant's internal appeal;

— on the basis of non-contractual liability, order EUCAP Somalia to pay the applicant compensation for the material harm in the form of salaries, emoluments, and entitlements (lost earnings) during the transition period, as set out in the Withdrawal Agreement concluded between the European Union and the United Kingdom (EU-UK Withdrawal Agreement);

— order EUCAP Somalia to compensate the applicant for the material and immaterial harm suffered as a result of the unlawful Decisions, assessed provisionally on an *ex aequo et bono* basis at EUR 60,000;

— order EUCAP Somalia to bear the costs, including those incurred by the applicant, together with interest of 8 %.

In the alternative, the applicant claims, on the basis of an action pursuant to the arbitration clause (Article 272 TFEU) (if the two contested decisions are held to inseparable from the applicant's employment contract) and an action for damages for contractual liability (Article 340(1) TFEU), that the Court should:

— declare that the decisions of the Head of Mission of EUCAP Somalia of 18 January 2020 and of 31 January 2020 are unlawful;

— on the basis of contractual liability, order EUCAP Somalia to pay the applicant compensation for the material and immaterial harm suffered as above;

— order EUCAP Somalia to bear the costs, including those incurred by the applicant, together with interest of 8 %.

Pleas in law and main arguments

In support of the action pursuant to Article 263 TFEU, the applicant relies on five pleas in law the applicant.

1. First plea in law, alleging an infringement by EUCAP Somalia of the right to be heard, in that the applicant was not heard before the decision of 18 January 2020 to terminate his contract was taken.

2. Second plea in law, alleging an infringement by EUCAP Somalia of the prohibition of direct discrimination on grounds of nationality, in that the decision to terminate the applicant's contract relies on the entry into force of the EU-UK Withdrawal Agreement, despite the existence of a transition period, unlawfully treating British and non-British contract staff in EUCAP Somalia differently.

3. Third plea in law, alleging an infringement by EUCAP Somalia of the principle of equal treatment, in that EUCAP Somalia treated the applicant differently from internationally contracted staff of British nationality employed in other CSDP missions, who were retained during the transition period in accordance with the EU-UK Withdrawal Agreement.

4. Fourth plea in law, alleging an infringement by EUCAP Somalia of the EU-UK Withdrawal Agreement, in that EUCAP Somalia ignored that the provisions on CSDP missions towards internationally contracted staff of British nationality continue to apply and do not limit the continued employment of such staff during the transition period.

5. Fifth plea in law, alleging an infringement by EUCAP Somalia of the principle of the protection of legitimate expectations in that assurances were made to internationally contracted staff of British nationality that they would be retained during the transition period, in line with the EU-UK Withdrawal Agreement.

In addition, should the Court find the action under Article 263 TFEU inadmissible, because the decisions are held to be inseparable from the applicant's employment contract, the General Court is asked, in support of the action pursuant to Article 272 TFEU, which is brought in the alternative, to rely on the same five pleas of law. The alleged infringements should be regarded as of a contractual nature.

Action brought on 6 April 2020 — Sociedade de Água de Monchique v EUIPO -Ventura Vendrell (chic ÁGUA ALCALINA 9,5 PH)

(Case T-195/20)

(2020/C 201/52)

Language in which the application was lodged: Portuguese

Parties

Applicant: Sociedade de Água de Monchique, SA (Caldas de Monchique, Portugal) (represented by: M. Osório de Castro, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Pere Ventura Vendrell (Sant Sadurni d'Anoia, Spain)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union figurative mark chic ÁGUA ALCALINA 9,5 PH — Application for registration No 017 027 608

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 20 January 2020 in Case R 2524/2018-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision so that the registration of the requested mark is granted;

— order EUIPO to pay all the costs.

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 10 April 2020 — Chanel v EUIPO — Innovative Cosmetic Concepts (INCOCO)

(Case T-196/20)

(2020/C 201/53)

Language in which the application was lodged: French

Parties

Applicant: Chanel (Neuilly sur-Seine, France) (represented by: J. Passa, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Innovative Cosmetic Concepts LLC (Clifton, New Jersey, United States of America)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: International registration designating the European Union in respect of the word mark INCOCO — International registration designating the European Union No 1 189 828

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 16 January 2020 in Case R 194/2019-1

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 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of the principle of good administration.

Action brought on 30 March 2020 — Shindler and Others v Council

(Case T-198/20)

(2020/C 201/54)

Language of the case: French

Parties

Applicants: Harry Shindler (Porto d'Ascoli, Italy) and nine other applicants (represented by: J. Fouchet, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicants claim that the Court should:

— annul in its entirety Council Decision (EU) 2020/135 of 30 January 2020 on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community and its annexes;

in the alternative:

— partially annul Council Decision (EU) 2020/135 of 30 January 2020 on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, in so far as those acts distinguish, automatically and generally, without any test of proportionality, between EU citizens and United Kingdom citizens from 1 February 2020, and thus annul in particular the sixth paragraph of the preamble and Articles 9, 10 and 127 of the withdrawal agreement,

consequently:

— order the Council of the European Union to pay all the costs of the proceedings, including lawyers' fees amounting to EUR 5 000.

Pleas in law and main arguments

In support of the action, the applicant relies on 13 pleas in law.

1. First plea in law, alleging an infringement of Article 106a of the Treaty establishing the European Atomic Energy Community (Euratom). The applicants consider in that regard, in particular, that the British people did not vote for the withdrawal of the United Kingdom from Euratom and that the formalities relating to the withdrawal of the United Kingdom from that organisation should have been respected.

2. Second plea in law, alleging a procedural defect concerning the nature of the final agreement. The applicants claim in that regard that the decision concluding the withdrawal agreement is unlawful in so far as it confers on the Union a 'exceptional horizontal competence' for the withdrawal agreement negotiations and thus affects the allocation of competences between the Union and the Member States by excluding the possibility of a mixed agreement and by thereby excluding any ratification by the Member States of the final agreement.

3. Third plea in law, alleging an infringement of Article 127 of the Agreement on the European Economic Area (EEA), in so far as the procedure provided for by that article for the termination of the agreement was not respected, which results, according to the applicants, in the contested decision being vitiated procedurally and renders it void.

4. Fourth plea in law, alleging a lack of a test of proportionality of the removal of EU citizenship with respect to certain categories of British citizens. The applicants consider that the contested decision must be annulled, on the ground that it did not take into account the impossibility for several categories of British citizens to vote during the referendum of 23 June 2016 on the United Kingdom's membership of the European Union: those who have exercised their freedom of movement within the Union and have been absent from the territory of the United Kingdom for more than 15 years, citizens of overseas countries and territories, the Channel Islands and British prisoners.

5. Fifth plea in law, alleging an infringement of the principles of democracy, equal treatment, free movement, freedom of expression and sound administration. The applicants in particular claim that the contested decision is contrary to the legal order of the Union, which lays down the principle of equal treatment of all citizens and to the legal order of the Convention for the Protection of Human Rights and Fundamental Freedoms.

6. Sixth plea in law, alleging an infringement of Article 52 TEU and Articles 198, 199, 203 and 355 TFEU as regards the British overseas countries and territories. The applicants consider that by failing to refer to the relevant legal basis, namely Article 203 TFEU, the contested decision, which applies to the British overseas countries and territories, is unlawful and must be annulled.

7. Seventh plea in law, alleging disregard of Gibraltar's status by the decision of 30 January 2020, in so far as Article 3 of the withdrawal agreement infringes international law and, in particular, the principle of the peoples' right to self-determination.

8. Eighth plea in law, alleging an infringement of Article 4 TFEU, on the ground that the contested decision did not respect the principle of the division of competences between the Union and the Member States, which, in the light of the status reserved to Gibraltar, must result in its annulment.

9. Ninth plea in law, alleging an infringement of the principles of legal certainty and protection of legitimate expectations. The applicants claims in particular in that regard that the contested decision endorses the loss of their permanent rights of residence, acquired after five years of continuous residence in a Member State, although the concrete consequences of that loss were not foreseen and above all although no proportionality test was carried out.

10. Tenth plea in law, alleging an infringement of the right to respect for private and family life guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms. The applicants claim that the contested decision affects their rights to private and family life in so far as it removes their European citizenship and, therefore, the right to reside freely in the territory of a Member State of which they are not citizens, but in the territory of which they have established their family life.

11. Eleventh plea in law, alleging an infringement of the right to vote and stand as a candidate of British citizens in municipal and European elections. According to the applicants, Article 127 of the withdrawal agreement infringes Article 18 TFEU and Articles 20 and 21 of the Charter of Fundamental Rights of the European Union. The contested decision should therefore be annulled in so far as it ratifies an agreement containing a provision which creates discrimination between British citizens.

12. Twelfth plea in law, alleging that the withdrawal agreement makes an automatic and general distinction between EU citizens and citizens of the United Kingdom without a proportionality test with regard to the private and family life of British citizens from 1 February 2020. In support of that plea in law, the applicants maintain that the removal of EU citizenship cannot be automatic and general, that a specific assessment of the consequences should have been carried out and that, in the absence of such an assessment, the contested decision must be annulled.

13. Thirteenth plea in law, alleging that Article 12 of the withdrawal agreement be read in conjunction with Articles 18, 20 and 22 TFEU. The applicants consider that the discrimination introduced by Article 127 of the withdrawal agreement infringes the prohibition, confirmed in Article 18 TFEU, of any discrimination on grounds of nationality.

Action brought on 14 April 2020 — Aldi Stores v EUIPO — Dualit (Shape of a toaster)

(Case T-199/20)

(2020/C 201/55)

Language of the case: English

Parties

Applicant: Aldi Stores Ltd (Atherstone, United Kingdom) (represented by: S. Barker, Solicitor and C. Blythe, Barrister)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Dualit Ltd (Crawley, United Kingdom)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: European Union tridimensional mark (Shape of a toaster) — European Union trade mark No 48 728

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 14 February 2020 in Case R 1034/2019-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and uphold the application for a declaration of invalidity pursuant to Article 7(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— alternatively, annul the contested decision and remit the case to the EUIPO, straight to the Cancellation Division or to the Boards of Appeal;

— in the further alternative, annul the contested decision and uphold the application for a declaration of invalidity pursuant to Articles 7(1)(a), (e)(ii) and/or (e)(iii) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— order the EUIPO to pay the costs incurred by the applicant in connection with this appeal.

Pleas in law

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

— Infringement of an essential procedural requirement, alternatively infringement of Article 27(2) of Commission Delegated Regulation (EU) 2018/625;

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

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

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

Action brought on 15 April 2020 — Stone Brewing v EUIPO — Molson Coors Brewing Company (UK) (STONE BREWING)

(Case T-200/20)

(2020/C 201/56)

Language of the case: English

Parties

Applicant: Stone Brewing Co. LLC (Escondido, California, United States) (represented by: M. Kloth, R. Briske and D. Habel, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Molson Coors Brewing Company (UK) Ltd (Burton Upon Trent, United Kingdom)

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 trade mark STONE BREWING — Application for registration No 15 423 668

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 31 January 2020 in Case R 1524/2018-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— make an award of costs in its favour.

Pleas in law

— Infringement of Article 71(1)(b) of Commission Delegated Regulation (EU) 2018/625;

— Infringement of Article 47(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council and Article 10(3) of Commission Delegated Regulation (EU) 2018/625;

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

Action brought on 17 April 2020 — Target Brands v EUIPO — The a.r.t. company b&s (ART CLASS)

(Case T-202/20)

(2020/C 201/57)

Language of the case: English

Parties

Applicant: Target Brands Inc. (Minneapolis, Minnesota, United States) (represented by: A. Norris, Barrister)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: The a.r.t. company b&s, SA (Quel, Spain)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union word mark ART CLASS — Application for registration No 16 888 695

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 23 January 2020 in Case R 1597/2019-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— reject the opposition decision in respect of all of the remaining contested goods;

— alternatively, remit the matter to the EUIPO for re-consideration;

— order to pay its costs incurred in connection with this appeal, the appeal before the Board and the Opposition.

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 18 April 2020 — Al-Imam v Council

(Case T-203/20)

(2020/C 201/58)

Language of the case: French

Parties

Applicant: Maher Al-Imam (Damascus, Syria) (represented by: M. Brillat, lawyer)

Defendant: Council of the European Union

Forms of order sought

The applicant claims that the Court should:

— admit the applicant's action;

— declare unlawful Council Regulation (EU) No 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No 442/2011, in so far as concerns the applicant; Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria, in so far as concerns the applicant; Council Implementing Regulation (EU) 2020/211 of 17 February 2020 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria, in so far as concerns the applicant; Council Implementing Decision (CFSP) 2020/212 of 17 February 2020 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria, in so far as concerns the applicant;

— consequently, annul Council Regulation (EU) No 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No 442/2011, in so far as it concerns the applicant; Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria, in so far as concerns the applicant; Council Implementing Regulation (EU) 2020/211 of 17 February 2020 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria, in so far as concerns the applicant; Council Implementing Decision (CFSP) 2020/212 of 17 February 2020 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria, in so far as concerns the applicant;

— order the Council to pay the sum of EUR 10 000 per week from 18 February 2020 to the applicant as compensation for the material damage suffered as a result of the adoption of the contested measures;

— order the Council to pay the sum of EUR 15 000 per week from 18 February 2020 to the applicant as compensation for the non-material damage suffered as a result of the adoption of the contested measures;

— order the Council to make good any future damage which the applicant will suffer as a result of the adoption of the contested decisions;

— order the Council to pay the costs and expenses.

Pleas in law and main arguments

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

1. The first plea in law, alleging an infringement of the applicant's fundamental rights during the procedure for the adoption of the contested acts. That plea is divided into two parts:

   — First part, alleging an infringement of the applicant's rights of defence, that is to say, the right to be heard and the *audi alteram partem* rule.

   — Second part, alleging an infringement of the right to an effective judicial remedy.

2. Second plea in law, alleging a manifest error of assessment in the adoption of the contested acts. That plea is divided into two parts:

   — First part, alleging that there is insufficient evidence to justify the inclusion of the applicant on the list of persons subject to restrictive measures.

   — Second part, alleging distortion of the facts.

3. Third plea in law, alleging unlawful and disproportionate interference with the applicant's fundamental rights by reason of the content of the contested acts. That plea is divided into two parts:

   — First part, alleging an infringement of the right to property.

   — Second part, alleging an infringement of the right to private and family life.

Action brought on 19 April 2020 –Zoom v EUIPO — Facetec (ZOOM)

(Case T-204/20)

(2020/C 201/59)

Language of the case: English

Parties

Applicant: Zoom KK (Tokyo, Japan) (represented by: M. de Arpe Tejero, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Facetec Inc. (Las Vegas, Nevada, United States)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: International registration designating the European Union in respect of the word mark ZOOM — International registration designating the European Union No 1 323 959

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 7 February 2020 in Case R 507/2019-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO and the intervener to pay the costs.

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 16 April 2020 — Frommer v EUIPO — Minerva (I-cosmetics)

(Case T-205/20)

(2020/C 201/60)

Language of the case: English

Parties

Applicant: Angela Frommer (Unterschleißheim, Germany) (represented by: F. Remmertz, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Minerva GmbH (Munich, Germany)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union word mark I-cosmetics — European Union trade mark No 8 836 661

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 10 February 2020 in Case R 675/2019-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO and the other party, if it joins the proceedings, to pay the costs, including those incurred by the Applicant in the proceedings before the Board of Appeal.

Pleas in law

— Infringement of Article 18 of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Rule 22 of Commission Regulation (EC) 2868/95.

Action brought on 17 April 2020 — Residencial Palladium v EUIPO — Fiesta Hotels & Resorts (PALLADIUM HOTELS & RESORTS)

(Case T-207/20)

(2020/C 201/61)

Language in which the application was lodged: Spanish

Parties

Applicant: Residencial Palladium, SL (Ibiza, Spain) (represented by: D. Solana Giménez, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Fiesta Hotels & Resorts, SL (Ibiza)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Figurative mark PALLADIUM HOTELS & RESORTS — European Union trade mark No 2 915 304

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 12 February 2020 in Case R 231/2019-4

Form of order sought

The applicant claims that the Court should:

— annul and declare inapplicable the contested decision and order EUIPO to proceed with the application for a declaration of invalidity brought by Residencial Palladium;

— order EUIPO to pay the costs.

Plea in law

Infringement of Article 60(4) of Regulation (EU) 2017/1001 of the European Parliament and of the Council

---

Action brought on 21 April 2020 — Fidia farmaceutici v EUIPO — Ioulia and Irene Tseti Pharmaceutial Laboratories (HYAL)

(Case T-215/20)

(2020/C 201/62)

Language of the case: English

Parties

Applicant: Fidia farmaceutici SpA (Abano Terme, Italy) (represented by: R. Kunz-Hallstein and H. Kunz-Hallstein, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Ioulia and Irene Tseti Pharmaceutial Laboratories SA (Athens, Greece)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union word mark HYAL — European Union trade mark No 2 430 221

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 24 January 2020 in Case R 613/2019-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs; in the alternative, if the other party before the Board of Appeal intervenes, order EUIPO and the intervener jointly and severally to pay the costs.

Pleas in law

— Infringement of Article 165(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Articles 32(f) and 39(5) of Commission Delegated Regulation (EU) 2018/625;

— Infringement of Article 94(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 95(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 59(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

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

Action brought on 14 April 2020 — Alkattan v Council

(Case T-218/20)

(2020/C 201/63)

Language of the case: French

Parties

Applicant: Waseem Alkattan (Damas, Syria) (represented by: G. Karouni, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the General Court should:

— annul, in so far as these acts concern the applicant:

  — Council Implementing Decision (CFSP) 2020/212 of 17 February 2020, implementing decision 2013/255/CFSP concerning restrictive measures against Syria;

  — Council Implementing Regulation (EU) 2020/211 of 17 February 2020, implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria;

— order the Council to pay the sum of EUR 500 000 (five hundred thousand) in damages to compensate all forms of loss suffered;

— order the Council to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging breach of the rights of defence and to a fair trial, on the basis of Article 47 of the Charter of Fundamental Rights of the European Union, Articles 6 and 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms, and the case-law of the Court of Justice. The applicant takes the view that he should have been heard before the Council of the European Union adopted restrictive measures against him and that his rights of defence were therefore not respected.

2. Second plea in law, alleging breach of the obligation to state reasons (Article 296(2) TFEU). The applicant criticises the Council for merely giving vague and general considerations without stating, in a specific and concrete manner, the reasons why it considers, in the exercise of its discretion, that the applicant must be the subject of the restrictive measures at issue. Thus, no concrete and objective allegations have been raised against the applicant that could justify the measures at issue. The statement of reasons adopted by the Council does not provide the applicant with sufficient information and is, to say the least, vague, general and imprecise.

3. Third plea in law, alleging manifest error of assessment. The applicant complains that the Council took as the basis for its reasoning in support of the restrictive measure elements which clearly lack any basis in fact, the facts relied on being without any serious foundation.

4. Fourth plea in law, concerning the claim for compensation for the loss suffered and claiming that accusing the applicant of certain serious allegations places the applicant and his family in danger, which illustrates the extent of the loss suffered and justifies his claim for compensation. Furthermore, the applicant claims that his economic activities have suffered serious long-term damage.

Action brought on 16 April 2020 — JL v Commission

(Case T-220/20)

(2020/C 201/64)

Language of the case: French

Parties

Applicant: JL (represented by: C. Mourato, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul the decision of 11 July 2019 of the European Commission (appointing authority) issuing a warning to the applicant;

— annul the decision of 27 March 2017 of the European Commission (appointing authority) to resume the case [*confidential*]; ([1])

— award the applicant compensation amounting to EUR 30 000, by way of special non-material damages, to be paid by the European Commission;

— order the defendant to pay the costs of the proceedings, in accordance with Article 134 of the Rules of Procedure of the General Court.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Article 266 TFEU, that is to say, inappropriate measures for enforcement of the annulment judgment of the General Court, and infringement of the principle of *ne bis in idem*.

2. Second plea in law alleging infringement of Article 266 TFEU, infringement of the principle of sound administration including the obligation to treat cases fairly and impartially, infringement of the principle of presumption of innocence, and a breach of the rights of the defence.

3. Third plea in law, alleging infringement of Article 266 TFEU, infringement of the procedural rules applicable to administrative inquiries and disciplinary proceedings and infringement of the obligation to state reasons.

4. Fourth plea in law, a request for special compensation on account of the abovementioned irregularities.

([1]) Confidential data removed.

Action brought on 23 April 2020 — Target Brands v EUIPO — The a.r.t. company b&s (art class)

(Case T-221/20)

(2020/C 201/65)

Language of the case: English

Parties

Applicant: Target Brands Inc. (Minneapolis, Minnesota, United States) (represented by: A. Norris, Barrister)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: The a.r.t. company b&s, SA (Quel, 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 art class — Application for registration No 16 888 737

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 7 February 2020 in Case R 1596/2019-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— reject the opposition decision in respect of all of the remaining contested goods;

— alternatively, remit the matter to the EUIPO for re-consideration;

— order to pay its costs incurred in connection with this appeal, the appeal before the Board and the Opposition.

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 21 April 2020 — *CH and CN* v *Parliament*

(Case T-222/20)

(2020/C 201/66)

Language of the case: French

Parties

Applicants: CH and CN (represented by: C. Bernard-Glanz, lawyer)

Defendant: European Parliament

Forms of order sought

The applicants claims that the Court should:

— declare their application admissible;

— annul the contested decisions in so far as they do not adopt any final decision on the veracity of the incidents of alleged psychological harassment;

— order the defendant to pay the applicants EUR 5 000 each *ex aequo et bono* in damages for the harm and suffering caused by undue delay, to be increased by late payment interest until paid in full;

— order the defendant to pay the applicants EUR 100 000 each *ex aequo et bono* in damages for the harm and suffering caused by the failure to adopt a final decision on the veracity of incidents of alleged psychological harassment, to be increased by late payment interest until paid in full;

— order the defendant to pay the costs.

Pleas in law and main arguments

The applicants rely on two pleas in law in support of the action against the decisions of the Parliament of 13 September 2019 by which the authority empowered to conclude contracts of employment of that institution, in response to their requests for assistance, did not adopt a final decision on the veracity of the incidents of alleged psychological harassment.

1. The first plea in law alleges breach of the duty of assistance and of Article 24 of the Staff Regulations of Officials of the European Union (the Staff Regulations), on the ground that, by not adopting a final decision on whether the incidents of alleged psychological harassment were true, the Parliament's authority empowered to conclude contracts of employment failed in its duty of assistance.

2. The second plea in law alleges breach of duty of care and the principle of sound administration, on the one hand, and of breach of the right to human dignity and Articles 1 and 31 of the Charter of Fundamental Rights of the European Union, on the other, on the ground that by not adopting a final decision on whether the incidents of alleged psychological harassment were true, the Parliament's authority empowered to conclude contracts of employment breached the principle of sound administration and its duty of care, thereby breaching the applicants' right to human dignity.

Action brought on 24 April 2020 — Steinel v EUIPO (MobileHeat)

(Case T-226/20)

(2020/C 201/67)

Language of the case: German

Parties

Applicant: Steinel GmbH (Herzebrock-Clarholz, *Germany*) (represented by: M. Breuer and K. Freudenstein, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Registration of the EU word mark MobileHeat — Application for registration No 18 029 162

Contested decision: Decision of the Second Board of Appeal of EUIPO of 3 February 2020 in Case R 2472/2019-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

— Infringement of Article 7(1)(b) and (c) read in conjunction with Article 7(2) of Regulation (EU) 2017/1001 of the European Parliament and Council.

Action brought on 24 April 2020 — Biovene Cosmetics v EUIPO — Eugène Perma France (BIOVÈNE BARCELONA)

(Case T-227/20)

(2020/C 201/68)

Language of the case: English

Parties

Applicant: Biovene Cosmetics, SL (Barcelona, Spain) (represented by: E. Estella Garbayo, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Eugène Perma France (Saint-Denis, France)

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 BIOVÈNE BARCELONA in colours pink and white — Application for registration No 16 523 102

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 12 February 2020 in Case R 1661/2019-4

Form of order sought

The applicant claims that the Court should:

— annul and invalidate the contested decision;

— annul and invalidate the decision of the Opposition Division;

— modify these decisions and agree the granting the application for the trade mark at issue in its entirety;

— order EUIPO and Eugène Parma France to bear the costs of the present appeal proceedings, the opposition and appeal proceedings before EUIPO.

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 28 April 2020 — Biovene Cosmetics v EUIPO — Eugène Perma France (BIOVÈNE)

(Case T-232/20)

(2020/C 201/69)

Language of the case: English

Parties

Applicant: Biovene Cosmetics, SL (Barcelona, Spain) (represented by: E. Estella Garbayo, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Eugène Perma France (Saint-Denis, France)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union word mark BIOVÈNE — Application for registration No 16 052 029

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 12 February 2020 in Case R 739/2019-4

Form of order sought

The applicant claims that the Court should:

— annul and invalidate the contested decision;

— annul and invalidate the decision of the Opposition Division;

— modify these decisions and agree the granting the application for the trade mark at issue in its entirety;

— order EUIPO and Eugène Parma France to bear the costs of the present appeal proceedings, the opposition and appeal proceedings before EUIPO.

Plea in law

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

Order of the General Court of 26 March 2020 — Sensient Colors Europe v Commission

(Case T-556/18) ([1])

(2020/C 201/70)

Language of the case: German

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

([1]) OJ C 399, 5.11.2018.

Order of the General Court of 15 April 2020 — Twitter v EUIPO — 123billets and Hachette Filipacchi Presse (PERISCOPE)

(Case T-682/18) ([1])

(2020/C 201/71)

Language of the case: French

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

([1]) OJ C 25, 21.1.2019.

Order of the General Court of 2 April 2020 — BV v Commission

(Case T-320/19) ([1])

(2020/C 201/72)

Language of the case: French

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

([1]) OJ C 246, 22.7.2019.

Order of the General Court of 23 April 2020 — Intertranslations (Intertransleïsions) Metafraseis v Parliament

(Case T-20/20) [1]

(2020/C 201/73)

Language of the case: English

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

[1] OJ C 95, 23.3.2020.

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

Publications Office
of the European Union
L-2985 Luxembourg
LUXEMBOURG

EN