

SUMMARY

of the Application for annulment of 22 October 2021

in Case

MARGRETE AUKEN,

TILLY METZ,

JUTTA PAULUS,

MICHÈLE RIVASI,

and

KIMBERLY VAN SPARRENTAK

v

EUROPEAN COMMISSION

I. PARTIES

Applicants:

Mrs. Margrete Auken, Mrs. Tilly Metz, Mrs. Jutta Paulus, Mrs. Michèle Rivasi and
Mrs. Kimberly van Sparrentak

Defendant:

European Commission (Commission)

II. SUBJECT-MATTER

With the application, the Applicants seek the annulment of the Commission's implied decision on the Applicants' confirmatory application of 30 June 2021, against Commission decision of 9 June 2021 (ref. ARES(2021)3768741) to partially deny access to the documents requested by the Applicants by letter of 20 January 2021.

III. FORM OF ORDER SOUGHT

The Applicants respectfully request the General Court to:

- I. annul the Commission's implied negative decision to the Applicants' confirmatory application of 30 June 2021;
- II. order the Commission to pay the costs of the proceedings.

IV. PLEAS IN LAW AND MAIN ARGUMENTS

In support of the Order sought the Applicants rely on the following arguments and pleas in law:

1. First plea in law

Undue application of exceptions under Article 4(2) first indent of Regulation 1049/2001¹ as part of the information in Advanced Purchase Agreements (APAs) and Purchase Agreements (PAs) for COVID-19 vaccines concluded between the Commission and pharmaceutical companies does not qualify as information of commercial interest, even more as the exception of commercial interest is to be interpreted strictly.

2. Second plea in law, ground for annulment:

Failure of the Commission to justify the application of exceptions under Article 4 of Regulation 1049/2001 and violation of Regulation 1049/2001 as no strict interpretation and appliance of Article 4(2) first indent and Article 4(3) of Regulation 1049/2001 was followed by the Commission.

3. Third plea in law, ground for annulment

Incoherent application and therefor violation of Regulation 1049/2001, specifically of Articles 4(2) and (3) of the Regulation

4. Fourth plea in law, ground for annulment

The Commission wrongly did not take into account that there is an overriding public interest in the disclosure of the requested information. The Commission violated in this respect Articles 4(2) and 4(3) of Regulation 1049/2001

5. Fifth plea in law, ground for annulment

The implied Commission decision violates the Articles 52(3) of the Charter of Human Rights and Article 10(1) of the Convention for the Protection of Human Rights and Fundamental Freedoms

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