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(2019/C 54/01)

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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Order of the Court of 28 November 2018 (request for a preliminary ruling from the Sąd Rejonowy w Siemianowicach Śląskich — Poland) — Powszechna Kasa Oszczędności (PKO) Bank Polski S.A. v Jacek Michalski

(Case C-632/17) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Consumer protection — Directive 93/13/EEC — Unfair terms in consumer contracts — Directive 2008/48/EC — Order for payment procedure based on bank ledger excerpts — Impossible for the court, in the absence of an action brought by a consumer, to examine the unfairness of the contractual terms)

(2019/C 54/02)

Language of the case: Polish

Referring court

Sąd Rejonowy w Siemianowicach Śląskich

Parties to the main proceedings

Applicant: Powszechna Kasa Oszczędności (PKO) Bank Polski S.A.

Defendant: Jacek Michalski

Operative part of the order

Article 7(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts and Article 10 of Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which permits the issue of an order for payment, based on a bank ledger excerpt, as evidence of the existence of a debt arising from a consumer credit agreement, where the court dealing with an application for an order for payment does not have the power to examine whether the terms of that agreement are unfair and to ensure that, in that examination, the information referred to in Article 10 is made available, if the detailed rules for exercising the right to lodge an objection against such an order do not enable observance of the rights which the consumer derives from that directive to be ensured.

([1]) OJ C 104, 19.3.2018.

Order of the Court (Sixth Chamber) of 13 November 2018 — Toontrack Music AB v European Union Intellectual Property Office (EUIPO)

(Case C-48/18 P) ([1])

(Appeal — Article 181 of the Rules of Procedure of the Court — European Union trade mark — Application for registration of the word mark EZMIX — Rejection of the application — Regulation (EC) No 207/2009 — Article 7(1)(b) and (c) — Articles 65, 75 and 76 — Descriptive character — Perception of the relevant public — Right to a hearing — Principle of examination by EUIPO of its own motion — Obligation to state reasons — Distortion — Evidence presented for the first time before the General Court)

(2019/C 54/03)

Language of the case: Swedish

Parties

Appellant: Toontrack Music AB (represented by: L.-E. Ström, advokat)

Other party to the proceedings: European Union Intellectual Property Office (EUIPO) (represented by: A. Folliard-Monguiral, acting as Agent)

Operative part of the order

1. *The appeal is dismissed as being, in part, manifestly inadmissible and, in part, manifestly unfounded.*

2. *Toontrack Music AB shall pay the costs.*

([1]) OJ C 152, 30.4.2018.

Order of the Court (Fourth Chamber) of 28 November 2018 — Jean-Marie Le Pen v European Parliament

(Case C-303/18 P) ([1])

(Appeal — Admissibility — European Parliament — Rules governing the expenses and allowances of Members of the European Parliament — Parliamentary assistance allowance — Recovery of sums unduly paid)

(2019/C 54/04)

Language of the case: French

Parties

Appellant: Jean-Marie Le Pen (represented by: F. Wagner, avocat)

Other party to the proceedings: European Parliament (represented by: S. Seyr and C. Burgos, acting as Agents)

Operative part of the order

1. *The appeal is dismissed as being, in part, manifestly inadmissible and, in part, manifestly unfounded.*

2. *Mr Jean-Marie Le Pen shall pay the costs.*

([1]) OJ C 240, 9.7.2018.

Request for a preliminary ruling from the Landesgericht Linz (Austria) lodged on 8 October 2018 — HK, IJ v Deutsche Lufthansa AG

(Case C-630/18)

(2019/C 54/05)

Language of the case: German

Referring court

Landesgericht Linz

Parties to the main proceedings

Applicants: HK, IJ

Defendant: Deutsche Lufthansa AG

The case was removed from the Register of the Court of Justice by order of the Court of 15 November 2018.

Request for a preliminary ruling from the Tribunalul Specializat Mureș (Romania) lodged on 7 November 2018 — SC Raiffeisen Bank SA v JB

(Case C-698/18)

(2019/C 54/06)

Language of the case: Romanian

Referring court

Tribunalul Specializat Mureș

Parties to the main proceedings

Applicant: SC Raiffeisen Bank SA

Defendant: JB

Questions referred

1. Do the provisions of Council Directive 93/13/EEC on unfair terms in consumer contracts, ([1]) in particular the 12th, 21st and 23rd recitals and Articles 2(b), 6(1), 7(2) and 8 thereof, permit, in accordance with the principle of procedural autonomy and the principle of equivalence and effectiveness, a set of means of legal recourse that consists in an ordinary legal action, not subject to any limitation period, to establish the unfairness of certain terms in a consumer contract and an ordinary legal action of a personal and pecuniary nature that is subject to a limitation period, which is used in pursuit of the directive's aim of eliminating the effects of all obligations arising and performed under clauses which are found to be unfair to consumers?

2. In the event that the first question is answered in the affirmative, do those same provisions preclude an interpretation, derived from application of the principle of the certainty of civil-law legal relationships, according to which the objective point in time by which the consumer must have known or should have known of the existence of the unfair terms is the time at which the loan agreement with that consumer came to an end?

([1]) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).

Request for a preliminary ruling from the Tribunalul Specializat Mureș (Romania) lodged on 7 November 2018 — BRD Groupe Societé Générale SA v KC

(Case C-699/18)

(2019/C 54/07)

Language of the case: Romanian

Referring court

Tribunalul Specializat Mureș

Parties to the main proceedings

Applicant: BRD Groupe Societé Générale SA

Defendant: KC

Questions referred

1. Do the provisions of Council Directive 93/13/EEC on unfair terms in consumer contracts, ([1]) in particular the 12th, 21st and 23rd recitals and Articles 2(b), 6(1), 7(2) and 8 thereof, permit, in accordance with the principle of procedural autonomy and the principle of equivalence and effectiveness, a set of means of legal recourse that consists in an ordinary legal action, not subject to any limitation period, to establish the unfairness of certain terms in a consumer contract and an ordinary legal action of a personal and pecuniary nature that is subject to a limitation period, which is used in pursuit of the directive's aim of eliminating the effects of all obligations arising and performed under clauses which are found to be unfair to consumers?

2. In the event that the first question is answered in the affirmative, do those same provisions preclude an interpretation, derived from application of the principle of the certainty of civil-law legal relationships, according to which the objective point in time by which the consumer must have known or should have known of the existence of the unfair terms is the time at which the loan agreement with that consumer came to an end?

([1]) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).

Request for a preliminary ruling from the Tribunalul Timiș (Romania) lodged on 13 November 2018 — Amărăști Land Investment SRL v Direcția Generală ă a Finanțelor Publice Timișoara, Administrația Județeană a Finanțelor Publice Timiș

(Case C-707/18)

(2019/C 54/08)

Language of the case: Romanian

Referring court

Tribunalul Timiș

Parties to the main proceedings

Applicant: Amărăști Land Investment SRL

Defendants: Direcția Generală ă a Finanțelor Publice Timișoara, Administrația Județeană a Finanțelor Publice Timiș

Questions referred

1. Is Council Directive 2006/112/EC ([1]) of 28 November 2006 on the common system of value added tax, and in particular Articles 24, 28, 167 and 168(a) thereof, to be interpreted as meaning that, in the context of a transaction for the sale of immovable property which is not included in the national register of immovable property (Land Register) and which is not registered at the time of the supply, the purchaser, who is a taxable person and who assumes a contractual obligation to carry out, at his own expense, the necessary steps for its first registration in the national register of immovable property, carries out a supply of services to the vendor, or instead a purchase of services relating to his investment in immovable property in respect of which he is entitled to deduct VAT?

2. Is Directive 2006/112, and in particular Articles 167 and 168(a) thereof, to be interpreted as meaning that the costs incurred by a purchaser, who is a taxable person, in connection with the first registration in the register of immovable property of property in respect of which the purchaser has a claim for the future transfer of ownership and which has been supplied to him by a vendor whose ownership of the property is not recorded in the register of immovable property, can be classified as pre-investment operations in respect of which the taxable person is entitled to deduct VAT?

3. Is Directive 2006/112, and in particular Articles 24, 28, 167 and 168(a) thereof, to be interpreted as meaning that the costs incurred by the purchaser, who is a taxable person, in connection with the first registration in the register of immovable property of property which has been supplied to him and in respect of which the purchaser has a contractual claim for the future transfer of ownership from a vendor whose ownership of the property is not recorded in the register of immovable property, are to be classified as the provision of services to the vendor in a context in which the purchaser and the vendor have agreed that the price of the immovable property does not include the value of the land-registration operations?

4. For the purposes of Directive 2006/112, must the costs of administrative operations relating to immovable property which has been supplied and in respect of which the purchaser has a claim for the future transfer of ownership from the vendor, including, but not limited to the costs of first registration in the register of immovable property, necessarily be borne by the vendor, or may such costs be borne, pursuant to an agreement between the parties, by the purchaser or by any other of the parties to the transaction, with the result that that person is entitled to deduct the VAT?

([1]) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).

Action brought on 16 November 2018 — European Commission v Federal Republic of Germany

(Case C-718/18)

(2019/C 54/09)

Language of the case: German

Parties

Applicant: European Commission (represented by: M. Noll-Ehlers and O. Beynet, acting as Agents)

Defendant: Federal Republic of Germany

Form of order sought

The applicant claims that the Court should:

1. declare that the Federal Republic of Germany has failed to fulfil its obligations under Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC ([1]) and under Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC ([2]) by transposing incorrectly:

   — Point 21 of Article 2 of Directive 2009/72/EC and point 20 of Article 2 of Directive 2009/73/EC;

— Article 19(3), in combination with Article 19(8), of Directives 2009/72/EC and 2009/73/EC;

— Article 19(5) of Directives 2009/72/EC and 2009/73/EC; and

— Article 37(1)(a) and 37(6)(a) and (b) of Directive 2009/72/EC and Article 41(1)(a) and 41(6)(a) and (b) of Directive 2009/73/EC;

2. order the Federal Republic of Germany to pay the costs.

Pleas in law and main arguments

The application concerns the deficient transposition of Directives 2009/72 and 2009/73 in respect of the German internal markets in electricity and natural gas by the Energiewirtschaftgesetz (Law on the Energy Industry; 'EnWG'). The Commission claims that the transposition by the EnWG is inadequate in four respects. First, the definition of a vertically integrated undertaking, which specifies which undertakings fall under those directives' unbundling provisions, has been transposed only in part into German law. Second, the cooling-off provisions relating to role switching within a vertically integrated undertaking have not been transposed in full. Third, provisions prohibiting the holding of certain interests in or receipt of financial benefits from vertically integrated organisations have been transposed only in part. Finally, the allocation of responsibilities in the EnWG encroaches on the responsibilities reserved exclusively for national authorities, as provided for in the directives.

The Commission claims that this constitutes an infringement of point 21 of Article 2 of Directive 2009/72/EC and of point 20 of Article 2 of Directive 2009/73/EC, Article 19(3), in combination with Article 19(8), of Directives 2009/72/EC and 2009/73/EC, Article 19(5) of Directives 2009/72/EC and 2009/73/EC, Article 37(1)(a) and 37(6)(a) and (b) of Directive 2009/72/EC, and of Article 41(1)(a) and 41(6)(a) and (b) of Directive 2009/73/EC.

(1) OJ 2009 L 211, p. 55.
(2) OJ 2009 L 211, p. 94.

Request for a preliminary ruling from the Oberlandesgericht Düsseldorf (Germany) lodged on 16 November 2018 — Ferrari S.p.A. v DU

(Case C-720/18)

(2019/C 54/10)

Language of the case: German

Referring court

Oberlandesgericht Düsseldorf

Parties to the main proceedings

Applicant: Ferrari S.p.A.

Defendant: DU

Questions referred

1. When assessing the question of whether use is genuine in terms of nature and extent within the meaning of Article 12(1) of Directive 2008/95/EC ([1]) in the case of a trade mark which is registered in respect of a broad category of goods, in this case land vehicles, in particular motor cars and parts thereof, but is actually only used in respect of a particular market segment, in this case high-priced luxury sports cars and parts thereof, is account to be taken of the market for the registered category of goods overall or may account be taken of the particular market segment? If the use in respect of the particular market segment is sufficient, is the trade mark to be maintained in relation to that market segment in cancellation proceedings due to revocation?

2. Does the sale of used goods which have already been released onto the market by the trade mark proprietor in the European Economic Area constitute use of the trade mark by the trade mark proprietor within the meaning of Article 12(1) of Directive 2008/95/EC?

3. Is a trade mark which is registered not only in respect of a product, but also in respect of parts of that product also used in a right-maintaining manner in respect of the product if that product is no longer sold, but there are still sales of trademarked accessory and replacement parts for the trademarked product sold in the past?

4. When assessing whether there is genuine use, is consideration also to be given to whether the trade mark proprietor offers services which do not use the trade mark but are intended for the goods already sold?

5. When examining the use of the trade mark in the Member State concerned (in this case Germany) within the meaning of Article 12(1) of Directive 2008/95/EC, pursuant to Article 5 of the German-Swiss Treaty of 13 April 1892 on the reciprocal protection of patents, designs and trade marks, are uses of the trade mark in Switzerland also to be taken into consideration?

6. Is it compatible with Directive 2008/95/EC to require the trade mark proprietor against which action is being taken due to revocation of the trade mark to comprehensively explain the use of the trade mark, but to impose the risk of evidence not being furnished on the cancellation applicant?

([1]) Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks (OJ 2008 L 299, p. 25).

Request for a preliminary ruling from the Oberlandesgericht Düsseldorf (Germany) lodged on 16 November 2018 — Ferrari S.p.A. v DU

(Case C-721/18)

(2019/C 54/11)

Language of the case: German

Referring court

Oberlandesgericht Düsseldorf

Parties to the main proceedings

Applicant: Ferrari S.p.A.

Defendant: DU

Questions referred

1. When assessing the question of whether use is genuine in terms of nature and extent within the meaning of Article 12(1) of Directive 2008/95/EC ([1]) in the case of a trade mark which is registered in respect of a broad category of goods, in this case land vehicles, in particular motor cars and parts thereof, but is actually only used in respect of a particular market segment, in this case high-priced luxury sports cars and parts thereof, is account to be taken of the market for the registered category of goods overall or may account be taken of the particular market segment? If the use in respect of the particular market segment is sufficient, is the trade mark to be maintained in relation to that market segment in cancellation proceedings due to revocation?

2. Does the sale of used goods which have already been released onto the market by the trade mark proprietor in the European Economic Area constitute use of the trade mark by the trade mark proprietor within the meaning of Article 12(1) of Directive 2008/95/EC?

3. Is a trade mark which is registered not only in respect of a product, but also in respect of parts of that product also used in a right-maintaining manner in respect of the product if that product is no longer sold, but there are still sales of trademarked accessory and replacement parts for the trademarked product sold in the past?

4. When assessing whether there is genuine use, is consideration also to be given to whether the trade mark proprietor offers services which do not use the trade mark but are intended for the goods already sold?

5. When examining the use of the trade mark in the Member State concerned (in this case Germany) within the meaning of Article 12(1) of Directive 2008/95/EC, pursuant to Article 5 of the German-Swiss Treaty of 13 April 1892 on the reciprocal protection of patents, designs and trade marks, are uses of the trade mark in Switzerland also to be taken into consideration?

6. Is it compatible with Directive 2008/95/EC to require the trade mark proprietor against which action is being taken due to revocation of the trade mark to comprehensively explain the use of the trade mark, but to impose the risk of evidence not being furnished on the cancellation applicant?

(1) Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks (OJ 2008 L 299, p. 25).

Request for a preliminary ruling from the Rēzeknes tiesa (Latvia) lodged on 28 November 2018 — Elme Messer Metalurgs v Latvijas Investīciju un attīstības aģentūra

(Case C-743/18)

(2019/C 54/12)

Language of the case: Latvian

Referring court

Rēzeknes tiesa

Parties to the main proceedings

Applicant: SIA 'Elme Messer Metalurgs'

Defendant: Latvijas Investīciju un attīstības aģentūra

Question referred

Must Article 2(7) of Council Regulation No 1083/2006 (1) be interpreted as meaning that a situation in which the beneficiary of funding is unable to achieve the expected level of turnover during the relevant period because, during that period, the business of its sole partner has been suspended or that partner has become insolvent is to be considered an act or omission by an economic operator (the beneficiary of funding) which has, or would have, the effect of prejudicing the general budget of the European Union?

(1) Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 (OJ 2006 L 210, p. 25).

Request for a preliminary ruling from the Riigikohus (Estonia) lodged on 29 November 2018 — H. K. v Prokuratuur

(Case C-746/18)

(2019/C 54/13)

Language of the case: Estonian

Referring court

Riigikohus

Parties to the main proceedings

Appellant: H.K.

Other party: Prokuratuur

Questions referred

1. Is Article 15(1) of Directive 2002/58/EC ([1]) of the European Parliament and of the Council of 12 July 2002, in conjunction with Articles 7, 8, 11 and 52(1) of the Charter of Fundamental Rights of the European Union, to be interpreted as meaning that in criminal proceedings the access of State authorities to data making it possible to establish the start and end point, the date, the time and the duration, the type of communications service, the terminal used and the location of use of a mobile terminal in relation to a telephone or mobile telephone communication of a suspect constitutes so serious an interference with the fundamental rights enshrined in those articles of the Charter that that access in the area of prevention, investigation, detection and prosecution of criminal offences must be restricted to the fighting of serious crime, regardless of the period to which the retained data to which the State authorities have access relate?

2. Is Article 15(1) of Directive 2002/58/EC, on the basis of the principle of proportionality expressed in the judgment of the Court of Justice of 2 October 2018 in Case C-207/16, paragraphs 55 to 57, to be interpreted as meaning that, if the amount of data mentioned in the first question, to which the State authorities have access, is not large (both in terms of the type of data and in terms of its temporal extent), the associated interference with fundamental rights is justified by the objective of prevention, investigation, detection and prosecution of criminal offences generally, and that the greater the amount of data to which the State authorities have access, the more serious the criminal offences which are intended to be fought by the interference must be?

3. Does the requirement mentioned in the judgment of the Court of Justice of 21 December 2016 in Joined Cases C-203/15 and C-698/15, second point of the operative part, that the data access of the competent State authorities must be subject to prior review by a court or an independent administrative authority mean that Article 15(1) of Directive 2002/58/EC must be interpreted as meaning that the public prosecutor's office which directs the pre-trial procedure, with it being obliged by law to act independently and only being bound by the law, and ascertains the circumstances both incriminating and exonerating the accused in the pre-trial procedure, but later represents the public prosecution in the judicial proceedings, may be regarded as an independent administrative authority?

([1]) Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ 2002 L 201, p. 37).

Request for a preliminary ruling from the Bayerischer Verwaltungsgerichtshof (Germany) lodged on 3 December 2018 — Deutsche Umwelthilfe e.V. v Freistaat Bayern

(Case C-752/18)

(2019/C 54/14)

Language of the case: German

Referring court

Bayerischer Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Deutsche Umwelthilfe e.V.

Defendant: Freistaat Bayern

Questions referred

Are

1. the requirement laid down in the second subparagraph of Article 4(3) of the Treaty on European Union (TEU), according to which the Member States must take any appropriate measure to ensure fulfilment of the obligations arising out of the Treaties or resulting from the acts of the institutions of the European Union,

2. the principle of effective implementation of EU law by the Member States, which is established in, inter alia, Article 197 (1) of the Treaty on the Functioning of the European Union (TFEU),

3. the right to an effective remedy guaranteed by the first paragraph of Article 47 of the Charter of Fundamental Rights of the European Union,

4. the obligation devolving on the Member States to ensure effective legal protection in environmental matters, which arises from the first sentence of Article 9(4) of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention),

5. the obligation devolving on the Member States to ensure effective legal protection in the fields covered by EU law, which is established in the second subparagraph of Article 19(1) TEU,

to be interpreted to mean that a German court is entitled — and possibly even obliged — to impose detention on public officials of a German Federal *Land* in order thereby to enforce the obligation of that Federal *Land* to update an air quality plan within the meaning of Article 23 of Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ 2008 L 152 p. 1) with specific minimum content if that Federal *Land* has been ordered to carry out an update with that specific minimum content by way of a final judgment, and

— the Federal *Land* has been threatened with and subjected to financial penalties on several occasions without success,

— threats of financial penalties and impositions of financial penalties have not resulted in a significant persuasive effect even if higher amounts than before have been threatened and imposed, for the reason that the payment of penalties does not involve actual losses for the Federal *Land* sentenced by a final judgment, but rather, in this respect, there is merely a transfer of the amount imposed in each case from one accounting item within the *Land*'s budget to another accounting item within the *Land*'s budget,

— the Federal *Land* found guilty by way of a final judgment has stated to the courts and publicly — inter alia before parliament via its most senior political office-holders — that it will not fulfil the judicially-imposed obligations in connection with air quality planning,

— while national law does in principle provide for the institution of detention for the purpose of enforcing judicial decisions, national constitutional case-law precludes the application of the relevant provision to a situation of the nature involved here, and

— for a situation of the nature involved here, national law does not provide for coercive instruments that are more expedient than threats and impositions of financial penalties but are less invasive than detention, and recourse to such coercive instruments does not come into consideration from a substantive point of view either?

Request for a preliminary ruling from the Tribunal d'instance d'Aulnay-Sous-Bois (France) lodged on 3 December 2018 — LC, MD v easyJet Airline Co. Ltd

(Case C-756/18)

(2019/C 54/15)

Language of the case: French

Referring court

Tribunal d'instance d'Aulnay-Sous-Bois

Parties to the main proceedings

Applicants: LC, MD

Defendant: easyJet Airline Co. Ltd

Question referred

Is Article 3(2)(a) of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 ([1]) ('Regulation No 261/2004'), to be interpreted as meaning that, in order to rely on the provisions of the regulation, passengers must prove that they presented themselves for check-in?

If so, does Article 3(2)(a) of Regulation No 261/2004 preclude a rule of simple presumption that the requirement that a passenger present himself for check-in may be regarded as satisfied if the passenger has a reservation that has been accepted and registered by the operating air carrier within the meaning of Article 2(g)?

([1]) OJ 2004 L 46, p. 1.

Request for a preliminary ruling from the Rayonen sad Haskovo (Bulgaria) lodged on 4 December 2018 — QH v Varhoven kasatsionen sad of the Republic of Bulgaria

(Case C-762/18)

(2019/C 54/16)

Language of the case: Bulgarian

Referring court

Rayonen sad Haskovo

Parties to the main proceedings

Applicant: QH

Defendant: Varhoven kasatsionen sad of the Republic of Bulgaria

Questions referred

1. Must Article 7(1) of Directive 2003/88/EC ([1]) of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time be interpreted as precluding national legislation and/or case-law, according to which a worker who has been unfairly dismissed and subsequently reinstated by a court decision, is not entitled to paid annual leave for the period from the date of dismissal until the date of his reinstatement?

2. In the event that the first question is answered in the affirmative, must Article 7(2) of 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 be interpreted as precluding national legislation and/or case-law, according to which in the event that the employment relationship is terminated once again the worker in question is not entitled to financial compensation for unused paid annual leave for the period from the date of his previous dismissal until the date of his reinstatement

([1]) OJ 2003 L 299, p. 9.

Request for a preliminary ruling from the Cour de cassation (France) lodged on 7 December 2018 — Caisse d'assurance retraite et de la santé au travail d'Alsace-Moselle v SJ, Ministre chargé de la Sécurité sociale

(Case C-769/18)

(2019/C 54/17)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicant: Caisse d'assurance retraite et de la santé au travail d'Alsace-Moselle

Defendants: SJ, Ministre chargé de la Sécurité sociale

Questions referred

1. Does the social assistance for help with the expenditure associated with a disability provided for by Paragraph 35a of the Eighth Book of the Sozialgesetzbuch (German Social Code) fall within the material scope of Regulation No 883/2004? ([1])

2. If it does, are the payment of the child-rearing allowance for a disabled child and the supplement thereto, or, in its place, the disability compensation allowance, on the one hand, and the social assistance for the integration of children and young people with mental disabilities, provided for in Paragraph 35a of the Eighth Book of the Sozialgesetzbuch (German Social Code), on the other hand, of an equivalent nature within the meaning of Article 5(a) of Regulation No 883/2004, having regard to the purpose of Article L. 351-4-1 of the French Social Security Code aimed at the taking into account of the costs inherent in raising a child with a disability for the purposes of the determination of the insurance period providing entitlement to a retirement pension?

([1]) Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ 2004 L 166, p. 1).

Request for a preliminary ruling from the Conseil d'État (France) lodged on 11 December 2018 — Association française des usagers de banques v Ministre de l'Économie et des Finances

(Case C-778/18)

(2019/C 54/18)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Association française des usagers de banques

Defendant: Ministre de l'Économie et des Finances

Questions referred

— Do the provisions of Article 12(2)(a) of Directive 2014/17/EU of 4 February 2014 on credit agreements for consumers relating to residential immovable property, ([1]) having regard, inter alia, to the purpose that they assign to the payment or savings account which they authorise to be opened or maintained, or the provisions of paragraph 3 of that article, authorise, first, the creditor to require the borrower, as consideration for an individual advantage, to deposit all of his salary or similar income in a payment account opened with that creditor during a period fixed by the credit agreement, whatever the amount, the instalments and the duration of the loan, and, secondly, that the period thus fixed may extend to ten years or, if it is shorter, the duration of the agreement?

— Do Article 45 of Directive 2007/64/EC of 13 November 2007, ([2]) applicable at the material time and now recast as Article 55 of Directive (EU) 2015/2366 of 25 November 2015, ([3]) and Articles 9 to 14 of Directive 2014/92/EU of 23 July 2014, ([4]) relating to the facilitation of banking mobility and to fees for closing a payment account, preclude the closure of an account opened by the borrower with the creditor for the purposes of depositing his income with that creditor as consideration for an individual advantage as part of a credit agreement from resulting, if it occurs before the expiry of the period fixed in that agreement, in the loss of that advantage, including more than a year after the opening of the account and, secondly, do those provisions prevent the duration of that period extending to ten years or the total duration of the loan?

([1]) Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ 2014 L 60, p. 34).

([2]) Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market, amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (OJ 2007 L 319, p. 1).

([3]) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ 2015 L 337, p. 35).

([4]) Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ 2014 L 257, p. 214).

Request for a preliminary ruling from the Tribunal d'instance Épinal (France) lodged on 13 December 2018 — Cofidis v YP

(Case C-782/18)

(2019/C 54/19)

Language of the case: French

Referring court

Tribunal d'instance Épinal

Parties to the main proceedings

Applicant: Cofidis

Defendant: YP

Question referred

Does the protection guaranteed to consumers by Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC ([1]) preclude a national provision which, in an action brought by a seller or supplier against a consumer on the basis of a credit agreement which they have concluded, prohibits the national court, on expiry of a limitation period of five years from the conclusion of the agreement, from finding and penalising, of its own motion or following an objection raised by the consumer, a failure to comply with the provisions relating to the obligation laid down in Article 8 of the directive to verify the creditworthiness of the consumer, a failure to comply with those of Article 10 et seq. of the directive relating to the information which must be included in a clear and concise manner in credit agreements, and, more generally, a failure to comply with all of the consumer-protection provisions set out in that directive?

([1]) OJ 2008 L 133, p. 66.

Appeal brought on 12 December 2018 by Mellifera eV, Vereinigung für wesensgemäße Bienenhaltung against the judgment of the General Court (Fifth Chamber) delivered on 27 September 2018 in Case T-12/17, *Mellifera eV* v *European Commission*

(Case C-784/18 P)

(2019/C 54/20)

Language of the case: German

Parties

Appellant: Mellifera eV, Vereinigung für wesensgemäße Bienenhaltung (represented by: A. Willand, Rechtsanwalt)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

1. set aside the judgment of the General Court of 27 September 2018, *Mellifera eV* v *European Commission*, T-12/17, in so far as the General Court rejected the application of the applicant at first instance in point 1 of the form of order sought, as set out in indent 1 of paragraph 18 of the judgment under appeal, in which it requested that the General Court annul the decision Ares (2016) 6306335 of the defendant at first instance of 8 November 2016, and ordered that the applicant at first instance pay the costs;

2. annul the decision of the defendant at first instance referred to in point 1 above;

3. order the defendant at first instance to pay the costs.

Grounds of appeal and main arguments

The appellant relies, essentially, on two grounds of appeal.

First ground of appeal: Infringement of Article 10(1) of Regulation (EC) No 1367/2006, ([1]) in conjunction with Article 2 (1)(g) of that regulation and with the Aarhus Convention.

Contrary to the view taken by the General Court, the extension of the authorisation for the active substance glyphosate is an administrative act that is amenable to review in the procedure under Article 10(1) of Regulation (EC) No 1367/2006. In particular, in accordance with its wording and objective, the constituent element of individual scope referred to in Article 2 (1)(g) of Regulation (EC) No 1367/2006 relates to the objective field of application, rather than to the number or identifiable nature of those persons who are subject to that legislation.

Second ground of appeal: Infringement of the principle that secondary EU legislation is to be interpreted in the light of conventions in the field of public international law.

The General Court infringed the principle that secondary EU legislation should, so far as possible, be interpreted in accordance with conventions in the field of public international law, by failing to interpret Article 10, in conjunction with Article 2(1)(g), of Regulation (EC) No 1367/2006 in accordance with the Aarhus Convention, despite the latter being directly consistent with the wording and objective of the relevant EU legislation in Regulation (EC) No 1367/2006.

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

Order of the President of the Court of 15 November 2018 (request for a preliminary ruling from the Raad van State — Netherlands) — Staatssecretaris van Veiligheid en Justitie v D, I v Staatssecretaris van Veiligheid en Justitie

(Case C-586/17) ([1])

(2019/C 54/21)

Language of the case: Dutch

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

([1]) OJ C 5, 8.1.2018.

Order of the President of the Court of 16 October 2018 (request for a preliminary ruling from the Finanzgericht Hamburg — Germany) — Kreyenhop & Kluge GmbH & Co. KG v Hauptzollamt Hannover

(Case C-593/17) ([1])

(2019/C 54/22)

Language of the case: German

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

([1]) OJ C 32, 29.1.2018.

Order of the President of the Court of 8 November 2018 — European Commission v Ireland

(Case C-678/17) ([1])

(2019/C 54/23)

Language of the case: English

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

([1]) OJ C 22, 22.1.2018.

Order of the President of the Court of 7 November 2018 (request for a preliminary ruling from the Tribunal de première instance francophone de Bruxelles — Belgium) — Edward Reich, Debora Lieber, Ella Reich, Ezra Bernard Reich, Zoe Reich v Koninklijke Luchtvaart Maatschappij NV

(Case C-730/17) ([1])

(2019/C 54/24)

Language of the case: French

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

([1]) OJ C 104, 19.3.2018.

Order of the President of the Court of 26 October 2018 (request for a preliminary ruling from the Bundesgerichtshof — Germany) — Logistik XXL GmbH v CMR Transport & Logistik, intervener: Rudolph Spedition und Logistik GmbH

(Case C-135/18) ([1])

(2019/C 54/25)

Language of the case: German

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

([1]) OJ C 190, 4.6.2018.

Order of the President of the Court of 26 October 2018 (request for a preliminary ruling from the Supreme Court — Ireland) — KN v Minister for Justice and Equality

(Case C-191/18) ([1])

(2019/C 54/26)

Language of the case: English

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

([1]) OJ C 190, 4.6.2018.

Order of the President of the Seventh Chamber of the Court of 8 November 2018 (request for a preliminary ruling from the Budai Központi Kerületi Bíróság — Hungary) — VE v WD

(Case C-227/18) ([1])

(2019/C 54/27)

Language of the case: Hungarian

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

([1]) OJ C 231, 2.7.2018.

Order of the President of the Court of 22 November 2018 (request for a preliminary ruling from the Audiencia Provincial de Almería — Spain) — Banco Popular Español S.A. v María Angeles Díaz Soria, Miguel Ángel Góngora Gómez, José Antonio Sánchez González, Dolores María del Águila Andújar

(Case C-232/18) ([1])

(2019/C 54/28)

Language of the case: Spanish

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

([1]) OJ C 240, 9.7.2018.

Order of the President of the Court of 15 November 2018 (request for a preliminary ruling from the Juzgado de lo Social No 33 de Barcelona — Spain) — Magdalena Molina Rodríguez v Servicio Público de Empleo Estatal (SEPE)

(Case C-279/18) ([1])

(2019/C 54/29)

Language of the case: Spanish

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

([1]) OJ C 259, 23.7.2018.

Order of the President of the Court of 26 October 2018 (request for a preliminary ruling from the Handelsgericht Wien — Austria) — KAMU Passenger & IT Services GmbH v Türk Hava Yollari A. O. — T.H.Y. Turkish Airlines

(Case C-289/18) ([1])

(2019/C 54/30)

Language of the case: German

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

([1]) OJ C 285, 13.8.2018.

Order of the President of the Court of 7 November 2018 (request for a preliminary ruling from the Landesgericht Linz — Austria) — DS v Porsche Inter Auto GmbH & Co KG

(Case C-466/18) ([1])

(2019/C 54/31)

Language of the case: German

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

([1]) OJ C 408, 12.11.2018.

Order of the President of the Sixth Chamber of the Court of 23 October 2018 (request for a preliminary ruling from the Förvaltningsrätten i Göteborg — Sweden) — AA v Migrationsverket

(Case C-526/18) ([1])

(2019/C 54/32)

Language of the case: Swedish

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

([1]) OJ C 381, 22.10.2018.

Order of the President of the Court of 8 November 2018 (request for a preliminary ruling from the Landgericht Hamburg — Germany) — Eurowings GmbH v JJ, KI

(Case C-557/18) ([1])

(2019/C 54/33)

Language of the case: German

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

([1]) OJ C 436, 3.12.2018.

GENERAL COURT

Order of the General Court of 28 November 2018 — Euronet Consulting v Commission

(Case T-350/18) ([1])

(Public service contracts — Tendering procedure — Rejection of a tenderer's bid — Partial annulment of the contested measure — Amending decision — Action which has become devoid of purpose — No need to adjudicate)

(2019/C 54/34)

Language of the case: English

Parties

Applicant: Euronet Consulting EEIG (Brussels, Belgium) (represented by: P. Peeters and R. van Cleemput, lawyers)

Defendant: European Commission (represented by: J. Estrada de Solà, T. Ramopoulos and A. Aresu, acting as Agents)

Re:

Application pursuant to Article 263 TFEU seeking annulment of the Commission decision, notified to the applicant by letter of 26 March 2018, to reject the tender for Lot 2, submitted by the consortium of which the applicant is the leader, in the call for tenders EuropeAid/138778/DH/SER/MULTI, entitled 'Framework contract for the implementation of external aid 2018 (FWC SIEA 2018) 2017/S 128-260026' and to award the contract to ten other tenderers.

Operative part of the order

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

2. *Each party shall bear its own costs, including those relating to the proceedings for interim measures.*

([1]) OJ C 259, 23.7.2018.

Order of the President of the General Court of 28 November 2018 — ZU v Commission

(Case T-671/18 R)

(Application for interim measures — Civil service — Application for suspension of operation — No urgency)

(2019/C 54/35)

Language of the case: English

Parties

Applicant: ZU (represented by: C. Bernard-Glanz, lawyer)

Defendant: European Commission (represented by: G. Berscheid and R. Striani, acting as Agents)

Re:

Application based on Articles 278 and 279 TFEU seeking a suspension of the operation of the Decision of the Directorate-General for Human Resources and Security of the European Commission of 12 October 2018 (Ares(2018)5241886 — 12/10/2018) relating to the transfer of the applicant, and of the Decision of the Directorate-General for Human Resources and Security of the European Commission of 29 October 2018 (Ares(2018)5529220 — 29/10/2018) relating to his return to headquarters.

Operative part of the order

1. *The application for interim measures is rejected.*

2. *The costs are reserved.*

Action brought on 27 November 2018 — Poland v Commission

(Case T-703/18)

(2019/C 54/36)

Language of the case: Polish

Parties

Applicant: Republic of Poland (represented by: B. Majczyna, acting as Agent)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the decision of the European Commission of 17 September 2018 imposing an obligation to implement the actions and recommendations set out in the final audit report, in the part concerning Recommendation 04.01(g) regarding the application of financial corrections to expenditure relating to VAT in connection with cases where the participants receiving aid were taxable persons for the purposes of VAT and as a result were entitled to recover VAT, but did not do so, under projects carried out within the framework of all operational programmes co-financed by the European Social Fund, in respect of which expenditure was declared for the purposes of reimbursement by the European Commission;

— order the European Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law, alleging infringement of Article 65(2) and Article 69(3)(c) of Regulation No 1303/2013, ([1]) read in conjunction with Article 2(10) thereof, through the improper interpretation of those provisions and the incorrect finding that Article 69(3)(c) of Regulation No 1303/2013 applies to final recipients of aid from the European Social Fund, despite the fact that they are not beneficiaries within the meaning of Article 2(10) of that regulation.

In that plea, the Republic of Poland states that, in accordance with the general rule regarding the eligibility of expenditure under European Social Fund projects as set out in Article 65(2) of Regulation No 1303/2013, the requirements for eligibility of expenditure resulting from Article 69 of that regulation are the responsibility of the beneficiary implementing the project.

The applicant considers that Article 2(10) of Regulation No 1303/2013 unambiguously leaves it to the Member States to choose, in cases involving aid with a value lower than EUR 200 000, whether to recognise a person receiving aid or a person providing such aid as the beneficiary.

In the present case, at the choice of the Polish authorities, the beneficiary is the person providing the aid and not the person receiving it. Final recipients of aid are not beneficiaries and thus, according to the applicant, Article 69(3)(c) of Regulation No 1303/2013 does not apply to them.

In addition, the Republic of Poland emphasises that, in the present case, granting the status of beneficiary to the persons receiving aid — who are unemployed persons — would involve imposing on them many obligations connected with accounting for the aid received, reporting on progress in implementing the project, project controls and supplementing data in IT systems dedicated to the implementation of operational programmes. Such a solution would make it impossible to achieve the aims of Regulation No 1303/2013.

([1]) Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ 2013 L 347, p. 320).

Action brought on 29 November 2018 — Tilly-Sabco v Council and Commission

(Case T-707/18)

(2019/C 54/37)

Language of the case: French

Parties

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

Defendants: European Commission, Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare admissible the action seeking annulment of Council Regulation (EU) 2018/1277 of 18 September 2018 (OJ 2018 L 239, p. 1), which fixes at zero the export refunds on poultrymeat;

consequently,

— annul Council Regulation (EU) 2018/1277 of 18 September 2018 (OJ 2018 L 239, p. 1), which fixes at zero the export refunds on poultrymeat;

— rule primarily that the Council was at fault in adopting Council Regulation (EU) 2018/1277 of 18 September 2018, which is to be annulled by the Court;

— rule, in the alternative, if and only if the Commission is not found to be liable in the proceedings in Case T-437/18, that the Commission was at fault in requiring the Council to adopt Regulation (EU) 2018/1277 of 18 September 2018, which is to be annulled by the Court;

— rule, in the further alternative, if and only if the Commission is not found to be liable in the proceedings in Case T-437/18, that the Council and the Commission were at fault in adopting Regulation (EU) 2018/1277 of 18 September 2018, which is to be annulled by the Court;

— rule that the company Tilly-Sabco suffered harm as a result of the error made by the Council and/or the Commission;

consequently,

— primarily,

  — rule that the Council is liable to pay to the applicant the principal sum of EUR 3 238 000, of which:

    — EUR 2 848 000 correspond to refunds not received in connection with sales carried out between 19 July and 31 December 2013;

    — EUR 390 000 correspond to refunds relating to the loss of profit resulting from the failure to achieve 3 550 additional tonnes of sales to countries in the Middle East over the course of the same period;

  — order the Council to pay the principal sum of EUR 3 238 000,

    — reassessed by applying compensatory interest, starting from the date of adoption of annulled Regulation (EU) No 689/2013 and continuing up to the date of delivery of the judgment in the present proceedings, on the basis of the annual rate of inflation determined, for the period in question, by Eurostat (Statistical Office of the European Union) in the Member State in which the applicant is established;

    — increased by default interest, to be calculated as from the date of delivery of the present judgment and until full payment, at the rate set by the European Central Bank (ECB) for its principal refinancing operations, increased by two percentage points;

— in the alternative,

  — rule that the Commission is liable to pay to the applicant the principal sum of EUR 3 238 000, of which:

    — EUR 2 848 000 correspond to refunds not received in connection with sales carried out between 19 July and 31 December 2013;

    — EUR 390 000 correspond to refunds relating to the loss of profit resulting from the failure to achieve 3 550 additional tonnes of sales to countries in the Middle East over the course of the same period;

  — order the Commission to pay the principal sum of EUR 3 238 000,

    — reassessed by applying compensatory interest, starting from the date of adoption of annulled Regulation (EU) No 689/2013 and continuing up to the date of delivery of the judgment in the present proceedings, on the basis of the annual rate of inflation determined, for the period in question, by Eurostat (Statistical Office of the European Union) in the Member State in which the applicant is established;

    — increased by default interest, to be calculated as from the date of delivery of the present judgment and until full payment, at the rate set by the European Central Bank (ECB) for its principal refinancing operations, increased by two percentage points;

— rule that the principal sums and interest ordered to be paid by the Commission in the present case may be reduced by the amount which it may be ordered to pay in the context of Case T-437/18;

— order the Commission to pay damages in respect of the non-material harm stemming from its double error in an amount calculated *ex aequo et bono* at EUR 20 000;

— in the further alternative,

— rule that the Council and the Commission are liable to pay to the applicant the principal sum of EUR 3 238 000 — the Court having responsibility for determining the share to be paid by each party — of which:

— EUR 2 848 000 correspond to refunds not received in connection with sales carried out between 19 July and 31 December 2013;

— EUR 390 000 correspond to refunds relating to the loss of profit resulting from the failure to achieve 3 550 additional tonnes of sales to countries in the Middle East over the course of the same period;

— rule that the Council and the Commission are liable to pay to the applicant the principal sum of EUR 3 238 000000 — the share to be paid by each party to be determined by the Court —

— the fixed principal sum attributed to the Council, on the one hand, and to the Commission, on the other hand, is to be reassessed by applying compensatory interest, starting from the date of adoption of annulled Regulation (EU) No 689/2013 and continuing up to the date of delivery of the judgment in the present proceedings, on the basis of the annual rate of inflation determined, for the period in question, by Eurostat (Statistical Office of the European Union) in the Member State in which the applicant is established;

— increased by default interest, to be calculated as from the date of delivery of the present judgment and until full payment, at the rate set by the European Central Bank (ECB) for its principal refinancing operations, increased by two percentage points;

— order the Council and the Commission to pay the costs of the present action, the share to be paid by each party to be determined by the Court.

Pleas in law and main arguments

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

1. First plea in law, alleging abuse of procedure or breach of procedure, in that the applicant claims that the procedure for the replacement of an annulled act was not complied with in the present case, since the Commission was the author of the annulled act, namely Regulation (EU) No 689/2013 of 18 July 2013 fixing the export refunds on poultrymeat (OJ 2013 L 196, p. 13), whereas it was the Council which adopted the new regulation on 18 September 2018 on the basis of different legal provisions.

2. Second plea in law, alleging infringement of the rule of equivalence of form, in that, first, the new regulation was not adopted by the Commission but by the Council, and, second, the Commission should have been assisted by the Management Committee for the Common Organisation of Agricultural Markets.

3. Third plea in law, alleging lack of a legal basis for the contested regulation, in that Article 43(3) TFEU, which was relied on as the sole possible legal basis for the adoption of the contested regulation, does not allow the Council to adopt such a regulation. Therefore, there is no legal basis which allows the Council to fix export refunds for poultrymeat.

4. Fourth plea in law, alleging abuse of procedure, in that, in order to comply with the judgment of the Court of Justice of 20 September 2017, *Tilly-Sabco* v *Commission*, (C-183/16 P, EU:C:2017:704), the Commission should have adopted the act replacing the annulled regulation itself and should not have asked the Council to adopt an act 'in its place'.

5. Fifth plea in law, alleging an inadequate or erroneous statement of reasons, both as regards form, in that the contested regulation does not explain why it was necessary to ask the Council to adopt that act, or why and how Article 43(3) TFEU was the sole legal basis allowing for its adoption, and as regards substance, in that the Council, like the Commission previously, did not rely on any economic analysis in order to fix the refund rate.

6. Sixth plea in law, alleging that the contested regulation is contradictory, in that the Council adopted without thought or analysis the identical regulation based on an erroneous and invalid legal basis and accordingly did not take into account the aforementioned judgment of the Court of Justice.

According to the applicant, the annulment of the new Regulation (EU) 2018/1277 gives rise, principally, to an entitlement to request the Council to pay damages for the harm suffered by the applicant as a result of its adoption. In the alternative, the applicant brings an action for damages against the Commission, which is behind the adoption of that new regulation which must be annulled. Finally, in the further alternative, the applicant submits that the Court should rule that the Council and the Commission are jointly liable, given that both entities erred in discrete ways.

Action brought on 4 December 2018 — Adraces v Commission

(Case T-714/18)

(2019/C 54/38)

Language of the case: Portuguese

Parties

Applicant: Associaçao para o Desenvolvimento da Raia Centro Sul — Adraces (Vila Velha de Ródao, Portugal) (represented by: G. Anastácio, D. Pirra Xarepe, J. Whyte and M. Barros Silva)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— Declare invalid Commission Decision ARES (2018) 4940694, of 26 September 2018, with brought to an end the framework partnership agreement No COM/LIS/ED/2018-2020_1, and order the Commission to re-establish the previously existing situation of the applicant.

— Order the Commission to pay all the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging breach of the principle of legal certainty, in so far as the Commission unilaterally revoked a public contract, without presenting any basis or justification for that purpose.

2. Second plea in law, alleging infringement of the principle of good faith, in so far as, by introducing into the framework agreement in question a general revocation clause according to which it may terminate that agreement arbitrarily, without any basis or justification, the Commission misused its powers and ignored the balance of interests underlying any contract, whether public or private.

3. Third plea in law, alleging infringement of the principle of respect for the legitimate rights and interests of individuals, which is binding on the administration in respect of public contracts, in so far as the Commission unilaterally revoked the agreement in the present case, in a manner that was purely arbitrary and without basis, which is prohibited by the principle *pacta sunt servanda*.

4. Fourth plea in law, alleging breach of the duty of sound administration, in so far as the Commission revoked that agreement on the basis of a simple newspaper article, without making a sufficiently detailed assessment of the specific case, which constitutes a clear case of maladministration.

5. Fifth plea in law, alleging infringement of the principle of proportionality, in so far as the Commission revoked that agreement, without any basis or justification, in response to the conviction of an employee of the applicant for the offence of falsification and fraud which had nothing to do with the applicant's activity nor with the Commission's powers and competences.

Action brought on 5 December 2018 — B.D. v EUIPO — Philicon 97 (PHILIBON)

(Case T-717/18)

(2019/C 54/39)

Language of the case: English

Parties

Applicant: B.D. — Boyer Developpement (Moissac, France) (represented by: E. Junca, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Philicon 97 AD (Plovdiv, Bulgaria)

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 PHILIBON — European Union trade mark No 9 690 041

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 10 October 2018 in Case R 375/2018-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— annul the decision of the Cancellation Division of 21 December 2017;

— order EUIPO to pay the costs.

Pleas in law

— The Board of Appeal applied the provisions of Regulation 2017/1001, which was not in force on the date of the cancellation request submitted to EUIPO. The Chamber failed to comply with the conditions laid down in Article 8(5) in conjunction with Article 53 of Regulation 207/2009;

— Infringement of Article 8(2)(c) of Regulation 207/2009.

Action brought on 5 December 2018 — Boyer v EUIPO — Philicon 97 (PHILIBON DEPUIS 1957 www.philibon.com)

(Case T-718/18)

(2019/C 54/40)

Language of the case: English

Parties

Applicant: Boyer (Moissac, France) (represented by: E. Junca, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Philicon 97 AD (Plovdiv, Bulgaria)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union figurative mark in colours blue, yellow and white — European Union trade mark No 12 501 466

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 10 October 2018 in Case R 374/2018-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— annul the decision of the Cancellation Division of 21 December 2017;

— order EUIPO to pay the costs.

Plea in law

— The Board of Appeal applied the provisions of Regulation 2017/1001, which was not in force on the date of the cancellation request submitted to EUIPO. The Chamber failed to comply with the conditions laid down in Article 8(5) in conjunction with Article 53 of Regulation 207/2009.

Action brought on 7 December 2018 — Apostolopoulou and Apostolopoulou-Chrysanthaki v Commission

(Case T-721/18)

(2019/C 54/41)

Language of the case: Greek

Parties

Applicants: Zoe Apostolopoulou and Anastasia Apostolopoulou-Chrysanthaki (Athens, Greece) (represented by: D. Gouskos, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the General Court should:

— uphold the action and order the defendants, jointly and severally, to pay to each of the applicants the total sum of five hundred thousand euros, that sum being broken down in the pleadings;

— order the defendants to refrain in future from any attack on the character of the applicants;

— order the first named defendant to restore the honour and reputation of the applicants by means of a declaration before the Efeteio Athinon (Athens Court of Appeal), before which is pending on appeal the defendant's action dated 11/09/2017 with the general registry number 572461/2017 and special registry number 1898/2017 (objections of the applicants), within which the first defendant resorted to falsehoods that are denied and insulting statements with respect to the applicants;

— order the defendants to pay the general costs.

Pleas in law and main arguments

This action has been brought against the European Commission and the European Union. Given that the latter is always represented before the General Court by the institution to which the contested act or conduct is attributed, the Commission is consequently called as the only defendant to this action.

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

1. The first plea in law is based on an infringement of the human dignity and the character of the applicants, by reason of the defamatory arguments of the Commission before the Monomeles Protodikeio Athinon (First instance court of Athens) and infringement of the principle of sound administration, with the aim of proceeding to enforcement against the applicants.

2. The second plea in law is based on the infringement of the principles of legality, good faith and protection of legitimate expectations, by reason of the Commission's argument that the applicants as partners are legally responsible and that the undertaking had no legal personality, although it has repeatedly entered into contracts knowing that under Greek law and according the statutes of the undertaking they had no personal liability for the obligations of the undertaking.

3. The third plea in law is based on the infringement of the right to an effective remedy before an independent court or tribunal, in that the applicants were not parties to the proceedings in which the enforcement orders were issued.

4. The fourth plea in law is based on the deceitful and abusive acceleration of the enforcement procedure against the applicants.

Action brought on 7 December 2018 — Repsol v EUIPO — Basic (BASIC)

(Case T-722/18)

(2019/C 54/42)

Language of the case: English

Parties

Applicant: Repsol, SA (Madrid, Spain) (represented by: J. Devaureix and J. Erdozain López, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Basic AG Lebensmittelhandel (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 figurative mark BASIC in colours blue, red, orange and white — European Union trade mark No 5 648 159

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 22 August 2018 in Case R 178/2018-2

Form of order sought

The applicant claims that the Court should:

— admit the writ of summons with all the documents annexed;

— annul the contested decision;

— order Basic Aktiengesellschaft Lebensmittelhandel and EUIPO to bear the costs of these proceedings.

Pleas in law

— Infringement of Article 72(6) of Council Regulation (EC) 207/2009;

— Infringement of Article 8(4) of Council Regulation (EC) 207/2009.

Action brought on 7 December 2018 — Aurea Biolabs v EUIPO — Avizel (AUREA BIOLABS)

(Case T-724/18)

(2019/C 54/43)

Language of the case: English

Parties

Applicant: Aurea Biolabs Pte Ltd (Cochin, India) (represented by: B. Brandreth, Barrister, L. Oommen, Solicitor)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Avizel SA (Luxembourg, Luxembourg)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union figurative mark AUREA BIOLABS — Application for registration No 15 836 737

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 11 September 2018 in Case R 814/2018-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order the payment of the applicant's 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 6 December 2018 — Brand IP Licensing v EUIPO — Facebook (lovebook)

(Case T-728/18)

(2019/C 54/44)

Language of the case: English

Parties

Applicant: Brand IP Licensing Ltd (Road Town, British Virgin Islands) (represented by: J. MacKenzie, Solicitor)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Facebook, Inc. (Menlo Park, California, United States)

Details of the proceedings before EUIPO

Applicant: Applicant before the General Court

Trade mark at issue: Application for European Union word mark lovebook — Application for registration No 9 926 577

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 2 October 2018 in Case R 2279/2017-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— set aside in its entirety the decision of the Opposition Division of 24 August 2017;

— dismiss the opposition;

— award the costs in favour of the applicant.

Pleas in law

— Infringement of Article 8(5) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

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

Action brought on 12 December 2018 — DQ and Others v Parliament

(Case T-730/18)

(2019/C 54/45)

Language of the case: French

Parties

Applicants: DQ and eleven other applicants (represented by: M. Casado García-Hirschfeld, lawyer)

Defendant: European Parliament

Form of order sought

The applicants claim that the Court should:

— Declare this application admissible and well-founded;

Accordingly,

— Annul the implied decision to reject the claim for compensation ('the contested decision') brought by the applicants on 13 December 2017 pursuant to Article 90(1) of the Staff Regulations;

— annul, if necessary, the decision of 12 September 2018 rejecting the complaint lodged on 23 May 2018 within the meaning of Article 90(2) of the Staff Regulations;

— Order compensation for the non-material damage caused by a series of acts and conduct of Parliament which must be the subject of a global assessment and which the applicants estimate, subject to re-assessment, at the sum ex aequo et bono of EUR 192 000

— Order the Parliament to pay compensatory interest and default interest accrued;

— Order the defendant to pay all the costs.

Pleas in law and main arguments

In support of the action, the applicants invoke the unlawful acts committed by Parliament in its capacity as employer, in particular a breach of the principle of sound administration and of the duty to have regard for the welfare of officials, infringement of their dignity, breach of their private and family life, breach of their right to the protection of medical confidentiality and breach of their right to working conditions that respect their health, safety and dignity.

The applicants claim that the facts and conduct they had complained of constituted, prima facie, genuine or, at the very least, plausible facts and conduct that give rise to a presumption of psychological harassment against them and conclude that the European Parliament was liable, in particular because of its passivity in the handling of their request for assistance based on Articles 12 and 24 of the Staff Regulations of Officials of the European Union.

Action brought on 14 December 2018 — Dalasa v EUIPO — Charité — Universitätsmedizin Berlin (charantea)

(Case T-732/18)

(2019/C 54/46)

Language in which the application was lodged: German

Parties

Applicant: Dalasa Handelsgesellschaft mbH (Vienna, Austria) (represented by: I. Hödl, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Charité — Universitätsmedizin Berlin, Gliedkörperschaft Öffentlichen Rechts (Berlin, Germany)

Details of the proceedings before EUIPO

Applicant for the mark at issue: Applicant

Mark at issue: Application for EU word mark charantea — Application for registration No 15 485 956

Proceedings before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 15 October 2018 in Case R 539/2018-4

Form of order sought

The applicant claims that the Court should:

— uphold the action, alter the contested decision of the Fourth Board of Appeal of 15 October 2018, R 539/2018-4 concerning opposition proceedings B 2 758 830 (EU trade mark application No 15 485 956), reject the opposition, and allow the EU trade mark application to proceed to registration;

in the alternative,

— annul the contested decision of the Fourth Board of Appeal of 15 October 2018, R 539/2018-4 concerning opposition proceedings B 2 758 830 (EU trade mark application No 15 485 956) and refer the case back to EUIPO;

— in any event, order EUIPO to pay the costs of the present proceedings; and

— order the opposing party to pay all of the costs incurred in the proceedings before the Opposition Division and the Board of Appeal.

Plea in law

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

Action brought on 14 December 2018 — Dalasa v EUIPO — Charité — Universitätsmedizin Berlin (charantea)

(Case T-733/18)

(2019/C 54/47)

Language in which the application was lodged: German

Parties

Applicant: Dalasa Handelsgesellschaft mbH (Vienna, Austria) (represented by: I. Hödl, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Charité — Universitätsmedizin Berlin, Gliedkörperschaft Öffentlichen Rechts (Berlin, Germany)

Details of the proceedings before EUIPO

Applicant for the mark at issue: Applicant

Mark at issue: Application for EU figurative mark charantea — Application for registration No 15 785 801

Proceedings before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 15 October 2018 in Case R 540/2018-4

Form of order sought

The applicant claims that the Court should:

— uphold the action, alter the contested decision of the Fourth Board of Appeal of 15 October 2018, R 540/2018-4 concerning opposition proceedings B 2 815 978 (EU trade mark application No 15 785 801), reject the opposition, and allow the EU trade mark application to proceed to registration;

in the alternative,

— annul the contested decision of the Fourth Board of Appeal of 15 October 2018, R 540/2018-4 concerning opposition proceedings B 2 815 978 (EU trade mark application No 15 785 801) and refer the case back to EUIPO;

— in any event, order EUIPO to pay the costs of the present proceedings; and

— order the opposing party to pay all the costs incurred in the proceedings before the Opposition Division and the Board of Appeal.

Plea in law

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

Action brought on 17 December 2018 — Siberia Oriental v CPVO (Siberia)

(Case T-737/18)

(2019/C 54/48)

Language of the case: English

Parties

Applicant: Siberia Oriental BV ('t Zand, Netherlands) (represented by: T. Overdijk, lawyer)

Defendant: Community Plant Variety Office (CPVO)

Details of the proceedings before CPVO

Community plant variety right at issue: Community plant variety right No EU0404 ('Siberia' variety of Lilium L.)

Contested decision: Decision of the Board of Appeal of CPVO of 15 October 2018 in Case A 009/2017

Form of order sought

The applicant claims that the Court should:

— annul or set aside the contested decision;

— order CPVO to change the expiration date in the Register to 30 April 2020.

Pleas in law

— Infringement of essential procedural requirements;

— Infringement of Council Regulation (EC) No 2100/94 or any rule of law relating to its application, including the Treaty on the European Union and the Treaty on the Functioning of the European Union.

Order of the General Court of 7 December 2018 — Kibelisa v Council

(Case T-139/17) ([1])

(2019/C 54/49)

Language of the case: French

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

([1]) OJ C 129, 24.4.2017.

Order of the General Court of 7 December 2018 — Kampete v Council

(Case T-140/17) ([1])

(2019/C 54/50)

Language of the case: French

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

([1]) OJ C 129, 24.4.2017.

Order of the General Court of 7 December 2018 — Amisi Kumba v Council

(Case T-141/17) ([1])

(2019/C 54/51)

Language of the case: French

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

([1]) OJ C 129, 24.4.2017.

Order of the General Court of 7 December 2018 — Kaimbi v Council

(Case T-142/17) ([1])

(2019/C 54/52)

Language of the case: French

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

([1]) OJ C 129, 24.4.2017.

Order of the General Court of 7 December 2018 — Ilunga Luyoyo v Council

(Case T-143/17) ([1])

(2019/C 54/53)

Language of the case: French

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

([1]) OJ C 129, 24.4.2017.

Order of the General Court of 7 December 2018 — Numbi v Council

(Case T-144/17) ([1])

(2019/C 54/54)

Language of the case: French

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

([1]) OJ C 129, 24.4.2017.

Order of the General Court of 7 December 2018 — Kanyama v Council

(Case T-145/17) ([1])

(2019/C 54/55)

Language of the case: French

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

([1]) OJ C 129, 24.4.2017.

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