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### INFORMATION NOTE

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From:	Legal Service
To:	Permanent Representatives Committee (Part 2)
Subject:	Cases before the General Court of the European Union <ul style="list-style-type: none"><li>– Case T-115/23 (University of Debrecen v. Council of the European Union)</li><li>– Application for interim measures (T-115/23 R)</li><li>– Case T-132/23 (Óbuda University v. Council of the European Union and European Commission)</li><li>– Case T-133/23 (University of Veterinary Medicine Budapest v. Council of the European Union and European Commission)</li><li>– Case T-138/23 (Semmelweis University v. Council of the European Union)</li><li>– Case T-139/23 (University of Miskolc v. Council of the European Union and European Commission)</li><li>– Case T-140/23 (University of Dunaújváros v. Council of the European Union and European Commission)</li></ul>

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### **DOCUMENT PARTIALLY ACCESSIBLE TO THE PUBLIC (10.05.2023)**

1. With applications notified to the Council respectively on 9 March (T-115/23), 20 March (T-132/23, T-133/23 and T-38/23) and 21 March (T-139/23 and T-140/23), the six Applicants named in the subject of this note have brought individual actions under Article 263 TFEU for the annulment of Article 2, paragraph 2, of Council Implementing Decision (EU) 2022/2506 of 15 December 2022 on measures for the protection of the Union budget

against breaches of the principles of the rule of law in Hungary (the contested provision)<sup>1</sup>.

The content of the actions can be summarised as follows.

2. The Applicants in Cases T-132/23, T-133/23, T-139/23, and T-140/23 base their actions on identical pleas. They claim, in essence, that the contested provision infringes Article 5(3) of Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (“Conditionality Regulation”)<sup>2</sup>, as it fails to establish how the situations or conducts of the Applicants are relevant to the sound financial management of the Union budget or the protection of the financial interests of the EU in a sufficiently direct way.  
With the same plea, the Applicants claim that the Council failed to establish the proportionality of the measure set out in the contested provision and to provide adequate reasons for it. With additional pleas, the Applicants also claim that the contested provision violates Article 48 of the Charter of Fundamental Rights of the European Union (“the Charter”) (Presumption of innocence and right of defence), Articles 20 and 21 of the Charter (Equality before the law and non-discrimination, respectively), Articles from 101 to 108 TFEU (Rules on competition) in conjunction with Article 16 of the Charter (Freedom to conduct a business), as well as the principle of legal certainty, the principle of legitimate expectations and essential procedural requirements. In addition, the Applicants raise exceptions of illegality of the Conditionality Regulation pursuant to Article 277 TFEU as far as it fails to provide for a system of individual exemptions or procedural guarantees for individuals affected by the measures for the protection of the budget.
3. The Applicant in Case T-138/23 challenges the legality of the contested provision by claiming that its adoption results from a lack of a sufficiently solid factual basis, is based on manifest errors of assessment, and is devoid of any statement of reasons (first plea). In addition, the Applicant claims that the contested provision has been adopted in breach of its right to be heard (second plea), violates the conditions for the application of the Conditionality Regulation and constitutes a misuse of power (third plea), infringes the principle of proportionality (fourth plea), and distorts the market of higher education (fifth plea).

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<sup>1</sup> OJ L 325, 20.12.2022, p. 94.

<sup>2</sup> OJ L 433I, 22.12.2020, p. 1.

4. Finally, the Applicant in Case T-115/23 seeks the annulment of the contested provision by claiming the violation of a wide set of Treaty provisions, including – but not limited to – Article 2 TEU (Founding values of the Union), Article 5 TEU (Principle of conferral), Article 7 TEU (Procedure for the protection of the Union founding values), Article 9 TEU (Principle of equality), Article 11 TEU (Consistency and transparency of Union actions), Article 56 TFEU (Freedom to provide services), Article 179 TFEU (Establishment of a European Research Area), and Article 13 of the Charter (Academic freedom). The Applicant further claims that the Council violated its right to be heard, failed to carry out an impact assessment and failed to take into account its individual situation during the procedure leading to the adoption of the contested provision.
5. It is also worth highlighting that, with separate application notified to the Council on 3 March 2023, the Applicant in Case T-115/23 has filed a request for interim measures pursuant to Article 279 TFEU and Article 156 of the Rules of Procedure of the General Court, seeking an order suspending the effect of the contested Decision (T-115/23 R). On 17 March 2023, according to Article 157(1) of the Rules of procedure of the General Court, the Council has submitted observations concerning the request for interim measures.
6. According to Article 46 of the Rules of procedure of the General Court, the Council has to lodge a statement of defence within two months of receipt of the notification of the applications in the cases mentioned in the subject.
7. The Director-General of the Council Legal Service has appointed:
- **DELETED**, members of the Council Legal Service, as the Council’s agents in cases T-115/23 and,
  - **DELETED**, members of the Council Legal Service, as the Council’ agents in cases T-132/23, T-133/23, T-138/23, T-139/23 and T-140/23.
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