

Judgment of the General Court of 15 April 2011 — Czech Republic v Commission

(Case T-465/08) ⁽¹⁾

(PHARE — ‘Revolving funds’ obtained by the Czech Republic — Reimbursement of amounts paid — Commission decision to offset — Legal basis — Distinct legal orders — Concept of being certain and of a fixed amount — Obligation to state reasons)

(2011/C 160/19)

Language of the case: Czech

Parties

Applicant: Czech Republic (represented by: M. Smolek, acting as Agent)

Defendant: European Commission (represented by: P. van Nuffel, F. Dintilhac and Z. Malůšková, acting as Agents)

Re:

Annulment of the decision of the Commission of 7 August 2008 on offsetting the amounts owed by the Czech Republic under the ‘revolving funds’ of the PHARE programme.

Operative part of the judgment

The Court:

1. Dismisses the application;
2. Orders the Czech Republic to pay the costs.

⁽¹⁾ OJ C 327, 20.12.2008.

Judgment of the General Court of 14 April 2011 — Lancôme v OHIM — Focus Magazin Verlag (ACNO FOCUS)

(Case T-466/08) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for the Community word mark ACNO FOCUS — Earlier national word mark FOCUS — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009) — Genuine use of the earlier mark — Article 43(2) and (3) of Regulation No 40/94 (now Article 42(2) and (3) of Regulation No 207/2009)

(2011/C 160/20)

Language of the case: English

Parties

Applicant: Lancôme parfums et beauté & Cie (Paris, France) (represented by: A. von Mühlendahl and J. Pagenberg, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (represented by: G. Schneider, Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Focus Magazin Verlag GmbH (Munich, Germany) (represented by: R. Schweizer and J. Berlinger, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 29 July 2008 (Case R 1796/2007-1) relating to opposition proceedings between Focus Magazin Verlag GmbH and Lancôme parfums et beauté & Cie.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Lancôme parfums et beauté & Cie to pay the costs.

⁽¹⁾ OJ C 6, 10.1.2009.

Judgment of the General Court of 13 April 2011 — Germany v Commission

(Case T-576/08) ⁽¹⁾

(Agriculture — Common organisation of the markets — Distribution of food from intervention stocks for the benefit of the most deprived persons — Regulation (EC) No 983/2008 — Plan allocating to the Member States resources to be charged to the 2009 budget year for the distribution programme — Mobilisations on the market — Actions for annulment)

(2011/C 160/21)

Language of the case: German

Parties

Applicant: Federal Republic of Germany (represented by: initially M. Lumma and B. Klein, then M. Lumma, B. Klein, T.Henze and N. Graf Vitzthum, acting as Agents)

Defendant: European Commission (represented by: F. Erlbacher and A. Szmytkowska, acting as Agents)

Intervener in support of the applicant: Kingdom of Sweden (represented by: A. Falk, K. Petkovska, S. Johannesson and M. A Engman, acting as Agents)

Interveners in support of the defendant: Kingdom of Spain (represented by B. Plaza Cruz, acting as Agent); French Republic (represented by G. de Bergues and B. Cabouat, acting as Agents); Italian Republic (represented initially by I. Bruni, acting as Agent, and subsequently par M. P. Gentili, avvocato dello Stato); and Republic of Poland (represented initially by M. Dowgielewicz, and subsequently by M. Szpunar, and finally by Szpunar, B. Majczyna and M. Drwiecki, acting as Agents)

Re:

ACTION for partial annulment of Commission Regulation (EC) No 983/2008 of 3 October 2008 adopting the plan allocating to the Member States resources to be charged to the 2009 budget year for the supply of food from intervention stocks for the benefit of the most deprived persons in the Community (O) 2008 L 268, p. 3).

Operative part of the judgment

The Court:

1. Annuls Article 2 of and Annex II to Commission Regulation (EC) No 983/2008 of 3 October 2008 adopting the plan allocating to the Member States resources to be charged to the 2009 budget year for the supply of food from intervention stocks for the benefit of the most deprived persons in the Community;
2. Orders that the validity of allocations already made is not affected by the annulment of Article 2 of and Annex II to Regulation No 983/2008;
3. Orders the European Commission to bear its own costs and to pay those incurred by the Federal Republic of Germany;
4. Orders the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Poland and the Kingdom of Sweden to bear their own costs.

⁽¹⁾ OJ C 55, 7.3.2009.

Judgment of the General Court of 14 April 2011 — Netherlands v Commission

(Case T-70/09) ⁽¹⁾

(ERDF — Single programming document for the Groningen-Drenthe region — Decision on the reduction of the aid and ordering partial reimbursement of the amounts paid — Obligation to state reasons — Article 23(1) and Article 24(1) and (2) of Regulation (EEC) No 4253/88)

(2011/C 160/22)

Language of the case: Dutch

Parties

Applicant: Kingdom of the Netherlands (represented by: C. Wissels and M. Noort, acting as Agents)

Defendant: European Commission (represented by: W. Roels and A. Steiblyte, acting as Agents)

Re:

Action for annulment in part of Commission Decision C(2008) 8355 of 11 December 2008 on the reduction of the aid from the European Regional Development Fund (ERDF) within the framework of the single programming document no 97.07.13.003 coming under objective 2 for the Groningen-Drenthe region, granted in accordance with Commission Decision 97/711/EC of 26 May 1997.

Operative part of the judgment

The Court:

1. Dismisses the application;
2. Orders the Kingdom of the Netherlands to pay the costs.

⁽¹⁾ OJ C 90, 18.04.2009.

Judgment of the General Court of 13 April 2011 — Tubesca v OHIM — Tubos del Mediterráneo (T TUMESA TUBOS DEL MEDITERRANEO S.A.)

(Case T-98/09) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for Community figurative mark T TUMESA TUBOS DEL MEDITERRANEO S.A. — Earlier national word mark and international figurative mark TUBESCA — Relative ground of refusal — No likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009))

(2011/C 160/23)

Language of the case: French

Parties

Applicant: Tubesca (Ailly-sur-Noye, France) (represented by: F. Greffe, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral)

Other party to the proceedings before the Board of Appeal of OHIM: Tubos del Mediterráneo S.A. (Sagunto, Spain)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 17 December 2008 (Case R 518/2008-4) relating to opposition proceedings between Tubesca and Tubos del Mediterráneo S.A.