



Reports of Cases

Order of the General Court (Eighth Chamber) of 17 December 2020 – Wagenknecht v Commission

(Case T-350/20)

(Action for failure to act – Protection of the European Union’s financial interests – Combating fraud – Meetings of the College of European Commissioners and its President with the representative of the Czech Republic – Multiannual Financial Framework 2021-2027 – Financial regulation – Direct payments from the EU budget in favour of farmers – Alleged conflict of interest of the Prime Minister of the Czech Republic – Alleged failure to act by the Commission – Article 130(1) of the Rules of Procedure – Interest in bringing proceedings – Locus standi – Definition of the Commission’s position – Inadmissibility)

1. *EU institutions – Right of public access to documents – Regulation No 1049/2001 – Exceptions to the right of access to documents – Protection of legal advice – Overriding public interest justifying the disclosure of documents – Burden of proof – Production before the General Court of opinions of the legal services of EU institutions – Conditions*

(European Parliament and Council Regulation No 1049/2001, Art. 4(2))

(see paras 16-24)

2. *Actions for failure to act – Natural or legal persons – Measures of direct and individual concern to them – Failure by the European Commission to adopt binding measures aimed at preventing or addressing the alleged conflict of interest of the Prime Minister of a Member State – Action brought by a member of the Senate of the Member State concerned – Person concerned not affected directly and individually – Inadmissibility*

(Art. 265, third para., TFEU)

(see paras 29-31)

3. *Actions for failure to act – Position taken within the meaning of Article 265, second para., TFEU before the action brought – Concept – Refusal to act in accordance with the invitation to act – Included*

(Art. 265, second para., TFEU)

(see paras 32-35)

Re:

Application under Article 265 TFEU for a declaration that the Commission unlawfully failed to act on the applicant's request to adopt, by virtue of Article 325(1) and Article 319(3) TFEU and of Article 61(1) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ 2018 L 193, p. 1), binding and dissuasive measures designed to prevent or deal with the alleged conflict of interests of Mr Andrej Babiš, the Prime Minister of the Czech Republic, in particular, first, by preventing the Members of the College of Commissioners, particularly its President, from meeting Mr Babiš and discussing with him questions connected with the Multiannual Financial Framework of the European Union for 2021-2027 and with the EU budget in general and, second, by adopting measures intended to put an end to the direct payments of agricultural aid from the EU budget in favour of certain companies over which Mr Babiš exercises control and of which he is the effective proprietor.

Operative part

1. No regard is to be had to the document produced as Annex A.9 and passages from the application referring to the content of that document.
2. The action is dismissed as inadmissible.
3. Mr Lukáš Wagenknecht is ordered to pay the costs.