

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Gabriele Bachmann to pay the costs.

⁽¹⁾ OJ C 191, 8.6.2020.

Judgment of the General Court of 10 February 2021 — EAB v EUIPO (RADIOSHUTTLE)

(Case T-341/20) ⁽¹⁾

(EU trade mark — Application for EU word mark RADIOSHUTTLE — Absolute ground for refusal — Not distinctive — Article 7(1)(b) of Regulation (EU) 2017/1001 — Restriction of the goods designated in the trade mark application)

(2021/C 110/34)

Language of the case: Swedish

Parties

Applicant: EAB AB (Smålandsstenar, Sweden) (represented by: J. Norderyd and C. Sundén lawyers)

Defendant: European Union Intellectual Property Office (represented by: T. von Schantz and A. Folliard-Monguiral, acting as Agents)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 23 March 2020 (Case R 1428/2019-1) regarding an application for registration of the word mark RADIOSHUTTLE as an EU trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders EAB AB to pay the costs.

⁽¹⁾ OJ C 255, 3.8.2020.

Action brought on 21 December 2020 — PV v Commission

(Case T-89/20)

(2021/C 110/35)

Language of the case: French

Parties

Applicant: PV (represented by: D. Birkenmaier, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- declare the present application admissible and well founded;

accordingly:

- annul all these aspects of the second disciplinary procedure CMS 17/025, the revocation decision adopted by the tripartite appointing authority on 21 October 2019, and the rejection of complaint R/360/19 of 25 March 2020 brought under Article 90(2) of the Staff Regulations;
- annul the rejection of request for assistance D/456/19 of 12 December 2019 brought under Article 24 of the Staff Regulations and the rejection of complaint R/71/20 of 20 May 2020 brought under Article 90(2) of the Staff Regulations;
- annul the decision on deductions from salary of 15 September 2016 (Ref Ares(2016)5348994) and the rejection of complaint R/519/19 of 22 January 2020 brought under Article 90(2) of the Staff Regulations on the basis of the general principle of law '*fraus omnia corrumpit*', since no time limit may apply thereto;
- annul the full factitious account of debts of 21 September 2016 (Ref Ares(2016)5486800) and the rejection of complaint R/537/19 of 29 January 2020 brought under Article 90(2) of the Staff Regulations, following delaying tactics and fraudulent misconduct, in accordance with the general principle of law '*fraus omnia corrumpit*', since no time limit may apply thereto;

award the following compensation on the basis of Articles 268 and 340 TFEU:

- order compensation for non-material harm in the amount of EUR 146 000 and for material harm in the amount of EUR 359 481,29 flowing from those contested decisions, estimated to amount to a total of EUR 505 481,29, subject to reassessment, together with compensatory and default interest until the compensation is paid in full;

and in any event,

- order the defendant to pay all the costs, including those relating to legal aid.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Articles 1, 3 and 4, and Article 31(1) of the Charter of Fundamental Rights of the European Union ('the Charter'), and of Article 1e(2) and Article 12a of the Staff Regulations of Officials of the European Union ('the Staff Regulations'), in so far as those provisions prohibit psychological harassment and enshrine the right to be heard.
2. Second plea in law, alleging infringement of the Charter, of Article 9(3) of Annex IX to the Staff Regulations and of the principle of law '*ne bis in idem*'.
3. Third plea in law, alleging infringement of the general principle of law of the defence of non-performance and of the principle of legality.
4. Fourth plea in law, alleging infringement of Article 48(1) of the Charter and of the second paragraph of Article 3 of the 2019 GIPs for disciplinary matters on account of breach of the presumption of innocence.
5. Fifth plea in law, alleging criminal seizure of the disciplinary file CMS 17/025 by a Belgian investigating judge for 'forgery of public documents', with the result that the contested allegations of misconduct are no longer established in law.
6. Sixth plea in law, alleging absence of consent in respect of the new employment relationship following the first removal from post as from 26 July 2016 and re-engagement as from 16 September 2017, and infringement of Article 15 of the Charter.

7. Seventh plea in law, alleging infringement of Article 41 of the Charter and of Article 11a of the Staff Regulations concerning conflicts of interest, as well as infringement of the principles of impartiality and equality of arms.
8. Eighth plea in law, alleging infringement of Article 41(1) of the Charter and of the principle of sound administration by exceeding reasonable time limits for the disciplinary procedure CMS 17/025.
9. Ninth plea in law, alleging infringement of the general principle of law '*fraus omnia corrumpit*' by using a false signature in the last decision on deductions from salary of 15 September 2016, thereby invalidating the factitious debt of EUR 58 837,20.
10. Tenth plea in law, alleging embezzlement, manifest fraud and fraudulent misconduct on the part of the PMO, as well as infringement of the principle of legality and legal certainty and of the general principle of law '*fraus omnia corrumpit*'.

Action brought on 25 January 2021 — PO v Commission

(Case T-36/21)

(2021/C 110/36)

Language of the case: French

Parties

Applicant: PO (represented by: L. Levi and A. Blot, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— Declare the present action admissible and well-founded;

Accordingly,

- annul the decision of 29 April 2020 informing the applicant that his request for review of the decision not to include his name on the 'reserve list' for External Competition EPSO/AD/338/17 had been rejected;
- in so far as necessary, annul the Commission's decision of 14 October 2020 rejecting the applicant's complaint;
- remedy the material and non-material damage suffered by the applicant;
- order the defendant to pay all the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging an infringement of Article 21 of the Charter of Fundamental Rights of the European Union (the 'Charter'), an infringement of Article 1d of the Staff Regulations of Officials of the European Union (the 'Regulations'), an infringement of Article 5 of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ 2000 L 303, p. 16), an infringement of Article 2 of the United Nations Convention, an infringement of the principle of non-discrimination and a failure to provide reasonable accommodation;