

Action brought on 18 May 2012 — Technion and Technion Research & Development Foundation v Commission

(Case T-216/12)

(2012/C 243/36)

Language of the case: French

Parties

Applicants: Technion — Israel Institute of Technology (Haifa, Israel) and Technion Research & Development Foundation Ltd (Haifa) (represented by: D. Grisay, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- admit this action for annulment based on Article 263 of the Treaty on the Functioning of the European Union;
- declare it to be admissible, and
- primarily, declare the action well-founded and annul the decision for compensation of the Commission, Directorate General of Information Society and Media, contained in its letter of 13 March 2012, directed against TECHNION;
- order the European Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicants rely on two pleas in law which are essentially identical or similar to those put forward in Case T-657/11 *Technion and Technion Research & Development Foundation v Commission*.⁽¹⁾

⁽¹⁾ OJ 2012 C 73, p. 28.

Action brought on 23 May 2012 — Accorinti and Others v ECB

(Case T-224/12)

(2012/C 243/37)

Language of the case: Italian

Parties

Applicants: Alessandro Accorinti (Nichelino, Italy) Michael Acherer (Bressanone, Italy), Giuliano Agostinetti (Mestre, Italy), Marco Alagna (Milan, Italy), Riccardo Alagna (Milan, Italy), Agostino Amalfitano (Forio, Italy), Emanuela Amsler (Turin, Italy), Francine Amsler (Turin, Italy), Alessandro Anelli (Bel-

linzago Novarese, Italy), Angelo Giovanni Angione (Potenza, Italy), Giancarlo Antonelli (Verona, Italy), Giuseppe Aronica (Licata, Italy), Elisa Arsenio (Sesto San Giovanni, Italy), Pasquale Arsenio (Sesto San Giovanni, Italy), Luigi Azzano (Concordia Sagittaria, Italy), Giovanni Baglivo (Lecce, Italy), Stefano Baldoni (Matera, Italy), Giulio Ballini (Lonato, Italy), Antonino Barbara (Naples, Italy), Armida Baron (Cassola, Italy), Paolo Baroni (Rome, Italy), Lucia Benassi (Scandiano, Italy), Michele Benelli (Madignano, Italy), Erich Bernard (Lana, Italy), Flaminia Berni (Rome, Italy), Adriano Bianchi (Omegna, Italy), Massimiliano Bigi (Montecchio Emilia, Italy), Daniele Fabrizio Bignami (Milan, Italy), Sergio Borghesi (Coredo, Italy), Borghesi Srl (Cles, Italy), Sergio Bovini (Cogoleto, Italy), Savino Brizzi (Turin, Italy), Annunziata Brum (Badiola, Italy), Christina Brunner (Laives, Italy), Giovanni Busso (Caselette, Italy), Fabio Edoardo Cacciuttolo (Milan, Italy), Vincenzo Calabrò (Rome, Italy), Carlo Cameranesi (Ancona, Italy), Giuseppe Campisciano (Besana in Brianza, Italy), Allegra Canepa (Pisa, Italy), Luca Canonaco (Como, Italy), Piero Cantù (Vimercate, Italy), Fabio Capelli (Tortona, Italy), Gianluca Capello (Sanremo, Italy), Sergio Capello (Sanremo, Italy), Mario Carchini (Carrara, Italy), Filippo Carosi (Rome, Italy), Elena Carra (Rome, Italy), Claudio Carrara (Nembro, Italy), Ivan Michele Casarotto (Verona, Italy), Anna Maria Cavagnetto (Turin, Italy), Gabriele Lucio Cazzulani (Segrate, Italy), Davide Celli (Rimini, Italy), Antonio Cerigato (Ferrara, Italy), Paolo Enrico Chirichilli (Rome, Italy), Celestino Ciocca (Rome, Italy), Mariagiuseppa Civale (Milan, Italy), Roberto Colicchio (Milan, Italy), Edoardo Colli (Trieste, Italy), Nello Paolo Colombo (Casatenovo, Italy), Mario Concini (Tuenno, Italy), Marika Congestrì (S. Onofrio, Italy), Luigi Corsini (Pistoia, Italy), Maria Chiara Corsini (Genoa, Italy), Aniello Cucurullo (Civitavecchia, Italy), Roberto Cugola (Melara, Italy), Roberto Cupioli (Rimini, Italy), Giuseppe D'Acunto (Lucca — S. Anna, Italy), Stefano D'Andrea (Ancona, Italy), Nazzareno D'Amici (Rome, Italy), Michele Damelon (Gruaro, Italy), Piermaria Carlo Davoli (Milan, Italy), Iole De Angelis (Rome, Italy), Roberto De Pieri (Treviso, Italy), Stefano De Pieri (Martellago, Italy), Ario Deasti (Sanremo, Italy), Stefano Marco Debernardi (Aosta, Italy), Gianfranco Del Mondo (Casoria, Italy), Salvatore Del Mondo (Gaeta, Italy), Gianmaria Dellea (Castelveccana, Italy), Gianmarco Di Luigi (Sant'Antimo, Italy), Alessandro Di Tomizio (Reggello, Italy), Donata Dibenedetto (Altamura, Italy), Angela Dolcini (Pavia, Italy), Denis Dotti (Milan, Italy), Raffaele Duino (San Martino Buon Albergo, Italy), Simona Elefanti (Montecchio Emilia, Italy), Maurizio Elia (Rome, Italy), Claudio Falzoni (Besnate, Italy), Enrico Maria Ferrari (Rome, Italy), Giuseppe Ferraro (Pago Vallo Lauro, Italy), Fiduciaria Cavour Srl (Rome, Italy), Giorgio Filippello (Caccamo, Italy), Giovanni Filippello (Caccamo, Italy), Dario Fiorin (Venice, Italy), Guido Fortunati (Verona, Italy), Achille Furioso (Agrigento, Italy), Monica Furlanis (Concordia Sagittaria, Italy), Vitaliano Gaglianese (San Giuliano Terme, Italy), Antonio Galbo (Palermo, Italy), Gianluca Gallino (Milan, Italy), Giandomenico Gambacorta (Rome, Italy), Federico Gatti (Besana in Brianza, Italy), Raffaella Maria Fatima Gerardi (Lavello, Italy), Mauro Gini (Bressanone, Italy), Barbara Giudiceandrea (Rome, Italy), Riccardo Grillini (Lugo, Italy), Luciano Iaccarino (Verona, Italy), Vittorio Iannetti (Carrara, Italy), Franz Anton Inderst (Marlengo, Italy), Hermann Kofler (Merano, Italy), Alessandro Lepore (Giovinezza, Italy), Fabio Lo Presti (Ponte S. Pietro, Italy), Silvia Locatelli (Brembate, Italy), Nicola Lozito (Grumo Appula, Italy), Rocco Lozito (Grumo Appula, Italy), Fabio Maffoni (Soncino, Italy), Silvano Maffoni (Orzinuovi, Italy), Bruno Maironi Da Ponte (Bergamo, Italy), Franco Maironi Da Ponte (Bergamo, Italy), Michele Maironi Da Ponte (Bergamo,

Italy), Francesco Makovec (Lesmo, Italy), Concetta Mansi (Matera, Italy), Angela Marano (Melito di Napoli, Italy), Bruno Marchetto (Milan, Italy), Fabio Marchetto (Milan, Italy), Sergio Mariani (Milan, Italy), Lucia Martini (Scandicci, Italy), Alessandro Mattei (Treviso, Italy), Giorgio Matterazzo (Seregno, Italy), Mauro Mazzone (Verona, Italy), Ugo Mereghetti (Brescia, Italy), authorised to act for Fulvia Mereghetti (Casamassima, Italy), Vitale Micheletti (Brescia, Italy), Giuseppe Mignano (Genoa, Italy), Fabio Mingo (Ladispoli, Italy), Giovanni Minoretti (Guidonia Montecelio, Italy), Filippo Miuccio (Rome, Italy), Fulvio Moneta Caglio de Suvich (Milan, Italy), Giancarlo Monti (Milan, Italy), Angelo Giuseppe Morellini (Besana in Brianza, Italy), Barbara Mozzambani (San Martino Buon Albergo, Italy), Mario Nardelli (Gubbio, Italy), Eugenio Novajra (Udine, Italy), Giorgio Omizzolo (Baone, Italy), Patrizia Paesani (Rome, Italy), Luigi Paparo (Volla, Italy), Davide Pascale (Milan, Italy), Salvatore Pasciuto (Gaeta, Italy), Sergio Pederzani (Ossuccio, Italy), Aldo Perna (Naples, Italy), Marco Piccinini (San Mauro Torinese, Italy), Nicola Piccioni (Soncino, Italy), Mauro Piliego (Bolzano, Italy), Vincenzo Pipolo (Rome, Italy), Johann Poder (Silandro, Italy), Giovanni Polazzi (Milan, Italy), Santo Pullarà (Rimini, Italy), Patrizio Ragusa (Rome, Italy), Rosangela Raimondi (Arluno, Italy), Massimo Ratti (Milan, Italy), Gianni Resta (Imola, Italy), Giuseppe Ricciarelli (San Giustino, Italy), Enrica Rivi (Scandiano, Italy), Maria Rizescu (Pesaro, Italy), Alessandro Roca (Turin, Italy), Mario Romani (Milan, Italy), Claudio Romano (Naples, Italy), Gianfranco Romano (Pisticci, Italy), Ivo Rossi (Nettuno, Italy), Alfonso Russo (Scandiano, Italy), Iginio Russolo (San Quirino, Italy), Francesco Sabato (Barcelona, Spain), Giuseppe Salvatore (Silvi, Italy), Luca Eudilio Sarzi Amadé, (Milan, Italy), Tiziano Scagliola (Terlizzi, Italy), Antonio Scalzullo (Avellino, Italy), Liviano Semeraro (Gavirate, Italy), Laura Liliana Serpente (Ancona, Italy), Maria Grazia Serpente (Ancona, Italy), Luciana Serra (Milan, Italy), Giuseppe Silecchia (Altamura, Italy), Paolo Sillani (Bergamo, Italy), Vincenzo Solombrino (Naples, Italy), Patrizia Spiezia (Casoria, Italy), Alberto Tarantini (Rome, Italy), Halyna Terentyeva (Concordia Sagittaria, Italy), Vincenzo Tescione (Caserta, Italy), Riccardo Testa (Cecina, Italy), Salvatore Testa (Pontinia, Italy), Nadia Toneatti (Trieste, Italy), Giuseppe Ucci (Como, Italy), Giovanni Urbanelli (Pescara, Italy), Giuseppina Urciuoli (Avellino, Italy), Amelia Vaccaro (Chiavari, Italy), Maria Grazia Valentini (Tuenno, Italy), Giancarlo Vargiu (Bologna, Italy), Salvatore Veltri Barraco Alestra (Marsala, Italy), Roberto Vernerio (Milan, Italy), Vincenza Vigilia (Castello d'Agogna, Italy), Celso Giuliano Vigna (Castel San Pietro Terme, Italy), Roberto Vignoli (Santa Marinella, Italy), Georg Weger (Merano, Italy), Albino Zanichelli (Busana, Italy), Andrea Zecca (Rome, Italy) (represented by: S. Sutti and R. Spelta, lawyers)

Defendant: European Central Bank

Form of order sought

The applicants claim that the Court should:

- Declare the action admissible;
- Annul Decision ECB 2012/153/EU of 5 March 2012 on ‘the eligibility of market debt instruments issued or fully guaranteed by the Hellenic Republic in the context of the Hellenic Republic’s debt exchange offer’;
- Order the ECB to pay the costs.

Pleas in law and main arguments

The decision challenged in these proceedings provides that collateral enhancement is to be provided by the Hellenic

Republic to national central banks in the form of a buy-back scheme, which constitutes a *quid pluris*, as well as a necessary prerequisite, in order for it to be possible for debt instruments issued or fully guaranteed by the Hellenic Republic to be regarded as eligible in the context of the Hellenic Republic’s debt exchange offer, for at least as long as such additional collateral enhancement continues to be provided by that Member State; that is a form of credit facility and is subject to the conditions of a buy-back mechanism unilaterally geared by the Governing Council of the ECB in favour of national central banks. According to the applicants, no reference is made whatsoever in the contested decision to private investors, the so-called retail buyers of Greek bonds.

In support of the action, the applicants rely on three pleas in law.

1. First plea in law, alleging breach of essential procedural requirements (failure to state reasons and misidentification of the legal basis).
 - It is submitted in this regard, in particular, that the contested decision fails to state reasons with regard, *inter alia*, to why the ECB decided to accept Greek bonds, why collateral enhancement should be provided by the Hellenic Republic to all national central banks and to them alone, and why retail private investors should, on the other hand, be burdened with the consequences of the preferential treatment afforded to certain persons.
 - As regards the legal basis, the contested decision has no connection whatsoever with monetary policy or price stability, which underlies Article 127 TFEU.
2. Second plea in law, alleging breach of the Treaty or the rules of law governing its application (breach of the principle of equal treatment, breach of the principle of sound administration, breach of the principle of sovereign debt, breach of Article 123 TFEU and Article 21 of the Statute of the European Central Bank, breach of the principle of proportionality).
 - According to the applicants, it is abundantly clear that the principle of equal treatment has been infringed in the present case, since all of them are, in exactly the same way as the ECB and the national central banks, creditors of the Greek State, in that they are holders of the relevant bonds, and the harm suffered by them has, in equal measure, the same capacity to have a systemic impact on the European economy.
 - The principle of sovereign debt is also infringed, as may be inferred from the very structure of the European Union, under which each Member State is responsible, specifically, for its own debt, and the debt of an individual State cannot, in any circumstances, jeopardise finance or the stability of the single currency. The very structure of EMU, as established by the Maastricht Treaty, does not allow for the mutualisation of debt, but, on the contrary, requires each Member State to keep public finances in order and to discharge its own responsibilities.
 - By the contested decision, the ECB has therefore infringed the rules laid down by primary and secondary law concerning the grant of financial assistance in a number of respects, in breach in particular of Article 123 TFEU.

3. Third plea in law, alleging misuse of powers in the present case.

- The applicants doubt whether a decision which makes the eligibility of a Member State's debt instruments conditional on that Member State being required to take action in the form of a buy-back scheme in favour of national central banks is consistent with the anti-inflationary objective set out in Article 127 TFEU, which forms the legal basis of the contested decision.
- Moreover, by the contested decision, the ECB has in fact created yet another form of indirect financial assistance for the Hellenic Republic, suspending the Eurosystem's credit quality thresholds with regard to the Greek government bonds that are covered by the collateral enhancement, thus exceeding its statutory powers, which do not envisage any form of credit facility.

Action brought on 23 May 2012 — Axa Belgium v Commission

(Case T-230/12)

(2012/C 243/38)

Language of the case: French

Parties

Applicant: Axa Belgium (Brussels, Belgium) (represented by: G. Cleenewerck de Crayencour, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul debit notes No 7141101047 in the amount of EUR 1 590,62 dated 23 March 2012 and No 7141101053 in the amount of EUR 10 160,88 dated 23 March 2012;
- annul the payment by means of offsetting outstanding claims against debts which the Commission effected by letter of 26 March 2012 addressed to S.A. Axa Belgium (a letter bearing the reference D(2012) C4 — B.2 — 000212 and signed by Mr B. of DG Budget);
- order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the Treaties and an error of law, inasmuch as the Commission issued debit notes in respect of unfounded claims and effected

recovery by offsetting claims that are not certain, of a fixed amount and due. The applicant submits that the Commission is demanding sums which exceed those granted under the legal rules currently in force in connection with the subrogation of the Commission to the rights of its officials who are the victims of accidents caused by persons who are insured in respect of statutory liability by the applicant.

2. Second plea in law, alleging infringement of the principles of sound administration and of the protection of legitimate expectations, inasmuch as the Commission offset notwithstanding a contractual undertaking not to do so and notwithstanding the fact that, for many years, the Commission has always agreed to settle cases by negotiation without having recourse to offsetting and waiting for decisions to be given by the Belgian courts.

Action brought on 29 May 2012 — Wilmar Trading v OHIM — Agroekola EOOD (ULTRA CHOCO)

(Case T-232/12)

(2012/C 243/39)

Language in which the application was lodged: English

Parties

Applicant: Wilmar Trading Pte Ltd (Singapore, Singapore) (represented by: E. Miller, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: Agroekola EOOD (Sofia, Bulgaria)

Form of order sought

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 27 March 2012 in case R 87/2012-1;
- Order OHIM to consider the appeal filed against the decision of the Opposition Division of 10 November 2011 on opposition No B001760043 and to process in the normal course.

Pleas in law and main arguments

Applicant for a Community trade mark: The other party to the proceedings before the Board of Appeal

Community trade mark concerned: The word mark 'ULTRA CHOCO', for goods in classes 29, 30 and 31 — Community trade mark application No 9221111

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited in opposition: Singaporean trade mark registration T0113987B of the word mark 'ultra choco' for goods in class 29; European and Bulgarian non-registered trade mark 'ULTRA CHOCO', invoking Articles 8(3) and 8(4) of Council Regulation No 207/2009