Reports of Cases

ORDER OF THE GENERAL COURT (Third Chamber)

3 February 2025*

(Action for annulment – Decision 2006/928/EC – Mechanism for cooperation and verification of progress in Romania to address specific benchmarks in the areas of judicial reform and the fight against corruption – Decision (EU) 2023/1786 repealing Decision 2006/928 – No direct concern – Inadmissibility)

In Case T-1126/23,

**Asociația Inițiativa pentru Justiție**, established in Constanța (Romania), represented by V.-D. Oanea, lawyer, and C. Zatschler, Senior Counsel,

applicant,

v

**European Commission**, represented by K. Herrmann, T. Maxian Rusche, P. Van Nuffel and I. Rogalski, acting as Agents,

defendant,

THE GENERAL COURT (Third Chamber),

composed of P. Škvařilová-Pelzl, acting as President, I. Nõmm and D. Kukovec (Rapporteur), Judges,

Registrar: V. Di Bucci,

having regard to the written part of the procedure, in particular:

– the plea of inadmissibility raised by the Commission by separate document lodged at the Court Registry on 19 February 2024,

– the applicant's observations on the plea of inadmissibility lodged at the Court Registry on 11 April 2024,

– Romania's application to intervene lodged at the Court Registry on 22 February 2024,

makes the following

* Language of the case: English.

## Order

1 By its action under Article 263 TFEU, the applicant, Asociația Inițiativa pentru Justiție, seeks the annulment of Commission Decision (EU) 2023/1786 of 15 September 2023 repealing Decision 2006/928/EC establishing a mechanism for cooperation and verification of progress in Romania to address specific benchmarks in the areas of judicial reform and the fight against corruption (OJ 2023 L 229, p. 94; 'the contested decision').

### Background to the dispute and the contested decision

2 The present case has arisen against the background of a wide-ranging reform in the areas of justice and the fight against corruption in Romania, a reform which had been monitored at EU level since 2007 under the cooperation and verification mechanism established by Commission Decision 2006/928/EC of 13 December 2006 establishing a mechanism for cooperation and verification of progress in Romania to address specific benchmarks in the areas of judicial reform and the fight against corruption (OJ 2006 L 354, p. 56) on the occasion of Romania's accession to the European Union ('the CVM').

3 The applicant is a professional association of prosecutors established on 14 November 2018, the purpose of which is to ensure respect for the value of the rule of law in Romania by guaranteeing, inter alia, respect for the rights of prosecutors and their independence.

4 On 13 December 2006, the Commission of the European Communities adopted Decision 2006/928 on the basis, inter alia, of Articles 37 and 38 of the Act concerning the conditions of accession of the Republic of Bulgaria and Romania and the adjustments to the Treaties on which the European Union is founded (OJ 2005 L 157, p. 203; 'the Act of Accession'). Those articles empower the Commission to take appropriate measures in the event, respectively, of imminent risk of a serious breach of the functioning of the internal market due to Romania's failure to honour commitments undertaken in the context of the accession negotiations and of imminent risk of serious shortcomings by Romania with regard to its compliance with EU law in the area of freedom, security and justice.

5 As the Court of Justice noted, inter alia, in the judgment of 18 May 2021, *Asociația 'Forumul Judecătorilor din România' and Others* (C-83/19, C-127/19, C-195/19, C-291/19, C-355/19 and C-397/19, EU:C:2021:393, paragraphs 157 and 158), Decision 2006/928 constitutes such a measure, which was adopted because of the existence of imminent risks of the kind referred to in Articles 37 and 38 of the Act of Accession. As is apparent from its monitoring report of 26 September 2006 on the state of preparedness for EU membership of Bulgaria and Romania (COM(2006) 549 final), referred to in recital 4 of that decision, the Commission had noted the persistence of deficiencies in Romania, in particular in the areas of justice and the fight against corruption, and proposed that the Council of the European Union should make the accession of that State subject to the establishment of a mechanism for cooperation and verification.

6 The annex to Decision 2006/928 set out four benchmarks to be addressed by Romania in relation to, inter alia, judicial reform and the fight against corruption in order to resolve those deficiencies and to ensure the capacity of law enforcement bodies to implement and apply the measures adopted to contribute to the functioning of the internal market and the area of freedom, security and justice. More specifically, the first of those benchmarks read as follows:

'[Romania must] ensure a more transparent, and efficient judicial process notably by enhancing the capacity and accountability of the Superior Council of Magistracy. Report and monitor the impact of the new civil and penal procedures codes.'

7 Articles 1 and 2 of Decision 2006/928 provided that Romania was to report to the Commission, on an annual basis, on the progress made in addressing each of the benchmarks referred to in the annex to that decision. For its part, the Commission had to draw up, at least every six months, reports addressed to the European Parliament and the Council containing its own comments and findings on Romania's reports.

8 In accordance with Article 4 thereof, Decision 2006/928 was addressed to all Member States, which included Romania as from its accession.

9 According to recital 9 thereof, that decision was to be repealed when all the benchmarks were satisfactorily fulfilled.

10 On 15 September 2023, the Commission adopted the contested decision.

11 As is apparent from recitals 7 to 9 of that decision, the Commission considered, in essence, that, in the light of the progress made by Romania under the CVM, as stated in the Commission's report of 22 November 2022 to the Parliament and the Council (COM(2022) 664 final), in particular the progress relating to strengthening the independence and effectiveness of the judiciary through a comprehensive overhaul of the judicial system, that Member State had fulfilled the commitments made at the time of its accession to the European Union and the four benchmarks set out in Decision 2006/928 had been satisfactorily complied with.

12 Furthermore, as stated in recital 10 of the contested decision, the Commission will pursue the implementation of reforms by both Romania and the other Member States through the annual Rule of Law cycle, launched by its Communication of 17 July 2019 to the Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, entitled 'Strengthening the rule of law within the Union – A blueprint for action' (COM(2019) 343 final). As part of that cycle, the Commission will continue to draw up annual reports on the rule of law, including, inter alia, recommendations addressed to Member States.

13 In accordance with Article 1 of the contested decision, Decision 2006/928 is repealed.

## Forms of order sought

14 The applicant claims that the Court should:

– annul the contested decision;

– order the Commission to pay the costs.

15 In the plea of inadmissibility, lodged pursuant to Article 130(1) of the Rules of Procedure of the General Court, the Commission contends that the Court should:

– dismiss the action as manifestly inadmissible;

– order the applicant to bear the costs of the proceedings.

16 In its observations on the plea of inadmissibility, the applicant claims that the Court should:

– reject the Commission's plea of inadmissibility;

– in the alternative, reserve its decision on the plea of inadmissibility until it rules on the substance of the case;

– order the Commission to pay the costs relating to the plea of inadmissibility.

17 By document lodged at the Court Registry on 22 February 2024, Romania applied, pursuant to Article 143 of the Rules of Procedure, for leave to intervene in support of the Commission.

**Law**

18 Under Article 130(1) and (7) of the Rules of Procedure, on application by the defendant, the General Court may decide on inadmissibility or lack of competence without going to the substance of the case. In the present case, as the Commission has applied for a decision on inadmissibility, the Court, considering that it has sufficient information available to it from the material in the file on the case, has decided to rule on that application without taking further steps in the proceedings.

19 The Commission contends that the present action is inadmissible, asserting, primarily, a lack of direct concern to either the applicant or any of its members. In the alternative, it submits that the contested decision does not constitute a regulatory act, within the meaning of the third limb of the fourth paragraph of Article 263 TFEU, and that neither the applicant nor any of its members is individually concerned by that decision.

20 The applicant disputes those assertions. In addition, it submits, as regards the admissibility of its action both in its own name and on behalf of the prosecutors whose interests it defends, that, having regard to the particular features of the present case, the conditions of admissibility, as set out in the current case-law, should be applied with some flexibility.

21 It must be recalled at the outset that, under the fourth paragraph of Article 263 TFEU, any natural or legal person may institute proceedings against an act addressed to that person or which is of direct and individual concern to them, and against a regulatory act which is of direct concern to them and does not entail implementing measures.

22 In the present case, it must be stated that the applicant is not the addressee of the contested decision for the purposes of the first situation referred to in the fourth paragraph of Article 263 TFEU.

23 It is therefore necessary to determine whether that decision is of direct concern to the applicant or to any of its members.

24 In accordance with settled case-law, actions for annulment brought by associations have been held to be admissible in three types of situation: first, where a legal provision expressly grants a series of procedural powers to trade associations; second, where the association represents the interests of its members, who would themselves be entitled to bring proceedings; and, third, where the association is distinguished individually because its own interests as an association are affected, in particular because its negotiating position has been affected by the act in respect of which annulment is sought (see order of 8 May 2019, *Carvalho and Others* v *Parliament and Council*, T-330/18, not published, EU:T:2019:324, paragraph 51 and the case-law cited).

***The admissibility of the action of the applicant acting in its own name***

25 First of all, the applicant claims that it is a formally recognised organisation representing prosecutors, whose mission is to defend the independence of the judiciary and, more generally, the value of the rule of law. By virtue of its role in upholding Articles 2 and 19 TEU, it has an institutional interest in defending that value as well as a procedural interest in judicial proceedings concerning compliance with and the strengthening of that value. Next, the applicant claims that it was a privileged interlocutor of the Commission in the context of monitoring and drawing up reports in connection with the CVM, with the result that the repeal of Decision 2006/928, without the applicant having been consulted in advance, infringed its legitimate expectations. Lastly, the applicant submits that the contested decision is of direct concern to it, inasmuch as the repeal of Decision 2006/928 undermines its work in relation to the protection of the rule of law.

26 The Commission disputes the applicant's arguments.

27 As regards the first type of situation set out in the case-law referred to in paragraph 24 above, the applicant does not rely on the existence of legal provisions which expressly grant it procedural powers and there is nothing in the file to support the conclusion that such provisions exist.

28 Furthermore, in so far as the applicant's line of argument set out in paragraph 25 above must be interpreted as meaning that, in order to ensure effective judicial protection for prosecutors, in particular with regard to the value of the rule of law enshrined in Article 2 TEU, it would be appropriate to grant the applicant certain procedural powers, it must be stated that no legal provision has conferred on it any powers to ensure such protection in the context of the CVM. Accordingly, the admissibility of its action cannot be established on the basis of the first type of situation set out in paragraph 24 above.

29 As regards the third type of situation set out in the case-law referred to in paragraph 24 above, relating to the effect on the own interests of associations, in particular as negotiators, it must be noted that the applicant has not relied on such an effect in its case, referring solely to its role as the Commission's interlocutor in the context of the CVM.

30 The fact that it was an 'interlocutor' of the Commission in that context is not sufficient to confer on it the status of negotiator, for the purposes of the case-law referred to in paragraph 24 above, in the specific context of the adoption of the contested decision. Accordingly, the admissibility of its action cannot be established on the basis of the third type of situation set out in that paragraph.

31 In the light of the foregoing, it must be concluded that the applicant does not satisfy the conditions relating to the first or third type of situation set out in paragraph 24 above and is therefore not entitled to bring proceedings in its own name.

32 That conclusion cannot, moreover, be called into question by the applicant's argument that the repeal of Decision 2006/928 by the contested decision has infringed its legitimate expectations.

33 In that regard, it must be borne in mind that, according to settled case-law, the right to rely on the principle of the protection of legitimate expectations extends to any person in a situation in which an EU institution has caused that person to entertain expectations which are justified by precise assurances provided to him or her. Regardless of the form in which it is communicated, precise, unconditional and consistent information which comes from an authorised and reliable source constitutes such assurances. By contrast, a person may not plead breach of that principle unless he has been given precise assurances by the authorities (see judgment of 8 May 2024, *VB* v *ECB*, T-124/23, not published, EU:T:2024:294, paragraph 60 and the case-law cited).

34 In the present case, the applicant has not stated in what way the Commission had given it precise, unconditional and consistent assurances, within the meaning of the case-law cited in paragraph 33 above, that Decision 2006/928 would not be repealed. Furthermore, it should be stated that the repeal of that decision was to be expected given that, in accordance with the second paragraph of Article 37 and the second paragraph of Article 38 of the Act of Accession, the CVM had been introduced only as a provisional measure.

***The admissibility of the action of the applicant acting on behalf of its members, whose interests it defends***

35 Under the second type of situation set out in the case-law referred to in paragraph 24 above, associations are entitled to bring proceedings where they represent the interests of their members who themselves are entitled to bring proceedings.

36 In the present case, the applicant submits, in essence, that the contested decision directly affects its members, in their capacity as prosecutors, since the lifting of the CVM by that decision could increase their exposure to disciplinary proceedings.

37 In addition, relying on the fact that the Court of Justice held, in the judgment of 18 May 2021, *Asociația 'Forumul Judecătorilor din România' and Others* (C-83/19, C-127/19, C-195/19, C-291/19, C-355/19 and C-397/19, EU:C:2021:393, paragraph 249), that the benchmarks referred to in the annex to Decision 2006/928 had direct effect, the applicant submits that those benchmarks confer on prosecutors rights with direct effect, on which they could rely, inter alia, in order to challenge illegitimate disciplinary actions.

38 Thus, the repeal of Decision 2006/928 has the effect, according to the applicant, of curtailing the rights which prosecutors who are the subject of such disciplinary actions can invoke in their defence. The applicant claims, moreover, that, although its members may still rely on Article 19(1) TEU and Article 325(1) TFEU to defend themselves against illegitimate disciplinary actions, the fact remains that the rights conferred by those provisions are less effective and less extensive than those which they enjoyed under the CVM.

39 In that regard, the applicant submits, in essence, that the material scope of Decision 2006/928 was broader than that of Article 325(1) TFEU, in that the obligation for Romania, stemming from the final three benchmarks, effectively to combat corruption, and in particular high-level corruption, was not limited to cases of corruption affecting the European Union's financial interests. Thus, according to the applicant, Decision 2006/928 was better suited to triggering the applicability of the Charter of Fundamental Rights of the European Union ('the Charter'), by ensuring that the condition relating to implementation of EU law, within the meaning of Article 51(1) of the Charter, was satisfied.

40 The Commission disputes the applicant's arguments.

41 According to settled case-law, in order for a natural or legal person to be directly concerned by the measure being challenged, two cumulative criteria must be met, namely, first, the contested measure must directly affect the legal situation of that person and, second, it must leave no discretion to its addressees who are entrusted with the task of implementing it, such implementation being purely automatic and resulting from EU rules alone without the application of other intermediate rules (see judgment of 12 July 2022, *Nord Stream 2* v *Parliament and Council*, C-348/20 P, EU:C:2022:548, paragraph 43 and the case-law cited).

42 In order to determine whether an act produces effects on the legal situation of a person and may, accordingly, form the subject matter of an action for annulment under Article 263 TFEU, it is necessary to examine the substance of that act and to assess those effects in the light of objective criteria, such as the content of that act, taking into account, as appropriate, the context in which it was adopted and the powers of the institution which adopted the act (see, to that effect, judgment of 12 July 2022, *Nord Stream 2* v *Parliament and Council*, C-348/20 P, EU:C:2022:548, paragraph 63 and the case-law cited).

43 In the present case, it must be noted, as a preliminary point, that, as the contested decision repealed Decision 2006/928, it must be examined in the light of the purpose and content of Decision 2006/928 and the legal and factual context in which Decision 2006/928 was adopted (see, to that effect and by analogy, judgment of 24 October 2019, *EPSU and Goudriaan* v *Commission*, T-310/18, EU:T:2019:757, paragraph 25 and the case-law cited). It follows that the contested decision is capable of having direct legal effects on the situation of the Romanian prosecutors who are members of the applicant only in so far as Decision 2006/928 was itself capable of having such effects.

44 In the first place, as regards the purpose of Decision 2006/928 and the context in which it was adopted, as is apparent from recitals 4 and 6 of that decision, the aim of establishing the CVM and setting the benchmarks was to complete Romania's accession to the European Union, in order to remedy the deficiencies identified by the Commission prior to that accession, in particular in the areas of justice and the fight against corruption.

45 Moreover, as the Court of Justice clarified, inter alia, in its judgment of 18 May 2021, *Asociația 'Forumul Judecătorilor din România' and Others* (C-83/19, C-127/19, C-195/19, C-291/19, C-355/19 and C-397/19, EU:C:2021:393, paragraph 170), those benchmarks give concrete expression to the specific commitments undertaken by Romania and the requirements accepted by it at the conclusion of the accession negotiations on 14 December 2004, which are set out in Annex IX to the Act of Accession and concern, in particular, those areas.

46 As regards the purpose and context of the contested decision, it is apparent from Article 1 of that decision, read in the light of recitals 7 to 9 thereof, that it is intended to repeal Decision 2006/928, in so far as the Commission considered that Romania had met its commitments made at the time of its accession to the European Union and that all four benchmarks set out in the annex to that decision had been satisfactorily complied with.

47 In the second place, as regards the content of Decision 2006/928, as was pointed out in paragraphs 6 and 7 above, that decision imposed, in essence, the obligation on Romania to address the benchmarks set out in the annex thereto and to report annually, pursuant to the first paragraph of Article 1 thereof, to the Commission on the progress made in that regard. It also imposed, pursuant to Article 2 thereof, the obligation on the Commission to draw up reports analysing and evaluating Romania's progress against the benchmarks.

48 As regards the content of the contested decision, recitals 4 to 8 thereof highlight the stages of progress made by Romania under the CVM, underpinning the conclusion in recital 9 that the benchmarks set out in Decision 2006/928 were satisfactorily fulfilled. In addition, as noted in paragraph 12 above, recital 10 of the contested decision states, in essence, that the Commission will continue to monitor the reforms required in the various Member States, including Romania, through the annual Rule of Law cycle.

49 It must be added that, in the judgment of 18 May 2021, *Asociația 'Forumul Judecătorilor din România' and Others* (C-83/19, C-127/19, C-195/19, C-291/19, C-355/19 and C-397/19, EU:C:2021:393), after noting in paragraphs 166 and 167 thereof that Decision 2006/928, as a decision adopted under the fourth paragraph of Article 288 TFEU, '[was] binding in its entirety' on Romania, the Court of Justice specified the legal effects of both the benchmarks and the reports drawn up by the Commission on the basis of Article 2 of that decision.

50 As regards the legal effects of the benchmarks, the Court of Justice ruled, in paragraph 172 of the judgment of 18 May 2021, *Asociația 'Forumul Judecătorilor din România' and Others* (C-83/19, C-127/19, C-195/19, C-291/19, C-355/19 and C-397/19, EU:C:2021:393), that those benchmarks were binding on Romania, with the result that it was subject to the specific obligation to address them and to take appropriate measures to meet them as soon as possible. Similarly, the Court held that Romania was required to refrain from implementing any measure which could jeopardise those benchmarks being met. The Court further stated, in paragraph 249 of that judgment, that those benchmarks were formulated in clear and precise terms and were not subject to any condition, with the result that they had direct effect.

51 As regards the legal effects of the reports drawn up by the Commission on the basis of Article 2 of Decision 2006/928, the Court of Justice found that those reports formulated requirements with regard to Romania and made recommendations to it with a view to the benchmarks being met. In accordance with the principle of sincere cooperation set out in Article 4(3) TEU, Romania had to take due account of those requirements and recommendations and to refrain from adopting or maintaining measures in the areas covered by the benchmarks which could jeopardise the result prescribed by those requirements and recommendations.

52 It is unequivocally clear from the information set out in paragraphs 44, 47 and 49 to 51 above that Decision 2006/928 merely imposed on Romania obligations consisting, first, in taking the measures necessary to address the benchmarks set out in the annex to that decision; second, in

submitting to the Commission on an annual basis reports on the progress made in that regard; and, third, in taking due account of the requirements and recommendations made by the Commission in its reports.

53 It follows that, contrary to the applicant's submission, Decision 2006/928 did not confer any rights on the applicant's members, with the result that it cannot be regarded as directly affecting their legal situation. The fact that the Court of Justice held that the benchmarks set out in the annex to that decision had direct effect cannot have any impact in that regard.

54 In support of that conclusion, in the first place, it must be noted that, contrary to the applicant's submission, the fact that the Court of Justice has recognised the direct effect of the benchmarks cannot imply, per se, that those benchmarks necessarily entail corresponding rights for prosecutors, on which they could rely directly before the national courts.

55 In that regard, it should be recalled that the Court of Justice has consistently held that 'wherever the provisions of [an EU act] appear, so far as their subject matter is concerned, to be unconditional and sufficiently precise, they may […] be relied on against any national provision which is incompatible with [that EU act] or in so far as they define rights which individuals are able to assert against the State' (see, to that effect, judgments of 19 January 1982, *Becker*, 8/81, EU:C:1982:7, paragraph 25, and of 28 November 2013, *MDDP*, C-319/12, EU:C:2013:778, paragraph 47 and the case-law cited).

56 The use of the conjunction 'or' implies that the principle of direct effect is not interpreted exclusively in the sense of the case-law arising from the judgment of 5 February 1963, *van Gend & Loos* (26/62, EU:C:1963:1), but also as a condition for the power of national courts to disapply any national legislation or case-law that is contrary to EU law. It is apparent from paragraph 249 of the judgment of 18 May 2021, *Asociația 'Forumul Judecătorilor din România' and Others* (C-83/19, C-127/19, C-195/19, C-291/19, C-355/19 and C-397/19, EU:C:2021:393), in the light of the wording of the third question referred for a preliminary ruling in Case C-195/19 and the analysis carried out by the Court of Justice in respect of that question, that it was from that second perspective that the Court intended to recognise the direct effect of the benchmarks.

57 It follows that the applicant's argument that, on account of their direct effect, the benchmarks confer rights on prosecutors, on which they could rely before the national courts in order to challenge, in particular, illegitimate disciplinary actions, cannot be accepted. Moreover, it must be stated that the applicant has not identified any specific right allegedly granted to prosecutors or, more specifically, to its members.

58 In the second place, the fact that the benchmarks were considered by the Court of Justice to have direct effect cannot mean, as the applicant submits, that they directly affected the legal situation of its members and, consequently, that the same is true of their repeal.

59 In that regard, first of all, it must be noted that the direct effect of the benchmarks cannot mean that individuals may challenge the removal of those benchmarks without demonstrating that that removal in itself has a direct and individual effect on their legal situation, a demonstration which is lacking in the present case.

60 Next, it must be borne in mind that the Courts of the European Union have previously held that the question whether an individual is directly concerned by an EU measure which was not addressed to him or her had to be examined in the light both of the purpose of that measure (see,

to that effect, judgment of 3 April 2003, *Royal Philips Electronics* v *Commission*, T-119/02, EU:T:2003:101, paragraph 276) and of the legal framework arising from that measure. If it follows from the provisions contained in that measure that its effects are confined to relations between the European Union and the Member State to which it is addressed, that measure cannot be regarded as producing legal effects vis-à-vis individuals (see, to that effect, judgment of 4 May 2017, *Green Source Poland* v *Commission*, T-512/14, EU:T:2017:299, paragraphs 35, 37 and 45 to 64).

61 In the present case, it is unequivocally clear from the information set out in paragraphs 44, 45 and 47 above that the purpose of Decision 2006/928 was to ensure that Romania remedied the deficiencies identified prior to accession, in particular in the areas of justice and the fight against corruption, with a view to completing the accession process. It is equally clear from the provisions contained in that decision that its effects were confined to relations between the European Union and Romania, without individuals, including prosecutors, being the subject of that decision, either directly or indirectly.

62 Furthermore, the very wording of the benchmarks suggests that, although those benchmarks govern, inter alia, the organisation of justice in Romania, they are not intended directly to affect the legal situation of Romanian prosecutors, even though, in view of the direct effect of those benchmarks, the national courts, of their own motion or at the request of individuals, including prosecutors, were able, prior to the repeal of Decision 2006/928, to raise the objection that national legislation was contrary to those benchmarks. Moreover, to hold otherwise would mean that the repeal of any EU rule, recognised as having direct effect, directly affects the legal situation of all individuals who were able, prior to that repeal, to rely on that rule against a national rule. Such an extension of the first condition of direct concern cannot be accepted.

63 Lastly, it must be noted that, while the Court of Justice has previously held that, in certain situations, the discretion available to Member States when implementing a provision of an EU act could not, as such, be sufficient to lead to the conclusion that that provision did not have direct effect (see, to that effect, judgments of 21 March 2013, *Salzburger Flughafen*, C-244/12, EU:C:2013:203, paragraph 29 and the case-law cited; of 14 January 2021, *RTS infra and Aannemingsbedrijf Norré-Behaegel*, C-387/19, EU:C:2021:13, paragraph 47 and the case-law cited; and of 8 March 2022, *Bezirkshauptmannschaft Hartberg-Fürstenfeld (Direct effect)*, C-205/20, EU:C:2022:168, paragraphs 16 to 25 and the case-law cited), it follows, by contrast, from its case-law that the existence of discretion prevents the first condition of direct concern from being met (see, to that effect, judgment of 12 July 2022, *Nord Stream 2* v *Parliament and Council*, C-348/20 P, EU:C:2022:548, paragraphs 74 and 76).

64 In the present case, it is apparent from the very nature of the measures that Romania was required to adopt for the purpose of implementing Decision 2006/928, inasmuch as they concerned, in particular, aspects relating to the organisation of its judicial system, that that Member State had discretion in the adoption of those measures. In that regard, it must be recalled that the Court of Justice has consistently held that the organisation of justice in the Member States fell within the competence of those Member States, while stating that, when exercising that competence, the Member States were required to comply with their obligations deriving from EU law (see, to that effect, judgment of 24 June 2019, *Commission* v *Poland (Independence of the Supreme Court)*, C-619/18, EU:C:2019:531, paragraph 52 and the case-law cited).

65 In the light of the foregoing, it must be concluded that Decision 2006/928 did not directly affect the legal situation of the applicant's members.

66 Since, as noted in paragraph 43 above, the scope of the contested decision must be interpreted in the light of that of Decision 2006/928, which it repeals, it must be stated that the contested decision also cannot be regarded as directly affecting the legal situation of the applicant's members.

67 That being so, it must be recalled that, notwithstanding the repeal of Decision 2006/928, prosecutors who are the subject of disciplinary proceedings may still rely on the judicial protection that they derive from EU law, under Article 19 TEU (see, to that effect, judgment of 8 May 2024, *Asociația 'Forumul Judecătorilor din România' (Associations of judges)*, C-53/23, EU:C:2024:388, paragraphs 34 and 39 and the case-law cited).

68 Furthermore, the applicant's argument claiming, in essence, that the repeal, by the contested decision, of Decision 2006/928 directly affects the legal situation of its members, in so far as the latter decision had a broader scope than Article 325(1) TFEU, and that Decision 2006/928 was therefore more likely to trigger the applicability of the Charter in cases relating to the fight against corruption, must be rejected.

69 It must be noted that, as the Commission submits, in essence, in addition to the legislation relating to the protection of the financial interests of the European Union, the EU legislature has adopted a whole series of secondary legislation governing the various aspects of the fight against corruption in general, such as, in particular, the Convention drawn up on the basis of Article K.3(2)(c) of the Treaty on European Union on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union (OJ 1997 C 195, p. 2) and Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector (OJ 2003 L 192, p. 54). Furthermore, it must be borne in mind that, in the case that gave rise to the judgment of 25 January 2024, *Parchetul de pe lângă Curtea de Apel Craiova* (C-58/22, EU:C:2024:70, paragraph 42), which concerned a corruption case in which the referring court had submitted questions to the Court of Justice in the light, inter alia, of the benchmarks referred to in the annex to Decision 2006/928, the Court held that the condition of the implementation of EU law, within the meaning of Article 51(1) of the Charter, was satisfied by means of the abovementioned framework decision, without it being necessary to rule on the possible relevance of the benchmarks set out in the annex to Decision 2006/928. It follows that, contrary to the applicant's argument, the Charter is applicable to cases relating to the fight against corruption, irrespective of the repeal of Decision 2006/928.

70 It follows from all the foregoing that the contested decision does not directly affect the legal situation of the applicant's members. Accordingly, the applicant cannot be regarded as being directly affected by that decision.

71 Given that the conditions laid down in the second limb of the fourth paragraph of Article 263 TFEU, as recalled in paragraph 41 above, are cumulative, it must be stated, without it being necessary to adopt a position on the second condition referred to in that provision, that the applicant cannot have standing to bring an action for annulment of the contested decision.

72 Moreover, nor can the applicant rely on the third limb of the fourth paragraph of Article 263 TFEU, relating to regulatory acts, on the ground that the prosecutors whose interests it defends have standing to bring proceedings on the basis of that third limb. The condition that an applicant must be directly concerned by the act being challenged has the same meaning both in the second limb of the fourth paragraph of Article 263 TFEU and in the third limb thereof (see, to that effect, judgment of 12 July 2022, *Nord Stream 2* v *Parliament and Council*, C-348/20 P,

EU:C:2022:548, paragraph 73). In those circumstances, in the absence of the contested decision being of direct concern, there is no need to examine whether that decision constitutes a regulatory act within the meaning of the third limb of the fourth paragraph of Article 263 TFEU.

73 In the light of the foregoing, and given that the prosecutors whose interests the applicant defends do not themselves have standing to bring proceedings, the applicant has also failed to satisfy the conditions for its action to be admissible under the second type of situation, referred to in the case-law set out in paragraph 24 above.

***The easing of the conditions of admissibility***

74 According to the applicant, it is necessary, in circumstances such as those of the present case, to ease the conditions of admissibility of the action. It argues that the conditions of admissibility should be applied with some flexibility, in particular because of the requirements relating to effective judicial protection and the rule of law, the latter being a founding value of the European Union and forming part of its very identity. In addition, relying on the judgment of the European Court of Human Rights of 9 April 2024, *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* (CE:ECHR:2024:0409JUD005360020), in which that court accepted, on the basis of Article 6(1) of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 ('the ECHR'), the standing to bring proceedings of an association established with the aim of promoting and implementing effective climate protection measures, the applicant submits, in essence, that, in so far as the considerations relating to the protection of the value of the rule of law are of equivalent importance to those relating to climate protection, the approach set out in that judgment should apply *mutatis mutandis* in the present case. Furthermore, an alignment of the requirements for associations to have standing to bring proceedings would, it submits, be preferable with a view to the European Union's accession to the ECHR.

75 It should be noted that, while it is true that the conditions of admissibility laid down in the fourth paragraph of Article 263 TFEU must be interpreted in the light of the fundamental right to effective judicial protection, such an interpretation must not have the effect of setting aside the conditions expressly laid down in that Treaty (see judgments of 3 October 2013, *Inuit Tapiriit Kanatami and Others* v *Parliament and Council*, C-583/11 P, EU:C:2013:625, paragraph 98 and the case-law cited, and of 28 April 2015, *T & L Sugars and Sidul Açúcares* v *Commission*, C-456/13 P, EU:C:2015:284, paragraph 44 and the case-law cited).

76 In particular, the protection conferred by Article 47 of the Charter is not intended to change the system of judicial review laid down by the Treaties, and particularly the rules relating to the admissibility of direct actions brought before the Courts of the European Union (see judgment of 3 October 2013, *Inuit Tapiriit Kanatami and Others* v *Parliament and Council*, C-583/11 P, EU:C:2013:625, paragraph 97 and the case-law cited).

77 Furthermore, the protection conferred by Article 47 of the Charter does not require that an individual should have an unconditional entitlement to bring an action for annulment of EU acts directly before the Courts of the European Union (judgment of 28 October 2020, *Associazione GranoSalus* v *Commission*, C-313/19 P, not published, EU:C:2020:869, paragraph 62).

78 In the present case, as is apparent from paragraphs 31 and 73 above, the applicant cannot claim, either in its own name or on behalf of its members whose interests it defends, that the contested decision is of direct concern to it.

79 Furthermore, as regards the applicant's reference to the approach followed by the European Court of Human Rights, having regard to Article 6(1) of the ECHR, in the judgment referred to in paragraph 74 above, it is sufficient to recall that whilst, as Article 6(3) TEU confirms, fundamental rights recognised by the ECHR constitute general principles of EU law and whilst Article 52(3) of the Charter provides that the rights contained in the Charter which correspond to rights guaranteed by the ECHR are to have the same meaning and scope as those laid down by the ECHR, the latter does not constitute, for as long as the European Union has not acceded to it, a legal instrument which has been formally incorporated into EU law. According to the explanations relating to Article 52 of the Charter, Article 52(3) thereof is intended to ensure the necessary consistency between the Charter and the ECHR, 'without thereby adversely affecting the autonomy of Union law and … that of the Court of Justice of the European Union' (see judgment of 2 September 2021, *LG and MH (Self-laundering)*, C-790/19, EU:C:2021:661, paragraph 75 and the case-law cited).

80 In those circumstances, an easing of the conditions of admissibility, as sought by the applicant, would in fact mean setting aside the condition of direct concern expressly laid down in the fourth paragraph of Article 263 TFEU, which would be contrary to the case-law referred to in paragraph 75 above.

81 It should be added that judicial review of compliance with the European Union legal order is, in any event, ensured, as can be seen from Article 19(1) TEU, not only by the Court of Justice but also by the courts and tribunals of the Member States. The FEU Treaty has, by Articles 263 and 277 thereof, on the one hand, and Article 267 thereof, on the other, established a complete system of legal remedies and procedures designed to ensure judicial review of the legality of EU acts and has entrusted such review to the European Union judicature (see judgment of 28 April 2015, *T & L Sugars and Sidul Açúcares* v *Commission*, C-456/13 P, EU:C:2015:284, paragraph 45 and the case-law cited).

82 In that connection, it must be emphasised that, in proceedings before the national courts, individual parties have the right to challenge before the courts the legality of any decision or other national measure relative to the application to them of a European Union act of general application by pleading the invalidity of such an act (see judgment of 28 April 2015, *T & L Sugars and Sidul Açúcares* v *Commission*, C-456/13 P, EU:C:2015:284, paragraph 46 and the case-law cited).

83 It follows that requests for a preliminary ruling which seek to ascertain the validity of a measure constitute, like actions for annulment, means for reviewing the legality of European Union acts (see judgment of 28 April 2015, *T & L Sugars and Sidul Açúcares* v *Commission*, C-456/13 P, EU:C:2015:284, paragraph 47 and the case-law cited).

84 In that regard, it should be borne in mind that, where a national court or tribunal considers that one or more arguments for invalidity of a European Union act, put forward by the parties or, as the case may be, raised by it of its own motion, are well founded, it is incumbent upon it to stay proceedings and to make a reference to the Court of Justice for a preliminary ruling on the act's validity, the Court alone having jurisdiction to declare a European Union act invalid (see judgment of 28 April 2015, *T & L Sugars and Sidul Açúcares* v *Commission*, C-456/13 P, EU:C:2015:284, paragraph 48 and the case-law cited).

85 As regards persons who do not fulfil the requirements of the fourth paragraph of Article 263 TFEU for bringing an action before the Courts of the European Union, it is for the Member States to establish a system of legal remedies and procedures which ensure respect for the fundamental right to effective judicial protection (see judgment of 28 April 2015, *T & L Sugars and Sidul Açúcares* v *Commission*, C-456/13 P, EU:C:2015:284, paragraph 49 and the case-law cited).

86 That obligation on the part of the Member States was reaffirmed by the second subparagraph of Article 19(1) TEU, which states that Member States 'shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law'. That obligation also follows from Article 47 of the Charter as regards measures taken by the Member States to implement Union law within the meaning of Article 51(1) of the Charter (see judgment of 28 April 2015, *T & L Sugars and Sidul Açúcares* v *Commission*, C-456/13 P, EU:C:2015:284, paragraph 50 and the case-law cited).

87 In the light of the foregoing, the plea of inadmissibility raised by the Commission must be upheld and the action must be dismissed as inadmissible.

***The application to intervene lodged by Romania***

88 In accordance with Article 144(3) of the Rules of Procedure, where the defendant lodges a plea of inadmissibility or of lack of competence, as provided in Article 130(1) of those rules, a decision on the application to intervene is not to be given until after the plea has been rejected or the decision on the plea reserved. In addition, pursuant to Article 142(2) of those rules, the intervention is to become devoid of purpose if, inter alia, the application is declared inadmissible.

89 Since the plea of inadmissibility has been upheld in the present case and the present order therefore closes the proceedings, there is no longer any need to adjudicate on the application to intervene submitted by Romania.

**Costs**

90 Under Article 134(1) of the Rules of Procedure of the General Court, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the applicant has been unsuccessful, it must be ordered to pay the costs, in accordance with the form of order sought by the Commission.

91 Furthermore, pursuant to Article 144(10) of the Rules of Procedure, Romania is to bear its own costs relating to its application to intervene.

On those grounds,

THE GENERAL COURT (Third Chamber)

hereby orders:

**1. The action is dismissed as inadmissible.**

**2. There is no longer any need to adjudicate on the application to intervene lodged by Romania.**

3. **Asociația Inițiativa pentru Justiție shall bear its own costs and pay those incurred by the European Commission.**

4. **Romania shall bear its own costs relating to the application to intervene.**

Luxembourg, 3 February 2025.

V. Di Bucci
Registrar

P. Škvařilová-Pelzl
Acting President