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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Third Chamber) of 17 July 2014 (requests for a preliminary ruling from the Rechtbank Middelburg, Raad van State — Netherlands) — YS (C-141/12), Minister voor Immigratie, Integratie en Asiel (C-372/12) v Minister voor Immigratie, Integratie en Asiel (C-141/12), Ms (C-372/12)

(Joined Cases C-141/12 and C-372/12) [1]

(Reference for a preliminary ruling — Protection of individuals with regard to the processing of personal data — Directive 95/46/EC — Articles 2, 12 and 13 — Concept of 'personal data' — Scope of the right of access of a data subject — Data relating to the applicant for a residence permit and legal analysis contained in an administrative document preparatory to the decision — Charter of Fundamental Rights of the European Union — Articles 8 and 41)

(2014/C 315/02)

Language of the case: Dutch

Referring courts

Rechtbank Middelburg, Raad van State

Parties to the main proceedings

Applicants: YS (C-141/12), Minister voor Immigratie, Integratie en Asiel (C-372/12)

Defendants: Minister voor Immigratie, Integratie en Asiel (C-141/12), Ms (C-372/12)

Operative part of the judgment

1) *Article 2(a) of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data must be interpreted as meaning that the data relating to an applicant for a residence permit contained in an administrative document, such as the 'minute' at issue in the main proceedings, setting out the grounds that the case officer puts forward in support of the draft decision which he is responsible for drawing up in the context of the procedure prior to the adoption of a decision concerning the application for such a permit and, where relevant, the data in the legal analysis contained in that document, are 'personal data' within the meaning of that provision, whereas, by contrast, that analysis cannot in itself be so classified.*

2) *Article 12(a) of Directive 95/46 and Article 8(2) of the Charter of Fundamental Rights of the European Union must be interpreted as meaning that an applicant for a residence permit has a right of access to all personal data concerning him which are processed by the national administrative authorities within the meaning of Article 2(b) of that directive. For that right to be complied with, it is sufficient that the applicant be in possession of a full summary of those data in an intelligible form, that is to say a form which allows that applicant to become aware of those data and to check that they are accurate and processed in compliance with that directive, so that he may, where relevant, exercise the rights conferred on him by that directive.*

3) *Article 41(2)(b) of the Charter of Fundamental Rights of the European Union must be interpreted as meaning that the applicant for a residence permit cannot rely on that provision against the national authorities.*

([1]) OJ C 157, 2.6.2012.
OJ C 303, 6.10.2012.

Judgment of the Court (Fifth Chamber) of 10 July 2014 — Telefónica SA Telefónica de España SAU v European Commission, France Telecom España, SA, Asociación de Usuarios de Servicios Bancarios (Ausbanc Consumo), European Competitive Telecommunications Association

(Case C-295/12 P) ([1])

(Article 102 TFEU — Abuse of dominant position — Spanish markets for access to broadband internet — Margin squeeze — Article 263 TFEU — Review of legality — Article 261 TFEU — Unlimited jurisdiction — Article 47 of the Charter — Principle of effective judicial protection — Review exercising powers of unlimited jurisdiction — Amount of the fine — Principle of proportionality — Principle of non-discrimination)

(2014/C 315/03)

Language of the case: Spanish

Parties

Appellants: Telefónica SA, Telefónica de España SAU (represented by: F. González Díaz and B. Holles, abogados)

Other parties to the proceedings: European Commission (represented by: F. Castillo de la Torre, É. Gippini Fournier and C. Urraca Caviedes, Agents), France Telecom España, SA (represented by: H. Brokelmann and M. Ganino, abogados), Asociación de Usuarios de Servicios Bancarios (Ausbanc Consumo), (represented by: L. Pineda Salido and I. Cámara Rubio, abogados), European Competitive Telecommunications Association, (represented by: A. Salerno and B. Cortese, avvocati)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Telefónica SA and Telefónica de España SAU to pay the costs;*

3. *Orders France Telecom España, SA, Asociación de Usuarios de Servicios Bancarios (Ausbanc Consumo) and the European Competitive Telecommunications Association to bear their own costs.*

([1]) OJ C 243, 11.8.2012.

Judgment of the Court (Fifth Chamber) of 17 July 2014 — European Commission v Portuguese Republic

(Case C-335/12) ([1])

(Failure of a Member State to fulfil obligations — Own resources — Post-clearance recovery of import duties — Financial liability of the Member States — Surplus stocks of non-exported sugar)

(2014/C 315/04)

Language of the case: Portuguese

Parties

Applicant: European Commission (represented by: A. Caeiros, Agent)

Defendant: Portuguese Republic (represented by: L. Inez Fernandes, J. Gomes and P. Rocha, and by A. Cunha, Agents)

Operative part of the judgment

The Court rules and declares that:

1. *By failing to make available to the European Commission an amount of EUR 785 078,50 corresponding to levies on surplus stocks of non-exported sugar following the accession of Portugal to the European Community, the Portuguese Republic has failed to fulfil its obligations under Article 10 EC, Article 254 of the Act concerning the conditions of accession of the Kingdom of Spain and the Portuguese Republic and the adjustments to the Treaties, Article 7 of Council Decision 85/257/EEC, Euratom of 7 May 1985 on the Communities' system of own resources, Articles 4, 7 and 8 of Commission Regulation (EEC) No 579/86 of 28 February 1986 laying down detailed rules relating to stocks of products in the sugar sector in Spain and Portugal on 1 March 1986, as amended by Commission Regulation (EEC) No 3332/86 of 31 October 1986, and Articles 2, 11 and 17 of Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989 implementing Decision 88/376/EEC, Euratom on the system of the Communities' own resources*

2. *The action is dismissed as to the remainder.*

3. *The Portuguese Republic shall pay the costs.*

(1) OJ C 303, 6.10.2012.

Judgment of the Court (Tenth Chamber) of 10 July 2014 (request for a preliminary ruling from the Tribunale amministrativo regionale per la Lombardia — Italy) — Consorzio Stabile Libor Lavori Pubblici v Comune di Milano

(Case C-358/12) (1)

(Request for a preliminary ruling — Public procurement — Contracts falling below the threshold provided for in Directive 2004/18/EC — Articles 49 TFEU and 56 TFEU — Principle of proportionality — Conditions for exclusion from a tender procedure — Criteria for qualitative selection relating to the personal situation of the tenderer — Obligations relating to the payment of social security contributions — Definition of serious infringement — Difference between the sums owed and those paid which exceeds EUR 100 and is greater than 5 % of the sums owed)

(2014/C 315/05)

Language of the case: Italian

Referring court

Tribunale amministrativo regionale per la Lombardia

Parties to the main proceedings

Applicant: Consorzio Stabile Libor Lavori Pubblici

Defendant: Comune di Milano

Intervener: Pascolo Srl

Operative part of the judgment

Articles 49 TFEU and 56 TFEU and the principle of proportionality must be interpreted as not precluding national legislation which, with regard to public works contracts the value of which is below the threshold laid down in Article 7(c) of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, as amended by Commission Regulation (EC) No 1177/2009 of 30 November 2009, requires the contracting authorities to exclude from the award procedure for such a contract a tenderer who has committed an infringement relating to social security contributions where the difference between the sums owed and those paid exceeds EUR 100 and is greater than 5 % of the sums owed.

(1) OJ C 311, 13.10.2012.

Judgment of the Court (Third Chamber) of 10 July 2014 — European Commission v Kingdom of Belgium

(Case C-421/12) ([1])

(Failure of a Member State to fulfil obligations — Consumer protection — Unfair commercial practices — Directive 2005/29/EC — Complete harmonisation — Exclusion of the professions, dentists and physiotherapists — Rules governing the announcement of price reductions — Restriction or prohibition of certain types of itinerant trading activities)

(2014/C 315/06)

Language of the case: French

Parties

Applicant: European Commission (represented by: M. van Beek and by M. Owsiany-Hornung, Agents)

Defendant: Kingdom of Belgium (represented by: T. Materne and J.-C. Halleux, acting as Agents, assisted by É. Balate, avocat)

Operative part of the judgment

The Court:

1. *Declares that:*

   — *by excluding members of a profession and dentists and physiotherapists from the scope of the Law of 14 July 1991 on commercial practices, consumer information and consumer protection, as amended by the Law of 5 June 2007, transposing in national law Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('the Unfair Commercial Practices Directive'),*

   — *by maintaining in force Articles 20, 21 and 29 of the Law of 6 April 2010 on market practices and consumer protection, and*

   — *by maintaining in force Article 4(3) of the Law of 25 June 1993 on the exercise and organisation of travelling trading and fairground activities, as amended by the Law of 4 July 2005 and Article 5(1) of the Royal Decree of 24 September 2006 concerning the exercise and organisation of travelling trading activities,*

   the Kingdom of Belgium has failed to fulfil its obligations under Articles 2(b) and (d), 3 and 4 of Directive 2005/29.

2. *Orders the Kingdom of Belgium to pay the costs.*

([1]) OJ C 355, 17.11.2012.

Judgment of the Court (Tenth Chamber) of 17 July 2014 (request for a preliminary ruling from the Corte suprema di cassazione — Italy) — Panasonic Italia SpA, Panasonic Marketing Europe GmbH, Scerni Logistics S.r.l. v Agenzia delle Dogane di Milano

(Case C-472/12) ([1])

(Reference for a preliminary ruling — Regulation (EEC) No 2658/87 — Common Customs Tariff — Tariff classification — Combined Nomenclature — Headings 8471 and 8528 — Plasma screens — Function as computer screen — Potential function as a television screen, after insertion of a video card)

(2014/C 315/07)

Language of the case: Italian

Referring court

Corte suprema di cassazione

Parties to the main proceedings

Applicants: Panasonic Italia SpA, Panasonic Marketing Europe GmbH, Scerni Logistics S.r.l.

Defendant: Agenzia delle Dogane di Milano

Operative part of the judgment

1. *For the purpose of tariff classification in the Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, in the versions resulting successively from Commission Regulation (EC) No 2388/2000 of 13 October 2000, Commission Regulation (EC) No 2031/2001 of 6 August 2001, Commission Regulation (EC) No 1832/2002 of 1 August 2002, and Commission Regulation (EC) No 1789/2003 of 11 September 2003 of screens with the objective characteristics at issue in the main proceedings, account should be taken of their inherent intended purpose, which consists in reproducing the data from an automatic data-processing machine and from composite video signals. Such screens must be classified under subheading 8471 60 90 of the Combined Nomenclature if they are used solely or mainly in an automatic data-processing system, within the meaning of Note 5B(a) of Chapter 84 of the Combined Nomenclature, or under subheading 8528 21 90 thereof if that is not the case, which is a matter for the national court to determine on the basis of the objective characteristics of the screens at issue in the main proceedings, and in particular those mentioned in the Explanatory Notes relating to heading 8471 of the Harmonised Commodity Description and Coding System established by the International Convention on the Harmonised Commodity Description and Coding System concluded in Brussels on 14 June 1983, with its amending protocol of 24 June 1986, in particular in points 1 to 5 of the part of Chapter I D relating to display units for automatic data-processing machines;*

2. *Commission Regulation (EC) No 754/2004 of 21 April 2004 concerning the classification of certain goods in the Combined Nomenclature cannot be applied retroactively.*

([1]) OJ C 399, 22.12.2012.

Judgment of the Court (Third Chamber) of 17 July 2014 — European Commission v Dimosia Epicheirisi Ilektrismou AE (DEI), Hellenic Republic, Energeiaki Thessalonikis AE, Elliniki Energeia kai Anaptyxi AE (H.E. & D.S.A.)

(Case C-553/12 P) ([1])

(Appeal — Competition — Articles 82 EC and 86(1) EC — Maintenance of preferential rights granted by the Hellenic Republic in favour of a public undertaking for the exploration and exploitation of lignite deposits — Exercise of those rights — Competitive advantage on the markets for the supply of lignite and wholesale electricity — Maintenance, extension or strengthening of a dominant position)

(2014/C 315/08)

Language of the case: Greek

Parties

Appellant: European Commission (represented by: T. Christoforou and A. Antoniadis, acting as Agents, assisted by A. Oikonomou, dikigoros)

Other parties to the proceedings: Dimosia Epicheirisi Ilektrismou AE (DEI) (represented by: P. Anestis, dikigoros), Hellenic Republic (represented by M.-T. Marinos, P. Mylonopoulos and K. Boskovits, acting as Agents), Energeiaki Thessalonikis AE, Elliniki Energeia kai Anaptyxi AE (H.E. & D.S.A.)

Interveners in support of the applicants: Mytilinaios AE, Protergia AE, Alouminion AE (represented by: N. Korogiannakis, I. Zarzoura, D. Diakopoulos and E. Chrisafis, dikigoroi)

Operative part of the judgment

The Court:

1. *Sets aside the judgment of the General Court of the European Union in DEI v Commission, T-169/08, EU:T:2012:448.*

2. *Refers the case back to the General Court of the European Union for adjudication on the pleas raised before it on which the Court of Justice of the European Union has not ruled.*

3. *Reserves the costs.*

(1) OJ C 32, 2.2.2013.

Judgment of the Court (Third Chamber) of 17 July 2014 — European Commission v Dimosia Epicheirisi Ilektrismou AE (DEI), Hellenic Republic

(Case C-554/12 P) (1)

(Appeal — Competition — Article 86(3) EC — Maintenance of preferential rights granted by the Hellenic Republic in favour of a public undertaking for the exploration and exploitation of lignite deposits — Infringement — Decision — Incompatibility with EU law — Subsequent decision — Establishment of specific measures — Solution to the anti-competitive effects of the infringement — Action for annulment)

(2014/C 315/09)

Language of the case: Greek

Parties

Appellant: European Commission (represented by: T. Christoforou and A. Antoniadis, acting as Agents, assisted by A. Oikonomou, dikigoros)

Other parties to the proceedings: Dimosia Epicheirisi Ilektrismou AE (DEI) (represented by: P. Anestis, dikigoros), Hellenic Republic (represented by: P. Mylonopoulos, M.-T. Marinos and K. Boskovits, acting as Agents)

Operative part of the judgment

The Court:

1. *Sets aside the judgment of the General Court of the European Union in DEI v Commission, T-421/09, EU:T:2012:450;*

2. *Refers the case back to the General Court of the European Union;*

3. *Reserves the costs.*

(1) OJ C 32, 2.2.2013.

Judgment of the Court (Fifth Chamber) of 17 July 2014 — European Commission v Hellenic Republic

(Case C-600/12) (1)

(Failure to fulfill obligations — Environment — Waste management — Directives 2008/98/EC, 1999/31/EC and 92/43/EEC — Discharge of waste on the island of Zakinthos — Zakinthos national marine park — Natura 2000 site — Caretta caretta sea turtle — Extension of the validity period of environmental clauses — Lack of conditioning plan — Operation of a landfill site — Faults — Saturation of the landfill site — Infiltration of leachate — Insufficient coverage and dispersion of waste — Extension of the landfill site)

(2014/C 315/10)

Language of the case: Greek

Parties

Applicant: European Commission (represented by: M. Patakia and D. Düsterhaus, acting as Agents)

Defendant: Hellenic Republic (represented by: E. Skandalou, acting as Agent)

Operative part of the judgment

The Court:

1) *declares that*

— *by keeping in operation on the island of Zakinthos, at Griparaiika, in the area of Kalamaki (Greece), a landfill site which is malfunctioning, which is full and which does not observe the conditions and requirements of the environmental legislation of the European Union laid down in Articles 13 and 36(1) of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives, and Articles 8, 9, 11(1)(a), 12 and 14 of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste, and*

— *by renewing the landfill permit for the site in question without complying with the procedure that is laid down by Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora,*

the Hellenic Republic has failed to fulfil its obligations under those provisions;

2) *orders the Hellenic Republic to pay the costs.*

(1) OJ C 63, 2.3.2013.

Judgment of the Court (Grand Chamber) of 17 July 2014 (request for a preliminary ruling from the Østre Landsret — Denmark) — Nordea Bank Danmark A/S v Skatteministeriet

(Case C-48/13) (1)

(Tax legislation — Freedom of establishment — National tax on profits — Group taxation — Taxation of the activity of foreign permanent establishments of resident companies — Avoidance of double taxation by set-off of tax (credit method) — Reincorporation of the losses deducted previously in the event that the permanent establishment is transferred to a group company over which the Member State in question does not exercise powers of taxation)

(2014/C 315/11)

Language of the case: Danish

Referring court

Østre Landsret

Parties to the main proceedings

Applicant: Nordea Bank Danmark A/S

Defendant: Skatteministeriet

Operative part of the judgment

Articles 49 TFEU and 54 TFEU and Articles 31 and 34 of the Agreement on the European Economic Area of 2 May 1992 preclude legislation of a Member State under which, in the event of transfer by a resident company to a non-resident company in the same group of a permanent establishment situated in another Member State or in another State that is party to the Agreement on the European Economic Area, the losses previously deducted in respect of the establishment transferred are reincorporated into the transferring company's taxable profit, in so far as the first Member State taxes both the profits made by that establishment before its transfer and those resulting from the gain made upon the transfer.

(1) OJ C 101, 6.4.2013.

Judgment of the Court (Grand Chamber) of 17 July 2014 (requests for a preliminary ruling from the Consiglio Nazionale Forense –Italy) — Angelo Alberto Torresi (C-58/13), Pierfrancesco Torresi (C-59/13) v Consiglio dell'Ordine degli Avvocati di Macerata

(Joined Cases C-58/13 and C-59/13) ([1])

(Reference for a preliminary ruling — Freedom of movement for persons — Access to the profession of lawyer — Possibility of refusing registration in the Bar Council register to nationals of a Member State who have obtained their professional legal qualification in another Member State — Abuse of rights)

(2014/C 315/12)

Language of the case: Italian

Referring court

Consiglio Nazionale Forense

Parties to the main proceedings

Applicants: Angelo Alberto Torresi (C-58/13), Pierfrancesco Torresi (C-59/13)

Defendant: Consiglio dell'Ordine degli Avvocati di Macerata

Operative part of the judgment

1. *Article 3 of Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained must be interpreted as meaning that no abuse can be identified in the fact that a national of a Member State who after successfully obtaining a university degree travels to another Member State in order to acquire there the professional qualification of lawyer and returns to the Member State of which he is a national in order to practise there the profession of lawyer under the professional title obtained in the Member State where that professional qualification was acquired;*

2. *Examination of the second question referred has disclosed nothing capable of affecting the validity of Article 3 of Directive 98/5.*

([1]) OJ C 147, 25.5.2013.

Judgment of the Court (Grand Chamber) of 8 July 2014 (request for a preliminary ruling from the Arbetsdomstolen — Sweden) — Fonnship A/S, Svenska Transportarbetareförbundet v Svenska Transportarbetareförbundet, Fonnship A/S, Facket för Service och Kommunikation (SEKO)

(Case C-83/13) ([1])

(Maritime transport — Freedom to provide services — Regulation (EEC) No 4055/86 — Applicability to transport carried out from or to States that are parties to the Agreement on the European Economic Area (EEA) using vessels flying the flag of a third country — Industrial action taken in the ports of such a State in favour of third country nationals employed on those vessels — Nationality of those workers and vessels having no bearing on the applicability of EU law)

(2014/C 315/13)

Language of the case: Swedish

Referring court

Arbetsdomstolen

Parties to the main proceedings

Applicants: Fonnship A/S, Svenska Transportarbetareförbundet

Defendants: Svenska Transportarbetareförbundet, Fonnship A/S, Facket för Service och ommunikation (SEKO)

Operative part of the judgment

Article 1 of Council Regulation (EEC) No 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries must be interpreted as meaning that a company established in a State that is a party to the Agreement on the European Economic Area of 2 May 1992 and which is proprietor of a vessel flying the flag of a third country, by which maritime transport services are provided from or to a State that is a party to the EEA Agreement, may rely on the freedom to provide services, provided that it can, due to its operation of that vessel, be classed as a provider of those services and that the persons for whom the services are intended are established in States that are parties to the EEA Agreement other than that in which that company is established.

([1]) OJ C 114, 20.4.2013.

Judgment of the Court (Second Chamber) of 10 July 2014 — BSH Bosch und Siemens Hausgeräte GmbH v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-126/13 P) ([1])

(Appeal — Community trade mark — Regulation (EC) No 207/2009 — Article 7(1)(c) — Descriptive character — Refusal to register the word mark ecoDoor — Characteristic of a part of a product)

(2014/C 315/14)

Language of the case: German

Parties

Appellant: BSH Bosch und Siemens Hausgeräte GmbH (represented by: S. Biagosch, Rechtsanwalt)

Other party to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: D. Walicka, acting as Agent)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders BSH Bosch und Siemens Hausgeräte GmbH to pay the costs.*

([1]) OJ C 164, 8.6.2013.

Judgment of the Court (Second Chamber) of 10 July 2014 (request for a preliminary ruling from the Verwaltungsgericht Berlin — Germany) — Naime Dogan v Bundesrepublik Deutschland

(Case C-138/13) ([1])

(Request for a preliminary ruling — EEC-Turkey Association Agreement — Additional Protocol — Article 41(1) — Right of residence of family members of Turkish nationals — National legislation requiring evidence of basic linguistic knowledge with regard to the family member wishing to enter the national territory — Lawfulness — Directive 2003/86/EC — Family reunification — Article 7(2) — Compatibility)

(2014/C 315/15)

Language of the case: Germany

Referring court

Verwaltungsgericht Berlin

Parties to the main proceedings

Applicant: Naime Dogan

Defendant: Bundesrepublik Deutschland

Operative part of the judgment

Article 41(1) of the Additional Protocol, signed in Brussels on 23 November 1970 and concluded, approved and confirmed on behalf of the Community by Council Regulation (EEC) No 2760/72 of 19 December 1972 concluding the additional protocol and the financial protocol signed on 23 November 1970 and annexed to the Agreement establishing an Association between the European Economic Community and Turkey and relating to the measures to be taken for their implementation must be interpreted as meaning that the 'standstill' clause set out in that provision precludes a measure of national law, introduced after the entry into force of that additional protocol in the Member State concerned, which imposes on spouses of Turkish nationals residing in that Member State, who wish to enter the territory of that State for the purposes of family reunification, the condition that they demonstrate beforehand that they have acquired basic knowledge of the official language of that Member State.

([1]) OJ C 171, 15.6.2013.

Judgment of the Court (Seventh Chamber) of 17 July 2014 — Reber Holding GmbH & Co. KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs), Wedl & Hofmann GmbH

(Case C-141/13 P) ([1])

(Appeal — Community trade mark — Figurative mark Walzer Traum — Opposition by the proprietor of the national word mark Walzertraum — Concept of genuine use of the mark — Failure to take earlier decisions into account — Principle of equal treatment)

(2014/C 315/16)

Language of the case: German

Parties

Appellant: Reber Holding GmbH & Co. KG (represented by: O. Spuhler and M. Geitz, Rechtsanwälte)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, acting as Agent), Wedl & Hofmann GmbH (represented by: T. Raubal, Rechtsanwalt)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Reber Holding GmbH & Co. KG to pay the costs.*

(1) OJ C 141, 18.5.2013.

Judgment of the Court (Fourth Chamber) of 17 July 2014 (request for a preliminary ruling from the Cour administrative d'appel de Lyon — France) — Maurice Leone, Blandine Leone v Garde des Sceaux, ministre de la Justice, Caisse nationale de retraite des agents des collectivités locales

(Case C-173/13) (1)

(Social policy — Article 141 EC — Equality of pay for female and male workers — Early retirement with immediate payment of pension — Service credit for the purposes of calculating the pension — Advantages benefiting mainly female civil servants — Indirect discrimination — Objective justification — Genuine concern about attaining the stated objective — Consistency in implementation — Article 141(4) EC — Measures aimed at compensating for career-related disadvantages for female workers — Not applicable)

(2014/C 315/17)

Language of the case: French

Referring court

Cour administrative d'appel de Lyon

Parties to the main proceedings

Applicants: Maurice Leone, Blandine Leone

Defendants: Garde des Sceaux, ministre de la Justice, Caisse nationale de retraite des agents des collectivités locales

Operative part of the judgment

1. *Article 141 EC must be interpreted as meaning that a scheme for early retirement with immediate payment of pension such as that at issue in the main proceedings gives rise to indirect discrimination in terms of pay as between female workers and male workers, contrary to that article, unless it can be justified by objective factors unrelated to any discrimination on grounds of sex, such as a legitimate social policy aim, and is appropriate to achieve that aim and necessary in order to do so, which requires that it genuinely reflect a concern to attain that aim and be pursued in a consistent and systematic manner.*

2. *Article 141 EC must be interpreted as meaning that a service credit scheme for pension purposes, such as the one at issue in the main proceedings, gives rise to indirect discrimination in terms of pay as between female workers and male workers, contrary to that article, unless it can be justified by objective factors unrelated to any discrimination on grounds of sex, such as a legitimate social policy aim, and is appropriate to achieve that aim and necessary in order to do so, which requires that it genuinely reflect a concern to attain that aim and be pursued in a consistent and systematic manner.*

3. *Article 141(4) EC must be interpreted as meaning that the measures referred to in that provision do not cover national measures such as those at issue in the main proceedings which merely allow the workers concerned to take early retirement with immediate payment of pension and to grant them a service credit upon their retirement, without providing a remedy for the problems which they may encounter in the course of their professional career.*

(1) OJ C 171, 15.6.2013.

Judgment of the Court (Fourth Chamber) of 10 July 2014 (request for a preliminary ruling from the Supremo Tribunal Administrativo — Portugal) — Fazenda Pública v Banco Mais SA

(Case C-183/13) ([1])

(Taxation — VAT — Directive 77/388/EEC — Article 17(5), third subparagraph, point (c) — Article 19 — Deduction of input tax — Leasing transactions — Mixed use goods and services — Rule for determining the amount of the VAT deduction — Derogation — Conditions)

(2014/C 315/18)

Language of the case: Portuguese

Referring court

Supremo Tribunal Administrativo

Parties to the main proceedings

Applicant: Fazenda Pública

Defendant: Banco Mais SA

Operative part of the judgment

Point (c) of the third subparagraph of Article 17(5) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, must be interpreted as not precluding a Member State, in circumstances such as those in the main proceedings, from requiring a bank, which, inter alia, carries out leasing activities, to include in the numerator and denominator of the fraction used to determine a single deductible proportion for all of its mixed use goods and services just the part of the rental payments made by customers as part of their leasing agreements that corresponds to interest, where that use of the goods and services is primarily caused by the financing and management of those contracts, that being a matter for the national court to ascertain.

([1]) OJ C 189, 29.6.2013.

Judgment of the Court (Fifth Chamber) of 10 July 2014 (request for a preliminary ruling from the Juzgado de lo Social n°1 de Benidorm — Spain) — Víctor Manuel Julian Hernández and Others v Puntal Arquitectura SL and Others

(Case C-198/13) ([1])

(Protection of employees in the event of the insolvency of their employer — Directive 2008/94/EC — Scope — Employer's right to compensation from a Member State in respect of the remuneration paid to an employee during proceedings challenging that employee's dismissal beyond the 60th working day after the action challenging the dismissal was brought — No right to compensation in the case of invalid dismissals — Subrogation of the employee to the right to compensation of his employer in the event of that employer's provisional insolvency — Discrimination against employees who are the subject of an invalid dismissal — Charter of Fundamental Rights of the European Union — Scope — Article 20)

(2014/C 315/19)

Language of the case: Spanish

Referring court

Juzgado de lo Social n°1 de Benidorm

Parties to the main proceedings

Applicants: Víctor Manuel Julian Hernández, Chems Eddine Adel, Jaime Morales Ciudad, Bartolomé Madrid Madrid, Martín Selles Orozco, Alberto Martí Juan, Said Debbaj

Defendants: Puntal Arquitectura SL, Obras Alteamar SL, Altea Diseño y Proyectos SL, Ángel Muñoz Sánchez, Vicente Orozco Miro, Subdelegación del Gobierno de España en Alicante

Operative part of the judgment

National legislation, such as that at issue in the main proceedings, according to which an employer can request from the Member State concerned payment of remuneration which has become due during proceedings challenging a dismissal after the 60th working day following the date on which the action was brought and according to which, where the employer has not paid that remuneration and finds itself in a state of provisional insolvency, the employee concerned may, by operation of legal subrogation, claim directly from that State the payment of that remuneration, does not come within the scope of Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer and cannot, therefore, be examined in the light of the fundamental rights guaranteed by the Charter of Fundamental Rights of the European Union and, in particular, of Article 20 thereof.

([1]) OJ C 189, 29.6.2013.

Judgment of the Court (Second Chamber) of 10 July 2014 (request for a preliminary ruling from the Consiglio di Stato (Italy)) — Impresa Pizzarotti & C. SpA v Comune di Bari, Giunta comunale di Bari and Consiglio comunale di Bari

(Case C-213/13) ([1])

(Reference for a preliminary ruling — Public works contracts — Directive 93/37/EEC — 'Undertaking to let' buildings which have not yet been constructed — Decision of a national court having the authority of res judicata — Scope of the principle of res judicata in the event of a situation which is incompatible with EU law)

(2014/C 315/20)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicant: Impresa Pizzarotti & C. SpA

Defendants: Comune di Bari, Giunta comunale di Bari and Consiglio comunale di Bari

Intervening parties: Complesso Residenziale Bari 2 Srl, Commissione di manutenzione della Corte d'appello di Bari, Giuseppe Albenzio, acting as *Commissario ad acta*, Ministero della Giustizia and Regione Puglia

Operative part of the judgment

1. *On a proper construction of Article 1(a) of Council Directive 93/37/EEC of 14 June 1993 concerning the coordination of procedures for the award of public works contracts, where the main object of a contract is the execution of a work corresponding to the requirements expressed by the contracting authority, that contract constitutes a public works contract and is not, therefore, covered by the exclusion referred to in Article 1(a)(iii) of Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts, even if it contains an undertaking to let the work in question.*

2. *To the extent that it is authorised to do so by the applicable domestic rules of procedure, a national court — such as the referring court — which has given a ruling at last instance, without a reference having first been made to the Court of Justice of the European Union under Article 267 TFEU, that has led to a situation which is incompatible with the EU legislation on public works contracts must either supplement or go back on that definitive ruling so as to take into account any interpretation of that legislation provided by the Court subsequently.*

(1) OJ C 207, 20.7.2013.

Judgment of the Court (First Chamber) of 10 July 2014 — Kalliopi Nikolaou v Court of Auditors of the European Union

(Case C-220/13 P) (1)

(Appeal — Non-contractual liability — Omissions on the part of the Court of Auditors — Claim for compensation for harm caused — Principle of the presumption of innocence — Principle of sincere cooperation — Powers — Conduct of preliminary investigations)

(2014/C 315/21)

Language of the case: Greek

Parties

Appellant: Kalliopi Nikolaou (represented by: V. Christianos and S. Paliou, dikigoroi)

Other party to the proceedings: Court of Auditors of the European Union (represented by: T. Kennedy and I. Ní Riagáin Düro, Agents, and P. Tridimas, Barrister)

Operative part of the judgment

The Court:

1) *Dismisses the appeal;*

2) *Orders Ms Kalliopi Nikolaou to pay the costs.*

(1) OJ C 189, 29.6.2013.

Judgment of the Court (Second Chamber) of 10 July 2014 (request for a preliminary ruling from the High Court — Ireland) — Ewaen Fred Ogieriakhi v Minister for Justice and Equality, Ireland, Attorney General, An Post

(Case C-244/13) (1)

(Reference for a preliminary ruling — Directive 2004/38/EC — Article 16(2) — Right of permanent residence for family members of a Union citizen who are third-country nationals — Situation where spouses no longer live together — Immediate installation with other partners during a continuous period of residence of five years — Regulation (EEC) No 1612/68 — Article 10(3) — Conditions — Infringement of EU law by a Member State — Examination of the nature of the infringement at issue — Need for a reference for a preliminary ruling)

(2014/C 315/22)

Language of the case: English

Referring court

High Court (Ireland)

Parties to the main proceedings

Applicant: Ewaen Fred Ogieriakhi

Defendants: Minister for Justice and Equality, Ireland, Attorney General, An Post

Operative part of the judgment

1. *Article 16(2) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC must be interpreted as meaning that a third-country national who, during a continuous period of five years before the transposition date for that directive, has resided in a Member State as the spouse of a Union citizen working in that Member State, must be regarded as having acquired a right of permanent residence under that provision, even though, during that period, the spouses decided to separate and commenced residing with other partners, and the home occupied by that national was no longer provided or made available by his spouse with Union citizenship;*

2. *The fact that, in relation to a claim for damages for infringement of EU law, a national court has found it necessary to seek a preliminary ruling on a question concerning the EU law at issue in the proceedings on the substance must not be considered a decisive factor in determining whether there was an obvious infringement of that law on the part of the Member State.*

([1]) OJ C 189, 29.6.2013.

Judgment of the Court (Sixth Chamber) of 17 July 2014 (request for a preliminary ruling from the Commissione tributaria regionale per la Toscana — Italy) — Equoland Soc. coop. arl v Agenzia delle Dogane — Ufficio delle Dogane di Livorno

(Case C-272/13) ([1])

(Reference for a preliminary ruling — Value added tax — Sixth Directive 77/388/EEC — Directive 2006/112/EC — Exemption of imported goods which are intended to be placed under warehousing arrangements other than customs — Obligation to physically place the goods in the warehouse — Non-compliance — Obligation to pay VAT notwithstanding the fact that it has already been settled under the reverse charge mechanism)

(2014/C 315/23)

Language of the case: Italian

Referring court

Commissione tributaria regionale per la Toscana

Parties to the main proceedings

Applicant: Equoland Soc. coop. arl

Defendant: Agenzia delle Dogane — Ufficio delle Dogane di Livorno

Operative part of the judgment

1. *Article 16(1) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, as amended by Council Directive 2006/18/EC of 14 February 2006, in the version resulting from Article 28c of the Sixth Directive, must be interpreted as not precluding national legislation which makes the grant of an exemption from the payment of the value added tax on importation provided for by that legislation subject to the condition that goods which are imported and destined for a tax warehouse for the purposes of value added tax be physically placed in that warehouse;*

2. *Sixth Directive 77/388, as amended by Directive 2006/18, must be interpreted, in accordance with the principle of neutrality of value added tax, as precluding national legislation under which a Member State requires the payment of value added tax on importation even though that tax has been settled already under the reverse charge mechanism through self-invoicing and entry in the sales and purchases register of the taxable person.*

([1]) OJ C 207, 20.7.2013.

Judgment of the Court (Seventh Chamber) of 10 July 2014 (request for a preliminary ruling from the Helsingborgs tingsrätt — Sweden) — criminal proceedings against Lars Ivansson, Carl-Rudolf Palmgren, Kjell Otto Pehrsson, Håkan Rosengren

(Case C-307/13) ([1])

(Reference for a preliminary ruling — Internal market — Directive 98/34/EC — Third subparagraph of Article 8(1) — Information procedure in the field of technical rules and regulations — Notion of 'technical regulation' — Hens for egg production — Shortening of a timetable for implementation originally envisaged for the entry into force of the technical rule — Obligation to notify — Conditions — Discrepancies between language versions)

(2014/C 315/24)

Language of the case: Swedish

Referring court

Helsingborgs tingsrätt

Parties in the criminal proceedings before the national court

Lars Ivansson, Carl-Rudolf Palmgren, Kjell Otto Pehrsson, Håkan Rosengren

Operative part of the judgment

1. *The date finally chosen by the national authorities for the entry into force of a national measure, such as that at issue in the main proceedings, laying down the requirement that hens for egg production are to be kept in housing systems which meet the hens' need for nests, perches and sand-baths and that the housing system is to be such that the mortality rate and behaviour disorders in the hens are kept to a low level, is subject to the obligation of communication to the European Commission, as laid down in the third subparagraph of Article 8(1) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services, as amended by Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998, where a change to the timetable for the implementation of that national measure was, in effect, made, and was significant in nature, which it is for the national court to ascertain;*

2. *If the shortening of the timetable for the entry into force of a technical regulation is subject to the obligation of communication to the European Commission, as laid down in the third subparagraph of Article 8(1) of Directive 98/34, as amended by Directive 98/48, the failure to make such a communication would render that national measure inapplicable, such that it could not be enforced against individuals.*

([1]) OJ C 215, 27.7.2013.

Judgment of the Court (Ninth Chamber) of 10 July 2014 — Peek & Cloppenburg KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs), Peek & Cloppenburg KG

(Joined Cases C-325/13 P and C-326/13 P) ([1])

(Appeals — Community trade mark — Word mark Peek & Cloppenburg — Opposition by another proprietor of the business name 'Peek & Cloppenburg' — Refusal of registration)

(2014/C 315/25)

Language of the case: German

Parties

Appellant: Peek & Cloppenburg KG (represented by: P. Langue, Rechtsanwalt)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, acting as Agent), Peek & Cloppenburg KG (represented by: A. Renck, Rechtsanwalt)

Operative part of the judgment

The Court:

1. *Dismisses the appeals;*

2. *Orders Peek & Cloppenburg KG, established in Düsseldorf (Germany), to pay the costs.*

([1]) OJ C 245, 24.8.2013.

Judgment of the Court (Second Chamber) of 17 July 2014 (request for a preliminary ruling from the Verwaltungsgerichtshof — Austria) — Marjan Noorzia v Bundesministerin für Inneres

(Case C-338/13) ([1])

(Request for a preliminary ruling — Right to family reunification — Directive 2003/86/EC — Article 4 (5) — Provision of national law under which the sponsor and his/her spouse must have reached the age of 21 by the date on which the application for family reunification is lodged — Interpretation in conformity with EU law)

(2014/C 315/26)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Marjan Noorzia

Defendant: Bundesministerin für Inneres

Operative part of the judgment

Article 4(5) of Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification must be interpreted as meaning that that provision does not preclude a rule of national law requiring that spouses and registered partners must have reached the age of 21 by the date when the application seeking to be considered family members entitled to reunification is lodged.

([1]) OJ C 233, 10.8.2013.

Judgment of the Court (Fourth Chamber) of 10 July 2014 (requests for a preliminary ruling from the Bundesgerichtshof — Germany) — Criminal proceedings against Markus D. (C 358/13) and G. (C-181/14)

(Joined Cases C-358/13 and C 181/14) ([1])

((Medicinal products for human use — Directive 2001/83/EC — Scope — Interpretation of the concept of 'medicinal product' — Scope of the criterion based on the capacity to modify physiological functions — Herb and cannabinoid-based products — Not included)

(2014/C 315/27)

Language of the case: German

Referring court

Bundesgerichtshof

Criminal proceedings against

Markus D. (C-358/13) and G. (C-181/14)

Operative part of the judgment

Article 1(2)(b) of Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use, as amended by Directive 2004/27/EC of the European Parliament and of the Council of 31 March 2004, must be interpreted as not covering substances, such as those at issue in the main proceedings, which produce effects that merely modify physiological functions but which are not such as to have any beneficial effects, either immediately or in the long term, on human health, are consumed solely to induce a state of intoxication and are, as such, harmful to human health.

([1]) OJ C 325, 9.11.2013.
OJ C 212, 7.7.2014.

Judgment of the Court (Sixth Chamber) of 10 July 2014 — Hellenic Republic v European Commission

(Case C-391/13 P) ([1])

(Appeal — EAGGF, EAGF and EAFRD — Expenditure excluded from funding from the European Union — Olive oil — Arable crops — Manifest error of assessment — Increase in the flat-rate correction due to the recurrence of failure — Impact of CAP reform on the flat-rate correction — Proportionality — Nature of expenditure for the establishment of the olive cultivation GIS)

(2014/C 315/28)

Language of the case: Greek

Parties

Appellant: Hellenic Republic (represented by: I. Chaklias, Agent)

Other party to the proceedings: European Commission (represented by: A. Marcoulli and D. Tryantafyllou, Agents)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders the Hellenic Republic to pay the costs.*

([1]) OJ C 260, 7.9.2013.

Judgment of the Court (Third Chamber) of 10 July 2014 (request for a preliminary ruling from the Bundespatentgericht (Germany)) — Netto Marken-Discount AG & Co. KG v Deutsches Patent- und Marken

(Case C-420/13) ([1])

(Request for a preliminary ruling — Trade marks — Directive 2008/95/EC — Identification of goods or services for which the protection of a trade mark is sought — Requirements of clarity and precision — Nice Classification — Retail trade — Bringing together of services)

(2014/C 315/29)

Language of the case: German

Referring court

Bundespatentgericht

Parties to the main proceedings

Applicant: Netto Marken-Discount AG & Co. KG

Defendant: Deutsches Patent- und Marken

Operative part of the judgment

1. *Services rendered by an economic operator which consist in bringing together services so that the consumer can conveniently compare and purchase them may come within the concept of 'services' referred to in Article 2 of Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks.*

2. *Directive 2008/95 must be interpreted as imposing a requirement that an application for registration of a trade mark with respect to a service which consists in bringing together services must be formulated with sufficient clarity and precision so as to allow the competent authorities and other economic operators to know which services the applicant intends to bring together.*

([1]) OJ C 313, 26.10.2013.

Judgment of the Court (Third Chamber) of 10 July 2014 (request for a preliminary ruling from the Bundespatentgericht (Germany)) — Apple Inc. v Deutsches Patent- und Markenamt

(Case C-421/13) ([1])

(Reference for a preliminary ruling — Trade marks — Directive 2008/95/EC — Articles 2 and 3 — Signs capable of constituting a trade mark — Distinctive character — Representation, by design, of the layout of a flagship store — Registration as a trade mark for 'services' connected with the products on sale in such a store)

(2014/C 315/30)

Language of the case: German

Referring court

Bundespatentgericht

Parties to the main proceedings

Applicant: Apple Inc.

Defendant: Deutsches Patent- und Markenamt

Operative part of the judgment

Articles 2 and 3 of Directive 2008/95 of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks must be interpreted as meaning that the representation, by a design alone, without indicating the size or the proportions, of the layout of a retail store, may be registered as a trade mark for services consisting in services relating to those goods but which do not form an integral part of the offer for sale thereof, provided that the sign is capable of distinguishing the services of the applicant for registration from those of other undertakings; and, that registration is not precluded by any of the grounds for refusal set out in that directive.

([1]) OJ C 313, 26.10.2013.

Judgment of the Court (Seventh Chamber) of 17 July 2014 (request for a preliminary ruling from the Curtea de Apel Bucureşti (Romania)) — SC BCR Leasing IFN SA v Agenția Națională de Administrare Fiscală — Direcția generală de administrare a marilor contribuabili, Agenția Națională de Administrare Fiscală — Direcția generală de soluționare a contestațiilor

(Case C-438/13) ([1])

(VAT — Directive 2006/112/EC — Articles 16 and 18 — Financial leasing — Goods under a financial leasing contract — Non-recovery of those goods by the leasing company after the termination of the contract — Missing goods)

(2014/C 315/31)

Language of the case: Romanian

Referring court

Curtea de Apel Bucureşti

Parties to the main proceedings

Applicant: SC BCR Leasing IFN SA

Defendants: Agenția Națională de Administrare Fiscală — Direcția generală de administrare a marilor contribuabili, Agenția Națională de Administrare Fiscală — Direcția generală de soluționare a contestațiilor

Operative part of the judgment

Articles 16 and 18 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that the impossibility, for a leasing company, of recovering from the lessee the goods let under a financial leasing contract following its termination as a result of the lessee's breach, despite the steps undertaken by that company to recover those goods and despite the lack of any consideration following such termination, may not be treated as a supply of goods for consideration for the purposes of those articles.

([1]) OJ C 325, 9.11.2013.

Judgment of the Court (Third Chamber) of 17 July 2014 (request for a preliminary ruling from the Tribunale di Verona (Italy)) — Shamim Tahir v Ministero dell'Interno and Questura di Verona

(Case C-469/13) ([1])

(Reference for a preliminary ruling — Area of freedom, security and justice — Directive 2003/109/EC — Articles 2, 4(1), 7(1) and 13 — 'Long-term resident's EU residence permit' — Terms for conferring long-term resident status — Legal and continuous residence in the host Member State for five years prior to the submission of the permit application — Person with family connections to the long-term resident — More favourable national provisions — Effects)

(2014/C 315/32)

Language of the case: Italian

Referring court

Tribunale di Verona

Parties to the main proceedings

Applicant: Shamim Tahir

Defendants: Ministero dell'Interno and Questura di Verona

Operative part of the judgment

1. *Articles 4(1) and 7(1) of Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, as amended by Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011, must be interpreted as meaning that family members, as defined in Article 2(e) of that directive, of a person who has already acquired long-term resident status may not be exempted from the condition laid down in Article 4(1) of that directive, under which, in order to obtain that status, a third-country national must have resided legally and continuously in the Member State concerned for five years immediately prior to the submission of the relevant application.*

2. *Article 13 of Directive 2003/109, as amended by Directive 2011/51, must be interpreted as not allowing a Member State to issue family members, as defined in Article 2(e) of that directive, with long-term residents' EU residence permits on terms more favourable than those laid down by that directive.*

([1]) OJ C 52, 22.2.2014.

Judgment of the Court (Grand Chamber) of 17 July 2014 (requests for a preliminary ruling from the Bundesgerichtshof, Landgericht München I (Germany)) — Adala Bero v Regierungspräsidium Kassel (C-473/13), Ettayebi Bouzalmate v Kreisverwaltung Kleve (C-514/13)

(Joined Cases C-473/13 and C-514/13) ([1])

(Area of freedom, security and justice — Directive 2008/115/EC — Common standards and procedures in Member States for returning illegally staying third-country nationals — Article 16(1) — Detention for the purpose of removal — Detention in prison accommodation — Not possible to provide accommodation for third-country nationals in a specialised detention facility — No such facility in the Land where the third-country national is detained)

(2014/C 315/33)

Language of the case: German

Referring court

Bundesgerichtshof, Landgericht München I

Parties to the main proceedings

Applicants: Adala Bero (C-473/13), Ettayebi Bouzalmate (C-514/13)

Defendants: Regierungspräsidium Kassel (C-473/13), Kreisverwaltung Kleve (C-514/13)

Operative part of the judgment

Article 16(1) of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals must be interpreted as requiring a Member State, as a rule, to detain illegally staying third-country nationals for the purpose of removal in a specialised detention facility of that State even if the Member State has a federal structure and the federated state competent to decide upon and carry out such detention under national law does not have such a detention facility.

([1]) OJ C 336, 16.11.2013.
OJ C 367, 14.12.2013.

Judgment of the Court (Grand Chamber) of 17 July 2014 (request for a preliminary ruling from the Bundesgerichtshof (Germany)) — Thi Ly Pham v Stadt Schweinfurt, Amt für Meldewesen und Statistik

(Case C-474/13) ([1])

(Area of freedom, security and justice — Directive 2008/115/EC — Common standards and procedures in Member States for returning illegally staying third-country nationals — Article 16(1) — Detention for the purpose of removal — Detention in prison accommodation — Possibility of detaining a third-country national with ordinary prisoners where he has given his consent)

(2014/C 315/34)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Thi Ly Pham

Defendant: Stadt Schweinfurt, Amt für Meldewesen und Statistik

Operative part of the judgment

The second sentence of Article 16(1) of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals must be interpreted as not permitting a Member State to detain a third-country national for the purpose of removal in prison accommodation together with ordinary prisoners even if the third-country national consents thereto.

([1]) OJ C 336, 16.11.2013.

Judgment of the Court (Ninth Chamber) of 17 July 2014 (request for a preliminary ruling from the Finanzgericht Hamburg (Germany)) — Sysmex Europe GmbH v Hauptzollamt Hamburg-Hafen

(Case C-480/13) ([1])

(Request for a preliminary ruling — Tariff classification — Common Customs Tariff — Combined Nomenclature — Headings 3204, 3212 and 3822 — Substance producing, by chemical reaction and exposure to a laser light, a fluorescent effect intended for the analysis of white blood cells)

(2014/C 315/35)

Language of the case: German

Referring court

Finanzgericht Hamburg

Parties to the main proceedings

Applicant: Sysmex Europe GmbH

Defendant: Hauptzollamt Hamburg-Hafen

Operative part of the judgment

The Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, as amended by Regulation (EC) No 1810/2004 of 7 September 2004, must be interpreted as meaning that a product, composed of solvents and of a polymethine-based substance, which, although it may have a weak and non-permanent dyeing effect on textiles, is not in practice used for its dyeing properties and is intended exclusively for the analysis of white blood cells, by means of the deposition of ions in defined components of those blood cells, which, when exposed to laser light, become fluorescent for a limited period, comes under heading 3822 of the Combined Nomenclature relating to laboratory reagents.

([1]) OJ C 352, 30.11.2013.

Judgment of the Court (Fourth Chamber) of 17 July 2014 (request for a preliminary ruling from the Oberlandesgericht Bamberg — Germany) — Criminal proceedings against Mohammad Ferooz Qurbani

(Case C-481/13) ([1])

(Reference for a preliminary ruling — Geneva Convention of 28 July 1951 relating to the Status of Refugees — Article 31 — Third country national who has entered the territory of a Member State after passing through another Member State — Use of the services of human traffickers — Unauthorised entry and stay — Presentation of a forged passport — Criminal penalties — Lack of jurisdiction of the Court)

(2014/C 315/36)

Language of the case: German

Referring court

Oberlandesgericht Bamberg

Party in the criminal proceedings before the referring court

Mohammad Ferooz Qurbani

Operative part of the judgment

The Court of Justice of the European Union does not have jurisdiction to reply to the questions referred for a preliminary ruling by the Oberlandesgericht Bamberg (Germany), by decision of 29 August 2013 in Case C-481/13.

([1]) OJ C 352, 30.11.2013.

Request for an opinion submitted by the Republic of Malta pursuant to Article 218(11) TFEU

(Opinion 1/14)

(2014/C 315/37)

Language of the case: all the official languages

Applicant

Republic of Malta (represented by: A. Buhagiar, P. Grech, Agents)

Question submitted to the Court

Is the Council of Europe Draft Convention against the Manipulation of Sports Competitions, insofar as it regulates sports betting and defines 'illegal sports betting' in Article 3(5)(a) as 'all sports betting activity whose type or operator is not allowed under the applicable law of the jurisdiction where the consumer is located', in conjunction with Articles 9 and 11 thereof which target 'illegal sports betting' so defined, compatible with the Treaties, particularly Articles 18, 49 and 56 TFEU?

Judgment of the Court (First Chamber) of 17 July 2014 (request for a preliminary ruling from the Audiencia Provincial de Castellón (Spain)) — Juan Carlos Sánchez Morcillo, María del Carmen Abril García v Banco Bilbao Vizcaya Argentaria, SA

(Case C-169/14) ([1])

(Reference for a preliminary ruling — Directive 93/13/EEC — Article 7 — Charter of Fundamental Rights of the European Union — Article 47 — Consumer contracts — Mortgage loan agreement — Unfair terms — Mortgage enforcement proceedings — Right to an appeal)

(2014/C 315/38)

Language of the case: Spanish

Referring court

Audiencia Provincial de Castellón

Parties to the main proceedings

Applicants: Juan Carlos Sánchez Morcillo, María del Carmen Abril García

Defendant: Banco Bilbao Vizcaya Argentaria, SA

Operative part of the judgment

Article 7(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, read in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union, must be interpreted as precluding a system of enforcement, such as that at issue in the main proceedings, which provides that mortgage enforcement proceedings may not be stayed by the court of first instance, which, in its final decision, may at most award compensation in respect of the damage suffered by the consumer, inasmuch as the latter, the debtor against whom mortgage enforcement proceedings are brought, may not appeal against a decision dismissing his objection to that enforcement, whereas the seller or supplier, the creditor seeking enforcement, may bring an appeal against a decision terminating the proceedings or ordering an unfair term to be disapplied.

([1]) OJ C 175, 10.6.2014.

Order of the Court (Sixth Chamber) of 26 June 2014 (request for a preliminary ruling from the Tribunal do Trabalho do Porto — Portugal) — Sindicato Nacional dos Profissionais de Seguros e Afins v Fidelidade Mundial — Companhia de Seguros, SA

(Case C-264/12) ([1])

(Reference for a preliminary ruling — Article 53(2) of the Rules of Procedure — Charter of Fundamental Rights of the European Union — National legislation establishing salary reductions for certain public sector workers — No implementation of EU law — Manifest lack of jurisdiction of the Court of Justice)

(2014/C 315/39)

Language of the case: Portuguese

Referring court

Tribunal do Trabalho do Porto

Parties to the main proceedings

Applicant: Sindicato Nacional dos Profissionais de Seguros e Afins

Defendant: Fidelidade Mundial — Companhia de Seguros, SA

Operative part of the order

The Court of Justice of the European Union manifestly lacks jurisdiction with regard to the request for a preliminary ruling from the Tribunal do Trabalho do Porto (Portugal), made by decision of 22 May 2012 (Case C-264/12).

([1]) OJ C 209, 14.7.2012.

Order of the Court of 19 June 2014 — Hellenic Republic v European Commission

(Case C-552/12 P) ([1])

(Appeal — EAGGF, EAGF and EAFRD — Expenditure excluded from European Union financing — Expenditure incurred by the Hellenic Republic)

(2014/C 315/40)

Language of the case: Greek

Parties

Appellant: Hellenic Republic (represented by: I. Chalkias and E. Leftheriotou, acting as Agents)

Other party to the proceedings: European Commission (represented by: H. Tserepa-Lacombe and A. Markoulli, acting as Agents)

Operative part of the order

1. *The appeal is dismissed.*

2. *The Hellenic Republic shall pay the costs.*

([1]) OJ C 32, 2.2.2013.

Order of the Court of 15 July 2014 — Hellenic Republic v European Commission

(Case C-71/13 P) ([1])

(Appeal — EAGGF, EAGF and EAFRD — Expenditure excluded from European Union financing — Expenditure incurred by the Hellenic Republic)

(2014/C 315/41)

Language of the case: Greek

Parties

Appellant: Hellenic Republic (represented by: I. Chalkias and E.Leftheriotou)

Other party to the proceedings: European Commission (represented by: D. Triantafyllou, H. Tserepa-Lacomb and A.Markoulli, Agents)

Operative part of the order

1. *The appeal is dismissed.*

2. *The Hellenic Republic is ordered to pay the costs.*

([1]) OJ C 101, 6 April 2013.

Order of the Court of 3 July 2014 — Federal Republic of Germany v European Commission

(Case C-102/13 P) ([1])

(Appeal — Action for annulment — Period for bringing proceedings — Validity of the notification of a Commission decision to the Permanent Representation of a Member State — Determination of the date of that notification — Rules of Procedure of the Court of Justice — Article 181 — Appeal manifestly unfounded)

(2014/C 315/42)

Language of the case: German

Parties

Appellant: Federal Republic of Germany (represented by: T.Henze and J. Möller, Agents)

Other party to the proceedings: European Commission (represented by: R. Sauer and T. Maxian Rusche, Agents)

Operative part of the order

1. *The appeal is dismissed.*

2. *The Federal Republic of Germany is ordered to pay the costs.*

(1) OJ C 164, 8 June 2013.

Order of the Court (Sixth Chamber) of 19 June 2014 (request for a preliminary ruling from the Naczelny Sąd Administracyjny — Poland) — Henryk Teisseyre, Jan Teisseyre v Minister Skarbu Państwa

(Case C-370/13) (1)

(Reference for a preliminary ruling — Article 18 TFEU — Citizenship of the Union — Non-discrimination — Compensation for loss of abandoned immovable property outside the current borders of the Member State concerned — Citizenship condition — Lack of connection to EU law — Clear lack of jurisdiction of the Court)

(2014/C 315/43)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Applicants: Henryk Teisseyre, Jan Teisseyre

Defendant: Minister Skarbu Państwa

Operative part of the order

The Court of Justice of the European Union clearly lacks jurisdiction to reply to the question referred by the Naczelny Sąd Administracyjny (Poland).

(1) OJ C 291, 5.10.2013.

Order of the Court (Tenth Chamber) of 17 July 2014 (request for a preliminary ruling from the Autorità per la Vigilanza sui Contratti pubblici di lavori, servizi e forniture — Italy) — Emmeci Srl v Cotral SpA

(Case C-427/13) (1)

(Reference for a preliminary ruling — Article 53(2) of the Rules of Procedure of the Court — Autorità per la Vigilanza sui Contratti pubblici di lavori, servizi e forniture — Article 267 TFEU — Concept of 'court or tribunal of a Member State' — Lack of jurisdiction of the Court)

(2014/C 315/44)

Language of the case: Italian

Referring court

Autorità per la Vigilanza sui Contratti pubblici di lavori, servizi e forniture

Parties to the main proceedings

Applicant: Emmeci Srl

Defendant: Cotral SpA

Operative part of the order

The Court of Justice of the European Union clearly has no jurisdiction to answer the questions referred by the Autorità per la Vigilanza sui Contratti pubblici di lavori, servizi e forniture (Italy), by its decision of 22 May 2013 (Case C-427/13).

([1]) OJ C 325, 9.11.2013.

Order of the Court (Sixth Chamber) of 19 June 2014 — Donaldson Filtration Deutschland GmbH v ultra air GmbH, Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-450/13 P) ([1])

(Appeal — Community trade mark — Word mark ultrafilter international — Application for a declaration of invalidity — Abuse of rights)

(2014/C 315/45)

Language of the case: German

Parties

Appellant: Donaldson Filtration Deutschland GmbH (represented by: N. Siebertz, M. Teworte-Vey and A. Renvert, Rechtsanwälte)

Other parties to the proceedings: ultra air GmbH (represented by: C. König, Rechtsanwalt), Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, acting as Agent)

Operative part of the order

1. *The appeal is dismissed.*

2. *Donaldson Filtration Deutschland GmbH is ordered to pay the costs.*

([1]) OJ C 313, 26.10.2013.

Order of the Court (Ninth Chamber) of 17 July 2014 (request for a preliminary ruling from the Najvyšší súd — Slovakia) — Milica Široká v Úrad verejného zdravotníctva Slovenskej republiky

(Case C-459/13) ([1])

(Reference for a preliminary ruling — Protection of public health — National legislation imposing an obligation to vaccinate minor children — Right of parents to refuse that vaccination — Article 168 TFEU — Charter of Fundamental Rights of the European Union — Articles 33 and 35 — Implementation of EU law — None — Clear lack of jurisdiction of the Court)

(2014/C 315/46)

Language of the case: Slovak

Referring court

Najvyšší súd

Parties to the main proceedings

Appellant: Milica Široká

Respondent: Úrad verejného zdravotníctva Slovenskej republiky

Operative part of the order

The Court of Justice of the European Union clearly has no jurisdiction to answer the questions referred by the Najvyšší súd Slovenskej republiky (Slovakia), by decision of 6 August 2013 in Case C-459/13.

([1]) OJ C 344, 23.11.2013

Order of the Court (Sixth Chamber) of 17 July 2014 — MOL Magyar Olaj- és Gázipari Nyrt. v Office for Harmonisation in the Internal Market (Trade Marks and Designs), Banco Bilbao Vizcaya Argentaria SA

(Case C-468/13 P) ([1])

(Appeal — Community trade mark — Regulation (EC) No 207/2009 — Article 8(1)(b) — Word mark MOL Blue Card — Opposition — Refusal to register)

(2014/C 315/47)

Language of the case: English

Parties

Appellant: MOL Magyar Olaj- és Gázipari Nyrt. (represented by: K. Szamosi, avocat)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, Agent), Banco Bilbao Vizcaya Argentaria SA (represented by: J. de Oliveira Vaz Miranda de Sousa and N. González-Alberto Rodríguez, abogados)

Operative part of the order

1. *The appeal is dismissed.*

2. *MOL Magyar Olaj- és Gázipari Nyrt. is ordered to pay the costs.*

([1]) OJ C 344, 23.11.2013.

Order of the Court (Sixth Chamber) of 17 July 2014 — Melkveebedrijf Overenk BV and Others v European Commission

(Case C-643/13 P) ([1])

(Appeal — Non-contractual liability — Regulation (EC) No 1468/2006 — Levy in the milk and milk products sector — Manifest inadmissibility)

(2014/C 315/48)

Language of the case: Dutch

Parties

Appellants: Melkveebedrijf Overenk BV, Maatschap Veehouderij Kwakernaak, Mulders Agro vof, Melkveebedrijf Engelen vof, Melkveebedrijf De Peel, Mathijs H. H. M. Moonen (represented by: P. E. Mazel and A van Beelen, advocaten)

Other party to the proceedings: European Commission (represented by: H. Kranenborg and Z. Malůšková, acting as Agents)

Operative part of the order

1. *The appeal is dismissed.*

2. *Melkveebedrijf Overenk BV, Maatschap Veehouderij Kwakernaak, Mulders Agro vof, Melkveebedrijf Engelen vof, Melkveebedrijf De Peel and Mathijs Moonen shall pay the costs.*

([1]) OJ C 52, 22.2.2014.

Order of the Court (Third Chamber) of 17 July 2014 (request for a preliminary ruling from the Szombathelyi Közigazgatási és Munkaügyi Bíróság — Hungary) — Delphi Hungary Autóalkatrész Gyártó kft v Nemzeti Adó- és Vámhivatal Nyugat-dunántúli Regionális Adó Főigazgatósága (NAV)

(Case C-654/13) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court — VAT — Directive 2006/112/EC — Article 183 — Reimbursement of excess VAT — National rules preventing the payment of default interest on VAT not recoverable within a reasonable period on account of a condition held to be contrary to EU law — Principle of equivalence)

(2014/C 315/49)

Language of the case: Hungarian

Referring court

Szombathelyi Közigazgatási és Munkaügyi Bíróság

Parties to the main proceedings

Applicant: Delphi Hungary Autóalkatrész Gyártó kft

Defendant: Nemzeti Adó- és Vámhivatal Nyugat-dunántúli Regionális Adó Főigazgatósága (NAV)

Operative part of the order

EU law, and in particular Article 183 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, must be interpreted as meaning that it precludes legislation and practice of a Member State, such as those at issue in the main proceedings, which prevent the payment of default interest on amounts of value added tax which were not recoverable within a reasonable period and on account of a national provision held to be contrary to EU law. In the absence of EU legislation on the subject, it is for the national law to establish, in conformity with the principles of equivalence and effectiveness, the procedure for the payment of such interest, which must not be less favourable than that applicable to actions based on infringement of domestic law with a similar purpose and cause of action to those based on the infringement of the EU law or be arranged such as to render the exercise of the rights conferred by the European Union legal order impossible in practice or excessively difficult, which it is for the referring court to ascertain in the case before it. The national courts are required, if necessary, to disapply any provision of national law contrary to EU law.

([1]) OJ C 85, 22.3.2014.

Order of the Court (Sixth Chamber) of 19 June 2014 — The Cartoon Network, Inc. v Office for Harmonisation in the Internal Market (Trade Marks and Designs), Boomerang TV SA

(Case C-670/13 P) ([1])

(Appeal — Community trade mark — Application for Community word mark BOOMERANG — Earlier Community figurative mark Boomerang TV — Relative ground for refusal — Likelihood of confusion)

(2014/C 315/50)

Language of the case: English

Parties

Appellant: The Cartoon Network, Inc. (represented by: I. Starr, Solicitor)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), Boomerang TV SA

Operative part of the order

1. *The appeal is dismissed.*

2. *The Cartoon Network Inc. is ordered to pay the costs.*

([1]) OJ C 52, 22.2.2014.

Order of the Court (Sixth Chamber) of 3 July 2014 (request for a preliminary ruling from the Sozialgericht Duisburg — Germany) — Ana-Maria Talasca, Angelina Marita Talasca v Stadt Kevelaer

(Case C-19/14) ([1])

(Reference for a preliminary ruling — Article 53(2) and Article 94 of the Rules of Procedure of the Court of Justice of the European Union — Absence of sufficient information concerning the factual and regulatory background to the dispute in the main proceedings and the reasons justifying the need for an answer to the question referred for a preliminary ruling — Manifest inadmissibility)

(2014/C 315/51)

Language of the case: German

Referring court

Sozialgericht Duisburg

Parties to the main proceedings

Applicants: Ana-Maria Talasca, Angelina Marita Talasca

Defendant: Stadt Kevelaer

Operative part of the order

The request for a preliminary ruling from the Sozialgericht Duisburg (Germany), made by decision of 17 December 2013, is manifestly inadmissible.

([1]) OJ C 142, 12.5.2014.

Order of the Court (Eighth Chamber) of 19 June 2014 — (request for a preliminary ruling from the Fővárosi Ítélőtábla — Hungary) — Criminal proceedings against István Balázs, Dániel Papp

(Case C-45/14) ([1])

(Reference for a preliminary ruling — Fundamental rights — Charter of Fundamental Rights of the European Union — Articles 47, 50 and 54 — Implementation of EU law — Lack — Manifest lack of jurisdiction of the Court)

(2014/C 315/52)

Language of the case: Hungarian

Referring court

Fővárosi Ítélőtábla

Criminal proceedings against

István Balázs, Dániel Papp

Operative part of the order

The Court of Justice of the European Union manifestly lacks jurisdiction to answer the questions referred by the Fővárosi Ítélőtábla (Hungary) by order of 21 January 2014.

([1]) OJ C 142, 12.5.2014.

Order of the Court (Sixth Chamber) of 3 July 2014 (request for a preliminary ruling from the Judecătoria Câmpulung — Romania) — Liliana Tudoran, Florin Iulian Tudoran, Ilie Tudoran v SC Suport Colect SRL

(Case C-92/14) ([1])

Reference for a preliminary ruling — Directives 93/13/EEC and 2008/48/EC — Temporal and material scope — Facts preceding the accession of Romania to the European Union — Charter of Fundamental Rights of the European Union — Implementation of EU law — Failure to implement Union law — Manifest lack of jurisdiction — Articles 49 TFEU and 56 TFEU — Manifest inadmissibility

(2014/C 315/53)

Language of the case: Romanian

Referring court

Judecătoria Câmpulung

Parties to the main proceedings

Applicants: Liliana Tudoran, Florin Iulian Tudoran, Ilie Tudoran

Defendant: SC Suport Colect SRL

Operative part of the order

Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts and Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC are not applicable to the dispute in the main proceedings.

In addition, firstly, the Court of Justice of the European Union manifestly lacks jurisdiction to answer the third question referred for a preliminary ruling by the Judecătoria Câmpulung (Romania) by decision of 25 February 2014; secondly, the fifth question referred for a preliminary ruling by that court is manifestly inadmissible.

([1]) OJ C 142, 12.5.2014.

Appeal brought on 17 January 2014 by Three-N-Products Private Ltd against the judgment of the General Court (Third Chamber) delivered on 7 November 2013 in Case T-63/13 Three-N-Products Private Ltd v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case C-22/14 P)

(2014/C 315/54)

Language of the case: French

Parties

Appellant: Three-N-Products Private Ltd (represented by: M. Thewes and T. Chevrier, lawyers)

Other party to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

By order of 2 July 2014, the Court of Justice (Sixth Chamber) dismissed the appeal.

Request for a preliminary ruling from the Commissione tributaria regionale della Lombardia (Italy) lodged on 4 February 2014 — 3D I srl v Agenzia delle Entrate Ufficio di Cremona

(Case C-107/14)

(2014/C 315/55)

Language of the case: Italian

Referring court

Commissione tributaria regionale della Lombardia

Parties to the main proceedings

Applicant: 3D I srl

Defendant: Agenzia delle Entrate Ufficio di Cremona

By order of 17 July 2014, the Court of Justice (Third Chamber) declared the request for a preliminary ruling inadmissible.

Request for a preliminary ruling from the Tribunalul Neamț (Romania) lodged on 2 June 2014 — Sindicatul cadrelor militare disponibilizate, în rezervă și în retragere (SCMD), Constantin Budiș, Vasile Murariu, Vasile Ursache, Ioan Zăpor and Petrea Simionel v Ministerul Finanțelor Publice — Direcția Generală a Finanțelor Publice a Județului Neamț

(Case C-262/14)

(2014/C 315/56)

Language of the case: Romanian

Referring court

Tribunalul Neamț

Parties to the main proceedings

Applicants: Sindicatul Cadrelor Militare Disponibilizate în rezervă și în retragere (SCMD), Constantin Budiș, Vasile Murariu, Vasile Ursache, Ioan Zăpor and Petrea Simionel

Defendant: Ministerul Finanțelor Publice — Direcția Generală a Finanțelor Publice a Județului Neamț

Questions referred

1. May Article 2(2) of Directive 2000/78 ([1]) be interpreted as meaning that the concept of discrimination to which that provision refers also covers the creation of a situation in which there is a difference in treatment depending on whether a person who is, or wishes to be, employed is in receipt of a pension?

2. May Article 3(1) of Directive 2000/78 be interpreted as meaning that the concept of 'person in receipt of a pension' is among the criteria and conditions relating to the concepts of conditions for access to employment, selection criteria and conditions for dismissal?

3. May Article 6 of Directive 2000/78 be interpreted as permitting a Member State which has transposed that provision into national law to determine, in the context of judicial proceedings, whether European directives have been inadequately or incorrectly transposed into national law as regards the assessment of the '[objective and reasonable justification]' for the application of a difference in treatment, and also the 'legitimate aim' considered by the legislature when adopting the legislation under which provision is made for a difference in treatment?

([1]) 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).

Appeal brought on 9 June 2014 by the Italian Republic against the judgment of the General Court (First Chamber) of 28 March 2014 in Case T-117/10 Italian Republic v Commission

(Case C-280/14 P)

(2014/C 315/57)

Language of the case: Italian

Parties

Appellant: Italian Republic (represented by: G. Palmieri, acting as Agent, and P. Gentili, avvocato dello Stato)

Other party to the proceedings: European Commission

Form of order sought

The appellant submits that the Court should:

— set aside, in accordance with Article 56 of the Statute of the Court of Justice, the judgment of the General Court of the European Union of 28 March 2014 in Case T-117/10, concerning the action brought by the Italian Government under Articles 263 TFEU and 264 TFEU for annulment of European Commission Decision No C(2009) 10350 of 22 December 2009, notified on 23 December 2009, concerning the cancellation of part of the contribution from the European Regional Development Fund allocated to Italy for the operational programme POR Puglia, Objective I, 2000-2006;

— consequently, annul, pursuant to Article 61 of Statute of the Court of Justice, that European Commission decision on its substance and order the European Commission to pay the costs.

Pleas in law and main arguments

In support of its appeal, the Italian Republic has put forward the following grounds of appeal:

First ground: infringement of the principle of *audi alteram partem* and failure to state reasons

The General Court rejected the first two pleas in law — having dealt with them together — relating to the evaluations made by the Commission in respect of the first- and second-level checks. According to the appellant, the two matters were, however, quite distinct, inasmuch as each gave rise to a separate objection in respect of the efficiency and reliability of the checks. The contested decision listed the various objections raised against the regional checks as 'heads of complaint', all of which led to the sole and final conclusion that the regional checks were unreliable and that there was a risk of harm to the EU budget which justified a flat-rate correction of 10 %. Thus, the different 'heads of complaint' should have been examined separately, since any exclusion or reduction of one or more of one of them would have affected all of them taken together. Consequently, examination of such diverse arguments in a joint and mixed fashion, as carried out by the General Court, impeded full and proper consideration of the issues of fact and law raised by the Italian Government and also resulted in a clear failure to state reasons: by acting in this way, the General Court failed to explain fully, as it was required to do, why it considered the different grounds of objection to be unfounded.

Second ground: breach of Article 39(2)(c) and 39(3) of Regulation No 1260/1999, ([1]) and of Article 4 of Regulation No 438/2001 ([2]); infringement of the principles relating to the burden of proof; material inaccuracy of the findings of facts in comparison with those resulting from the case-file before the General Court; distortion of the evidence adduced before the General Court.

The appellant claims that the General Court distorted the uncontested facts and the evidence from the case-file, in particular the fact that the Italian authorities had analysed, on an individual basis, the evaluations made by the Commission's inspectors concerning the deficiencies identified in nine first-level checks. According to the appellant, the General Court should have recognised that the contested decision was erroneous in the part pertaining to those nine checks, and should therefore have upheld the Italian Government's submissions that the Commission had breached Article 39(2) and (3) of Regulation No 1260/1999, given that it had adopted a decision to make a flat-rate correction of 10 % without there being any proof of irregularities from the sample of first-level checks, and (even if the other irregularities are assumed to have occurred) in a manner which was certainly excessive in the light of the principle of proportionality, as laid down in Article 39 of Regulation No 1260/1999.

The General Court disregarded the documents in the case-file relating to the findings of facts pertaining to the progress of the checks inasmuch as it failed to take into account the actual quantitative (the threshold agreed with the Commission) and qualitative development of the first- and second-level checks which occurred during 2009.

Finally, the General Court distorted the uncontested facts and evidence from the case-file, and breached the articles cited above, by taking the view that the contested decision was justified because the Italian authorities had not demonstrated the progress made by the paying authority.

Third ground: breach of Article 39(2)(c) and 39(3) of Regulation No 1260/1999, and of Article 10 of Regulation No 438/2001; infringement of the principles relating to the burden of proof; material inaccuracy of the findings of facts in comparison with those resulting from the case-file before the General Court; distortion of the evidence adduced before the General Court.

According to the appellant, the findings of the General Court are based on an entirely abstract reconstruction of the *de facto* situation relating to the progress made and the distribution of second-level checks. The General Court should have annulled the part of the decision concerning the analysis made by the Commission in respect of the second-level checks and their unreliability, which completely lacked any credible evidence as to the existence and size of any actual risk for the ERDF.

(1) Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds (OJ 1999 L 161, p. 1).

(2) Commission Regulation (EC) No 438/2001 of 2 March 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the management and control systems for assistance granted under the Structural Funds (OJ 2001 L 63, p. 21).

Request for a preliminary ruling from the Finanzgericht Düsseldorf (Germany) lodged on 11 June 2014 — CM Eurologistik GmbH v Hauptzollamt Duisburg

(Case C-283/14)

(2014/C 315/58)

Language of the case: German

Referring court

Finanzgericht Düsseldorf

Parties to the main proceedings

Applicant: CM Eurologistik GmbH

Defendant: Hauptzollamt Duisburg

Question referred

Must Council Implementing Regulation (EU) No 158/2013 of 18 February 2013 reimposing a definitive anti-dumping duty on imports of certain prepared or preserved citrus fruits (namely mandarins, etc.) originating in the People's Republic of China (1) be regarded as valid?

(1) OJ 2013 L 49, p. 29.

Request for a preliminary ruling from the Finanzgericht Hamburg (Germany) lodged on 11 June 2014 — Grünwald Logistik Service GmbH (GLS) v Hauptzollamt Hamburg-Stadt

(Case C-284/14)

(2014/C 315/59)

Language of the case: German

Referring court

Finanzgericht Hamburg

Parties to the main proceedings

Applicant: Grünwald Logistik Service GmbH (GLS)

Defendant: Hauptzollamt Hamburg-Stadt

Question referred

Is Council Implementing Regulation (EU) No 158/2013 of 18 February 2013 re-imposing a definitive anti-dumping duty on imports of certain prepared or preserved citrus fruits (namely mandarins, etc.) originating in the People's Republic of China ([1]) valid, even though it was based not on an independent anti-dumping investigation carried out shortly before its adoption but on the continuation of an anti-dumping investigation which had at that time already been carried out in respect of the period from 1 October 2006 to 30 September 2007, the conduct of which, however, the Court of Justice of the European Union, in its judgment of 22 May 2012 in *GLS* C-338/10, ([2]) held to have infringed the requirements of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community, ([3]) as amended by Council Regulation (EC) No 2117/2005 of 21 December 2005 amending Regulation (EC) No 384/96 on protection against dumped imports from countries not members of the European Community, ([4]) with the consequence that the Court, in that judgment, declared Council Regulation (EC) No 1355/2008 of 18 December 2008 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain prepared or preserved citrus fruits (namely mandarins, etc.) originating in the People's Republic of China, ([5]) adopted on the basis of that investigation, to be invalid?

([1]) OJ 2013 L 49, p. 29.
([2]) ECLI:EU:C:2012:158.
([3]) OJ 1996 L 56, p. 1.
([4]) OJ 2005 L 340, p. 17.
([5]) OJ 2008 L 350, p. 35.

Request for a preliminary ruling from the Finanzgericht Hamburg (Germany) lodged on 16 June 2014 — ADM Hamburg AG v Hauptzollamt Hamburg-Stadt

(Case C-294/14)

(2014/C 315/60)

Language of the case: German

Referring court

Finanzgericht Hamburg

Parties to the main proceedings

Applicant: ADM Hamburg AG

Defendant: Hauptzollamt Hamburg-Stadt

Question referred

Is the factual condition laid down in the first sentence of Article 74(1) of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 ([1]) establishing the Community Customs Code, as amended by Commission Regulation (EU) No 1063/2010 of 18 November 2010, ([2]) whereby the products declared for release for free circulation in the European Union must be the same products as exported from the beneficiary country in which they are considered to originate, fulfilled in a case such as the present case, where several part-consignments of crude palm kernel oil are exported from different GSP exporting countries from those in which they are considered to originate and imported into the European Union not as physically separate consignments, but are all exported after being poured into the same tank of the cargo vessel and imported as a mixture in that tank into the European Union, such that it can be ruled out that other products (not enjoying preferential treatment) have been put into the tank of the cargo vessel during the time the products were being transported until they were released for free circulation?

([1]) OJ 1993 L 253, p. 1.
([2]) OJ 2010 L 307, p. 1.

Request for a preliminary ruling from the Landessozialgericht Nordrhein-Westfalen (Germany) lodged on 17 June 2014 — Vestische Arbeit Jobcenter Kreis Recklinghausen v Jovanna Garcia-Nieto and Others

(Case C-299/14)

(2014/C 315/61)

Language of the case: German

Referring court

Landessozialgericht Nordrhein-Westfalen

Parties to the main proceedings

Applicant: Vestische Arbeit Jobcenter Kreis Recklinghausen

Defendants: Jovanna Garcia-Nieto, Joel Pena Cuevas, Jovanlis Pena Garcia, Joel Luis Pena Cruz

Questions referred

1. Does the principle of equal treatment under Article 4 of Regulation (EC) No 883/2004 ([1]) — with the exception of the clause in Article 70(4) of Regulation (EC) No 883/2004 excluding the provision of benefits outside the Member State of residence — also apply to the special non-contributory cash benefits referred to in Article 70(1) and (2) of Regulation (EC) No 883/2004?

2. If the first question is answered in the affirmative: may the principle of equal treatment laid down in Article 4 of Regulation No 883/2004 be limited by provisions of national legislation implementing Article 24(2) of Directive 2004/38/EC ([2]) which do not under any circumstances allow access to those benefits for the first three months of residence where European Union citizens in the Federal Republic of Germany are neither employed or self-employed persons nor entitled to exercise freedom of movement under Paragraph 2(3) of the Freizügigkeitsgesetz/EU (Law on Freedom of Movement for EU Citizens, 'the FreizügG/EU') and, if so, to what extent may that principle be limited?

3. If the first question is answered in the negative: do other principles of equal treatment under primary law — in particular Article 45(2) TFEU in conjunction with Article 18 TFEU — preclude a national provision which does not under any circumstances allow the grant of a social benefit which is intended to ensure subsistence and to facilitate access to the labour market in their first three months of residence to European Union citizens who are neither employed or self-employed persons nor entitled to exercise freedom of movement under Paragraph 2(3) of the FreizügG/EU, but who can demonstrate a genuine link to the host State and, in particular, to the labour market of that host State?

([1]) Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ 2004 L 166, p. 1).
([2]) Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004 L 158, p. 77).

Reference for a preliminary ruling from Upper Tribunal (Immigration and Asylum Chamber) London (United Kingdom) made on 24 June 2014 — Secretary of State for the Home Department v CS

(Case C-304/14)

(2014/C 315/62)

Language of the case: English

Referring court

Upper Tribunal (Immigration and Asylum Chamber) London

Parties to the main proceedings

Applicant: Secretary of State for the Home Department

Defendant: CS

Questions referred

1. Does European Union law, and in particular Article 20 TFEU, preclude a Member State from expelling from its territory to a non-Union country, a non-Union national who is the parent and primary carer of a child who is a citizen of that Member State (and, consequently, a citizen of the Union), where to do so would deprive the Union citizen child of the genuine enjoyment of the substance of his or her rights as a European Union citizen?

2. If the answer to Question (1) is 'No', in what circumstances would such an expulsion be permitted under European Union Law?

3. If the answer to Question (1) is 'No', to what extent, if any, do Articles 27 and 28 of Directive 2004/38/EC [1](the 'Citizens Directive') inform the answer to Question (2)?

[1] Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. OJ L 158, p. 77

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 3 July 2014 — B&S Global Transit Center BV; other party: Staatssecretaris van Financiën

(Case C-319/14)

(2014/C 315/63)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant in cassation: B&S Global Transit Center BV

Other party: Staatssecretaris van Financiën

Questions referred

1. Must Articles 203 and 204 of the Community Customs Code, [1] read in conjunction with Article 859 (in particular paragraph 6) of [the Regulation implementing the Community Customs Code], [2] be interpreted as meaning that, where the external Community customs transit procedure has not ended, but documents have in fact been produced which make it possible to assume that the goods have left the customs territory of the European Union, the fact that that procedure has not ended does not lead to the incurring of a customs debt by reason of a removal of the goods from customs supervision within the meaning of Article 203 of the Community Customs Code but, in principle, to the incurring of a customs debt on the basis of Article 204 of the Community Customs Code?

2. Must Article 859(6) of Regulation No 2454/93 be interpreted as meaning that that provision concerns exclusively the non-performance of (*one* of) the obligations associated with the (re)exportation of goods as set out in Articles 182 and 183 of the Community Customs Code? Alternatively, should the clause 'without completion of the necessary formalities' be taken to mean that the 'necessary formalities' also include the formalities that must be completed prior to the (re)exportation in order to bring to an end the customs procedure under which the goods have been placed?

3. If the answer to Question 2 is in the affirmative, must the third indent of Article 859 of Regulation No 2454/93 be interpreted as meaning that the fact that the formalities referred to in Question 2 have not been completed does not, in a situation such as that in the present case — in which, on the basis of documentation, it has been shown that the goods left the customs territory of the European Union subsequent to transit within the European Union — preclude the condition that 'all the formalities necessary to regularise the situation of the goods are subsequently carried out' from being deemed to have been satisfied?

([1]) Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1).

([2]) Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ 1993 L 253, p. 1).

Request for a preliminary ruling from the Landgericht Krefeld (Germany) lodged on 4 July 2014 — Colena AG v Karnevalservice Bastian GmbH

(Case C-321/14)

(2014/C 315/64)

Language of the case: German

Referring court

Landgericht Krefeld

Parties to the main proceedings

Applicant: Colena AG

Defendant: Karnevalservice Bastian GmbH

Questions referred

1. Must Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products ([1]) be interpreted as meaning that a product which does not come under Regulation No 1223/2009 must comply with the requirements of that regulation solely by reason of a statement on the outer packaging that the product is a 'cosmetic eye accessory which is subject to the EU cosmetics directive'?

2. Must Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products be interpreted as meaning that so-called themed contact lenses, which do not have any corrective function, come within the scope of that regulation?

([1]) OJ 2009 L 342, p. 59.

Request for a preliminary ruling from the Landgericht Krefeld (Germany) lodged on 4 July 2014 — Jaouad El Majdoub v CarsOnTheWeb.Deutschland GmbH

(Case C-322/14)

(2014/C 315/65)

Language of the case: German

Referring court

Landgericht Krefeld

Parties to the main proceedings

Applicant: Jaouad El Majdoub

Defendant: CarsOnTheWeb.Deutschland GmbH

Question referred

Does so-called 'click wrapping' fulfil the requirements for there to be a communication by electronic means within the meaning of Article 23(2) of Regulation No 44/2001? ([1])

([1]) Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1).

Request for a preliminary ruling from the Rechtbank Noord-Holland (Netherlands) lodged on 7 July 2014 — Helm AG v Inspecteur van de Belastingdienst/Douane, kantoor Rotterdam Rijnmond

(Case C-323/14)

(2014/C 315/66)

Language of the case: Dutch

Referring court

Rechtbank Noord-Holland

Parties to the main proceedings

Applicant: Helm AG

Defendant: Inspecteur van de Belastingdienst/Douane, kantoor Rotterdam Rijnmond

Question referred

Is Council Regulation (EU) No 248/2011 ([1]) invalid, to the extent to which it relates to the Jushi Group, in view of the fact that the Commission did not determine within three months of the initiation of the investigation, in accordance with the second subparagraph of Article 2(7)(c) of the basic regulation, ([2]) whether the Jushi Group, which was included in the sample, met the criteria set out in the first subparagraph of Article 2(7)(c) of the basic regulation?

([1]) Implementing Regulation of 9 March 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain continuous filament glass fibre products originating in the People's Republic of China (OJ 2011 L 67, p. 1).

([2]) Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ 2009 L 343, p. 51).

Request for a preliminary ruling from the Hof van beroep te Brussel (Belgium) lodged on 7 July 2014 — SBS Belgium NV v Belgische Vereniging van Auteurs, Componisten en Uitgevers (SABAM)

(Case C-325/14)

(2014/C 315/67)

Language of the case: Dutch

Referring court

Hof van beroep te Brussel

Parties to the main proceedings

Appellant: SBS Belgium NV

Respondent: Belgische Vereniging van Auteurs, Componisten en Uitgevers (SABAM)

Question referred

Does a broadcasting organisation which transmits its programmes exclusively via the technique of direct injection — that is to say, a two-step process in which it transmits its programme-carrying signals in an encrypted form via satellite, a fibre-optic connection or another means of transmission to distributors (satellite, cable or xDSL-line), without the signals being accessible to the public during or as a result of that transmission, and in which the distributors then send the signals to their subscribers so that the latter may view the programmes — make a communication to the public within the meaning of Article 3 of Directive 2001/29/EC ([1]) of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society?

([1]) OJ 2001 L 167, p. 10.

Request for a preliminary ruling from the Amtsgericht Rüsselsheim (Germany) lodged on 14 July 2014 — Elvira Mandl, Helmut Mandl v Condor Flugdienst GmbH

(Case C-337/14)

(2014/C 315/68)

Language of the case: German

Referring court

Amtsgericht Rüsselsheim

Parties to the main proceedings

Applicants: Elvira Mandl, Helmut Mandl

Defendant: Condor Flugdienst GmbH

Question referred

Is there an obligation on an airline company which wishes to rely on the possibility of exemption in Article 5(3) of Regulation No 261/2004 ([1]) to set out and prove that it took all reasonable measures to avoid the foreseeable consequences of an extraordinary circumstance in the form of cancellation or considerable delay or that no such reasonable measures were available to it?

([1]) Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 — Commission Statement (OJ 2004 L 46, p. 1).

Action brought on 22 July 2014 — Republic of Poland v European Parliament and Council of the European Union

(Case C-358/14)

(2014/C 315/69)

Language of the case: Polish

Parties

Applicant: Republic of Poland (represented by: B. Majczyna)

Defendants: European Parliament, Council of the European Union

Form of order sought

The applicant claims the Court should:

— declare invalid Article 2.25, Article 6(2)(b), Article 7(1) to (5), (7), first sentence, and (12) to (14), and Article 13(1)(c) of Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC; ([1])

— order the European Parliament and the Council of the European Union to pay the costs.

Pleas in law and main arguments

The Republic of Poland submits in its action that the contested provisions contain complex and novel rules set out for the first time in Directive 2014/40/EU, the objective of which is, by means of the establishment of a prohibition of the marketing of tobacco products with characterising flavours and through the fixing of measures accompanying that prohibition, to exclude entirely such products, including menthol cigarettes, from the internal market. In view of the share held by menthol cigarettes in the European Union market for tobacco products, that prohibition brings with it very serious repercussions for the manufacture of menthol cigarettes.

The Republic of Poland raises the following objections to the contested provisions:

First: breach of Article 114 TFEU. The prohibition of the marketing of menthol cigarettes was introduced even though there are no discrepancies between national legal provisions which could restrict the movement of goods. This prohibition does not contribute to improving the functioning of the internal market but, on the contrary, results in the creation of obstacles which did not exist before the directive was adopted.

Second: infringement of the principle of proportionality. The prohibition of the marketing of menthol cigarettes is not an appropriate means for attaining the objectives pursued by the directive. Furthermore, this prohibition runs counter to the requirement that measures taken must be necessary for attaining the objectives pursued. The costs involved in introducing the prohibition exceed by far any potential advantages.

Third: infringement of the principle of subsidiarity. The prohibition of the marketing of menthol cigarettes runs counter to the principle of subsidiarity, in that the issue of menthol cigarette consumption, in regard to both the influence on public health and the potential social and economic costs of the prohibition of their sale, has a local character which is confined to a narrow group of Member States. For that reason, this issue has to be resolved at national level, and exclusively in those Member States in which there is a high level of consumption and manufacture of those products.

([1]) OJ 2014 L 127, p. 1.

Appeal brought on 24 July 2014 by the Federal Republic of Germany against the judgment delivered on 14 May 2014 in Case T-198/12 Federal Republic of Germany v European Commission

(Case C-360/14P)

(2014/C 315/70)

Language of the case: German

Parties

Appellant: Federal Republic of Germany (represented by: T. Henze, A. Lippstreu, acting as Agents, U. Karpenstein, lawyer)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

1. Set aside the judgment of the General Court of the European Union of 14 May 2014 in Case T-198/12 *Federal Republic of Germany* v *European Commission*, action for partial annulment of Commission Decision 2012/160/EU of 1 March 2012 concerning the national provisions notified by the German Federal Government maintaining the limit values for lead, barium, arsenic, antimony, mercury and nitrosamines and nitrosatable substances in toys beyond the entry into application of Directive 2009/48/EC of the European Parliament and of the Council on the safety of toys ([1]), in so far as the Court dismissed the action;

2. Annul Commission Decision 2012/160/EU of 1 March 2012 in so far as the national provisions notified for maintenance of the limit values for antimony, arsenic and mercury are not approved; in the alternative, refer the case back to the General Court;

3. Order the Commission to pay the costs of the proceedings.

Pleas in law and main arguments

The appellant relies on three grounds of appeal in total:

First ground of appeal: The General Court infringed Article 114(4) TFEU in three ways. It failed to respect the principle of the autonomous Member State risk assessment, in so far as it held, due to the fact that the measures notified by the appellant were based on an irregular risk assessment, that they were unsuitable. In addition, the Court unlawfully demanded proof that the level of protection guaranteed by Directive 2009/48/EC is in itself insufficient. Finally, the Court's findings are based on an incorrect understanding of the law in so far as it precluded a quantitative comparison of the level of protection based on limit values.

Second ground of appeal: The General Court infringed the obligation to state the reasons on which a judgment is based under Articles 36 and 53(1) of the Statute of the Court. First, its statement of reasons relating to Table 1 submitted by the Federal Republic of Germany is inconsistent in so far as it refers on the one hand to alleged errors in calculation and on the other hand to an alleged error in measurement. Secondly, the statement of reasons is insufficient since the Court accepts that the comparison of migration limit values submitted by the Federal Republic of Germany fail to demonstrate a high level of protection, without examining the significance of the category of materials capable of being removed by scraping.

Third ground of appeal: The Court distorted the facts and/or the evidence in three ways. First, the contents of Table 3 submitted by the appellant are clearly misconstrued. In addition, the Court clearly wrongfully assumes that the Table of the Federal Institute for Risk Assessment submitted by the appellant contains unreliable data. Finally, the Court clearly misconstrued the Report of the Scientific Committee on Health and Environmental Risks (SCHER) of 1 July 2010, in so far as it deduced from that report a statement concerning the reliability of bioavailability limit values, which clearly was not made by SCHER.

([1]) OJ 2012 L 80, p. 19.

Order of the President of the Court of 5 June 2014 — El Corte Inglés, SA v Office for Harmonisation in the Internal Market (Trade Marks and Designs), Emilio Pucci International BV

(Case C-578/12 P) ([1])

(2014/C 315/71)

Language of the case: English

The President of the Court has ordered that the case be removed from the register.

([1]) OJ C 46, 16.2.2013.

Order of the President of the Court of 5 June 2014 — El Corte Inglés, SA v Office for Harmonisation in the Internal Market (Trade Marks and Designs), Emilio Pucci International BV

(Case C-582/12 P) ([1])

(2014/C 315/72)

Language of the case: Spanish

The President of the Court has ordered that the case be removed from the register.

([1]) OJ C 63, 2.3.2013.

Order of the President of the Court of 5 June 2014 — El Corte Inglés, SA v Office for Harmonisation in the Internal Market (Trade Marks and Designs), Emilio Pucci International BV

(Case C-584/12 P) ([1])

(2014/C 315/73)

Language of the case: Spanish

The President of the Court has ordered that the case be removed from the register.

([1]) OJ C 63, 2.3.2013.

Order of the President of the Court of 10 July 2014 — European Commission v Council of the European Union: interveners: European Parliament, Federal Republic of Germany and the United Kingdom of Great Britain and Northern Ireland

(Case C-86/13) ([1])

(2014/C 315/74)

Language of the case: French

The President of the Court has ordered that the case be removed from the register.

([1]) OJ C 123, 27.4.2013.

Order of the President of the Court of 10 July 2014 — European Commission v Council of the European Union: interveners: European Parliament, United Kingdom of Great Britain and Northern Ireland

(Case C-248/13) ([1])

(2014/C 315/75)

Language of the case: French

The President of the Court has ordered that the case be removed from the register.

([1]) OJ C 171, 15.6.2013.

Order of the President of the Fourth Chamber of the Court of 5 June 2014 (request for a preliminary ruling from the Landgericht Frankfurt am Main — Germany) — Vietnam Airlines Co. Ltd v Brigitta Voss, Klaus-Jürgen Voss

(Case C-431/13) ([1])

(2014/C 315/76)

Language of the case: German

The President of the Fourth Chamber has ordered that the case be removed from the register.

([1]) OJ C 325, 9.11.2013.

Order of the President of the Third Chamber of the Court of 18 June 2014 (request for a preliminary ruling from the Oberster Gerichtshof — Austria) — Sarah Nagy v Marcel Nagy

(Case C-442/13) ([1])

(2014/C 315/77)

Language of the case: German

The President of the Third Chamber has ordered that the case be removed from the register.

([1]) OJ C 325, 9.11.2013.

Order of the President of the Court of 4 July 2014 (request for a preliminary ruling from the Bundesgerichtshof — Germany) — Gigaset AG v SKW Stahl-Metallurgie GmbH, SKW Stahl-Metallurgie Holding AG

(Case C-451/13) ([1])

(2014/C 315/78)

Language of the case: German

The President of the Court has ordered that the case be removed from the register.

([1]) OJ C 344, 23.11.2013.

Order of the President of the Court of 12 June 2014 (request for a preliminary ruling from the Fővárosi Közigazgatási és Munkaügyi Bíróság — Hungary) — UPC DTH Sàrl v Nemzeti Média- és Hírközlési Hatóság

(Case C-563/13) ([1])

(2014/C 315/79)

Language of the case: Hungarian

The President of the Court has ordered that the case be removed from the register.

([1]) OJ C 24, 25.1.2014.

Order of the President of the Court of 19 June 2014 (request for a preliminary ruling from the Landgericht Hannover — Germany) — TUIfly GmbH v Harald Walter

(Case C-79/14) ([1])

(2014/C 315/80)

Language of the case: German

The President of the Court has ordered that the case be removed from the register.

([1]) OJ C 142, 12.5.2014.

GENERAL COURT

Order of the General Court of 24 June 2014 — PPG and SNF v ECHA

(Case T-1/10 RENV) ([1])

(Action for annulment — REACH — Identification of acrylamide as a substance of very high concern — Lack of direct concern — Inadmissibility)

(2014/C 315/81)

Language of the case: English

Parties

Applicants: Polyelectrolyte Producers Group GEIE (PPG) (Brussels, Belgium), and SNF SAS (Andrézieux-Bouthéon, France) (represented initially by: K. Van Maldegem and R. Cana, and subsequently by R. Cana, lawyers)

Defendant: European Chemicals Agency (ECHA) (represented by: M. Heikkilä, W. Broere and T. Zbihlej, acting as Agents, assisted by J. Stuyck and A.-M. Vandromme, lawyers)

Interveners in support of the defendant: Kingdom of the Netherlands (represented by: B. Koopman, acting as Agent); and European Commission (represented by: E. Manhaeve and K. Talabér-Ritz, acting as Agents)

Re:

Application for annulment of the decision of ECHA identifying acrylamide (EC No 201-173-7) as a substance fulfilling the criteria referred to in Article 57 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ 2006 L 396, p. 1), pursuant to Article 59 of that regulation.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Polyelectrolyte Producers Group GEIE (PPG) and SNF SAS shall bear their own costs and pay those incurred by the European Chemicals Agency (ECHA).*

3. *SNF shall pay the costs relating to the proceedings for interim measures.*

4. *The Kingdom of the Netherlands and the European Commission shall bear their own costs.*

([1]) OJ C 63, 13.3.2010.

Order of the General Court of 10 July 2014 — H v Council and Others

(Case T-271/10) ([1])

(Application for annulment — Application for damages — Common foreign and security policy — National expert seconded to the EUPM in Bosnia and Herzegovina — Decision to redeploy — Lack of jurisdiction of the General Court — Inadmissibility)

(2014/C 315/82)

Language of the case: English

Parties

Applicant: H (Catania, Italy) (represented initially by: C. Mereu and M. Velardo, and subsequently by M. Velardo, lawyers)

Defendants: Council of the European Union (represented by: A. Vitro, G. Marhic and M.-M. Joséphidès, acting as Agents); European Commission (represented by F. Erlbacher and B. Eggers, acting as Agents); and European Union Police Mission (EUPM) in Bosnia and Herzegovina (Sarajevo (Bosnia and Herzegovina))

Re:

Application, first, for annulment of the decision of 7 April 2010, signed by the Chief of Personnel of the EUPM, by which the applicant was redeployed to the post of 'Criminal Justice Adviser — Prosecutor' in the regional office of Banja Luka (Bosnia and Herzegovina) and, if needed, of the decision of 30 April 2010, signed by the Head of Mission referred to in Article 6 of Council Decision 2009/906/CFSP of 8 December 2009 on the EUPM in Bosnia and Herzegovina (BiH) (OJ 2009 L 322, p. 22), confirming the decision of 7 April 2010, and second, for damages,

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Ms H shall bear her own costs and those incurred by the Council of the European Union and the European Commission.*

([1]) OJ C 221, 14.8.2010.

Order of the General Court of 25 June 2014 — Accorinti and Others v ECB

(Case T-224/12) ([1])

(Action for annulment — Economic and monetary policy — ECB — National central banks — Restructuring of the Greek Government debt — Eligibility of marketable debt instruments issued or fully guaranteed by Greece for the purposes of Eurosystem monetary policy operations — Sufficient maintenance of the credit quality threshold in order to remain eligible — Collateral enhancement in the form of a buy-back scheme for debt instruments for the benefit of the national central banks — Private creditors — Whether certain legal effects may be attributed to the contested measure — No legal interest in bringing proceedings — Lack of direct concern — Inadmissibility)

(2014/C 315/83)

Language of the case: Italian

Parties

Applicants: Alessandro Accorinti (Nichelino, Italy) and the other applicants whose names are set out in the annex to the order (represented by: S. Sutti and R. Spelta, lawyers)

Defendant: European Central Bank (ECB) (represented by: initially A. Sáinz de Vicuña Barroso, S. Bening and P. Papapaschalis, and subsequently S. Bening and P. Papapaschalis, Agents, and E. Castellani, T. Lübbig and B. Kaiser, lawyers)

Re:

Application for annulment of Decision 2012/153/EU of the European Central Bank of 5 March 2012 on the eligibility of marketable debt instruments issued or fully guaranteed by the Hellenic Republic in the context of the Hellenic Republic's debt exchange offer (ECB/2012/3) (OJ 2012 L 77, p. 19).

Operative part of the order

1. *The action is dismissed as inadmissible;*

2. *Mr Alessandro Accorinti and the other applicants whose names are set out in the annex shall pay the costs.*

(1) OJ C 243, 11.8.2012.

Order of the General Court of 19 June 2014 — Suwaid v Council

(Case T-268/12) (1)

(Common foreign and security policy — Restrictive measures taken against certain persons and entities in view of the situation in Syria — Lack of representation — Applicant's failure to act — No need to adjudicate)

(2014/C 315/84)

Language of the case: English

Parties

Applicant: Joseph Suwaid (Damascus, Syria) (represented: initially by L. Defalque and T. Bontinck, lawyers)

Defendant: Council of the European Union (represented by: G. Étienne and V. Piessevaux, Agents)

Re:

Application for annulment of point A 7 of Annex I to Council Implementing Regulation (EU) No 266/2012 of 23 March 2012 implementing Article 32(1) of Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2012 L 87, p. 45), and of point A 7 of Annex I to Council Implementing Decision 2012/172/CFSP of 23 March 2012 implementing Decision 2011/782/CFSP concerning restrictive measures against Syria (OJ 2012 L 87, p. 103), in so far as those acts included the applicant on the list of persons subject to restrictive measures.

Operative part of the order

1. *There is no need to adjudicate on the present action.*

2. *Mr Joseph Suwaid shall bear his own costs and pay those incurred by the Council of the European Union.*

(1) OJ C 243, 11.8.2012.

Order of the General Court of 7 July 2014 — Group'Hygiène v Commission

(Case T-202/13) (1)

(Application for annulment — Environment — Directive 94/62/EC — Packaging and packaging waste — Directive 2013/2/EU — Rolls, tubes and cylinders around which flexible material is wound — Professional association — Lack of direct concern — Inadmissibility)

(2014/C 315/85)

Language of the case: French

Parties

Applicant: Group'Hygiène (Paris, France) (represented by: J. M. Leprêtre and N. Chahid Nouraï, lawyers)

Defendant: European Commission (represented by: A. Alcover San Pedro and J. F. Brakeland, acting as Agents)

Re:

Action for partial annulment of Commission Directive 2013/2/EU of 7 February 2013 amending Annex I to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ 2013 L 37, p. 10), in so far as the Commission adds rolls, tubes and cylinders around which flexible material is wound, with the exception of those intended as parts of production machinery and not used to present a product as a sales unit, to the list of examples of products illustrating the application of criteria that define the concept of 'packaging'.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *There is no need to adjudicate on the application for leave to intervene of Sphère France SAS and of Schweitzer SAS.*

3. *Group'Hygiène is ordered to bear its own costs and pay those incurred by the European Commission.*

([1]) OJ C 171, 15.6.2013.

Order of the General Court of 5 June 2014 — Saf-Holland v OHIM (INTEGRAL)

(Case T-217/13) ([1])

(Community trademark — Refusal of registration — Withdrawal of application for registration — No need to adjudicate)

(2014/C 315/86)

Language of the case: German

Parties

Applicant: Saf-Holland GmbH (Bessenbach, Germany) (represented by: M.-C. Seiler, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Marten and G. Schneider, acting as Agents)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 31 January 2013 (Case R 2087/2011-1) concerning an application for registration of the word mark INTEGRAL as a Community trade mark.

Operative part of the order

1. *There is no longer any need to adjudicate on the action.*

2. *The applicant is ordered to pay the costs.*

([1]) OJ C 189, 29.6.2013.

Order of the General Court of 7 July 2014 — Cofresco Frischhalteprodukte v Commission

(Case T-223/13) ([1])

(Application for annulment — Environment — Directive 94/62/EC — Packaging and packaging waste — Directive 2013/2/EU — Rolls, tubes and cylinders around which flexible material is wound — Lack of direct concern — Inadmissibility)

(2014/C 315/87)

Language of the case: French

Parties

Applicant: Cofresco Frischhalteprodukte GmbH & Co. KG (Minden, Germany) (represented by: H. Weil, lawyer)

Defendant: European Commission (represented by: A. Alcover San Pedro and J.-F. Brakeland, acting as Agents)

Re:

Action for partial annulment of Commission Directive 2013/2/EU of 7 February 2013 amending Annex I to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ 2013 L 37, p. 10), in so far as the Commission adds rolls, tubes and cylinders around which flexible material is wound, with the exception of those intended as parts of production machinery and not used to present a product as a sales unit, to the list of examples of products illustrating the application of criteria that define the concept of 'packaging'.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Cofresco Frischhalteprodukte GmbH & Co. KG is ordered to bear its own costs and pay those incurred by the European Commission.*

([1]) OJ C 171, 15.6.2013.

Order of the General Court of 7 July 2014 — Melitta France v Commission

(Case T-224/13) ([1])

(Application for annulment — Environment — Directive 94/62/EC — Packaging and packaging waste — Directive 2013/2/EU — Rolls, tubes and cylinders around which flexible material is wound — Lack of direct concern — Inadmissibility)

(2014/C 315/88)

Language of the case: French

Parties

Applicant: Melitta France (Chezy-sur-Marne, France) (represented by: H. Weil, lawyer)

Defendant: European Commission (represented by: A. Alcover San Pedro and J.-F. Brakeland, acting as Agents)

Re:

Action for partial annulment of Commission Directive 2013/2/EU of 7 February 2013 amending Annex I to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ 2013 L 37, p. 10), in so far as the Commission adds rolls, tubes and cylinders around which flexible material is wound, with the exception of those intended as parts of production machinery and not used to present a product as a sales unit, to the list of examples of products illustrating the application of criteria that define the concept of 'packaging'.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Melitta France is ordered to bear its own costs and pay those incurred by the European Commission.*

(1) OJ C 171, 15.6.2013.

Order of the General Court of 7 July 2014 — Wepa Lille v Commission

(Case T-231/13) (1)

(Application for annulment — Environment — Directive 94/62/EC — Packaging and packaging waste — Directive 2013/2/EU — Rolls, tubes and cylinders around which flexible material is wound — Lack of direct concern — Inadmissibility)

(2014/C 315/89)

Language of the case: French

Parties

Applicant: Wepa Lille (Bousbecque, France) (represented by: J.-M. Leprêtre and N. Chahid-Nouraï, lawyers)

Defendant: European Commission (represented by: A. Alcover San Pedro and J.-F. Brakeland, acting as Agents)

Re:

Action for partial annulment of Commission Directive 2013/2/EU of 7 February 2013 amending Annex I to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ 2013 L 37, p. 10), in so far as the Commission adds rolls, tubes and cylinders around which flexible material is wound, with the exception of those intended as parts of production machinery and not used to present a product as a sales unit, to the list of examples of products illustrating the application of criteria that define the concept of 'packaging'.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Wepa Lille is ordered to bear its own costs and pay those incurred by the European Commission.*

(1) OJ C 171, 15.6.2013.

Order of the General Court of 7 July 2014 — SCA Hygiène Products v Commission

(Case T-232/13) (1)

(Application for annulment — Environment — Directive 94/62/EC — Packaging and packaging waste — Directive 2013/2/EU — Rolls, tubes and cylinders around which flexible material is wound — Lack of direct concern — Inadmissibility)

(2014/C 315/90)

Language of the case: French

Parties

Applicant: SCA Hygiène Products (Tremblay-en-France) (represented by: J.-M. Leprêtre and N. Chahid-Nouraï, lawyers)

Defendant: European Commission (represented by: A. Alcover San Pedro and J.-F. Brakeland, acting as Agents)

Re:

Action for partial annulment of Commission Directive 2013/2/EU of 7 February 2013 amending Annex I to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ 2013 L 37, p. 10), in so far as the Commission adds rolls, tubes and cylinders around which flexible material is wound, with the exception of those intended as parts of production machinery and not used to present a product as a sales unit, to the list of examples of products illustrating the application of criteria that define the concept of 'packaging'.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *SCA Hygiène Products is ordered to bear its own costs and pay those incurred by the European Commission.*

(1) OJ C 171, 15.6.2013.

Order of the General Court of 7 July 2014 — Paul Hartmann v Commission

(Case T-233/13) (1)

(Application for annulment — Environment — Directive 94/62/EC — Packaging and packaging waste — Directive 2013/2/EU — Rolls, tubes and cylinders around which flexible material is wound — Lack of direct concern — Inadmissibility)

(2014/C 315/91)

Language of the case: French

Parties

Applicant: Paul Hartmann SA (Châtenois, France) (represented by: J. M. Leprêtre and N. Chahid Nouraï, lawyers)

Defendant: European Commission (represented by: A. Alcover San Pedro and J. F. Brakeland, acting as Agents)

Re:

Action for partial annulment of Commission Directive 2013/2/EU of 7 February 2013 amending Annex I to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ 2013 L 37, p. 10), in so far as the Commission adds rolls, tubes and cylinders around which flexible material is wound, with the exception of those intended as parts of production machinery and not used to present a product as a sales unit, to the list of examples of products illustrating the application of criteria that define the concept of 'packaging'.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Paul Hartmann SA is ordered to bear its own costs and pay those incurred by the European Commission.*

(1) OJ C 171, 15.6.2013.

Order of the General Court of 7 July 2014 — Lucart France v Commission

(Case T-234/13) ([1])

(Application for annulment — Environment — Directive 94/62/EC — Packaging and packaging waste — Directive 2013/2/EU — Rolls, tubes and cylinders around which flexible material is wound — Lack of direct concern — Inadmissibility)

(2014/C 315/92)

Language of the case: French

Parties

Applicant: Lucart France (Torvilliers, France) (represented by: J. M. Leprêtre and N. Chahid Nouraï, lawyers)

Defendant: European Commission (represented by: A. Alcover San Pedro and J. F. Brakeland, acting as Agents)

Re:

Action for partial annulment of Commission Directive 2013/2/EU of 7 February 2013 amending Annex I to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ 2013 L 37, p. 10), in so far as the Commission adds rolls, tubes and cylinders around which flexible material is wound, with the exception of those intended as parts of production machinery and not used to present a product as a sales unit, to the list of examples of products illustrating the application of criteria that define the concept of 'packaging'.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Lucart France is ordered to bear its own costs and pay those incurred by the European Commission.*

([1]) OJ C 171, 15.6.2013.

Order of the General Court of 7 July 2014 — Gopack v Commission

(Case T-235/13) ([1])

(Application for annulment — Environment — Directive 94/62/EC — Packaging and packaging waste — Directive 2013/2/EU — Rolls, tubes and cylinders around which flexible material is wound — Lack of direct concern — Inadmissibility)

(2014/C 315/93)

Language of the case: French

Parties

Applicant: Gopack (Manosque, France) (represented by: J. M. Leprêtre and N. Chahid Nouraï, lawyers)

Defendant: European Commission (represented by: A. Alcover San Pedro and J. F. Brakeland, acting as Agents)

Re:

Action for partial annulment of Commission Directive 2013/2/EU of 7 February 2013 amending Annex I to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ 2013 L 37, p. 10), in so far as the Commission adds rolls, tubes and cylinders around which flexible material is wound, with the exception of those intended as parts of production machinery and not used to present a product as a sales unit, to the list of examples of products illustrating the application of criteria that define the concept of 'packaging'.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Gopack is ordered to bear its own costs and pay those incurred by the European Commission.*

(1) OJ C 171, 15.6.2013.

Order of the General Court of 7 July 2014 — CMC France v Commission

(Case T-236/13) (1)

(Application for annulment — Environment — Directive 94/62/EC — Packaging and packaging waste — Directive 2013/2/EU — Rolls, tubes and cylinders around which flexible material is wound — Lack of direct concern — Inadmissibility)

(2014/C 315/94)

Language of the case: French

Parties

Applicant: CMC France (Châtenois, France) (represented by: J. M. Leprêtre and N. Chahid Nouraï, lawyers)

Defendant: European Commission (represented by: A. Alcover San Pedro and J. F. Brakeland, acting as Agents)

Re:

Action for partial annulment of Commission Directive 2013/2/EU of 7 February 2013 amending Annex I to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ 2013 L 37, p. 10), in so far as the Commission adds rolls, tubes and cylinders around which flexible material is wound, with the exception of those intended as parts of production machinery and not used to present a product as a sales unit, to the list of examples of products illustrating the application of criteria that define the concept of 'packaging'.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *CMC France is ordered to bear its own costs and pay those incurred by the European Commission.*

(1) OJ C 171, 15.6.2013.

Order of the General Court of 7 July 2014 — SCA Tissue France v Commission

(Case T-237/13) (1)

(Application for annulment — Environment — Directive 94/62/EC — Packaging and packaging waste — Directive 2013/2/EU — Rolls, tubes and cylinders around which flexible material is wound — Lack of direct concern — Inadmissibility)

(2014/C 315/95)

Language of the case: French

Parties

Applicant: SCA Tissue France (Bois-Columbes, France) (represented by: J. M. Leprêtre and N. Chahid Nouraï, lawyers)

Defendant: European Commission (represented by: A. Alcover San Pedro and J. F. Brakeland, acting as Agents

Re:

Action for partial annulment of Commission Directive 2013/2/EU of 7 February 2013 amending Annex I to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ 2013 L 37, p. 10), in so far as the Commission adds rolls, tubes and cylinders around which flexible material is wound, with the exception of those intended as parts of production machinery and not used to present a product as a sales unit, to the list of examples of products illustrating the application of criteria that define the concept of 'packaging'.

Operative part of the order

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

2. *SCA Tissue France is ordered to bear its own costs and pay those incurred by the European Commission.*

([1]) OJ C 171, 15.6.2013.

Order of the General Court of 7 July 2014 — Delipapier v Commission

(Case T-238/13) ([1])

(Application for annulment — Environment — Directive 94/62/EC — Packaging and packaging waste — Directive 2013/2/EU — Rolls, tubes and cylinders around which flexible material is wound — Lack of direct concern — Inadmissibility)

(2014/C 315/96)

Language of the case: French

Parties

Applicant: Delipapier (Frouard, France) (represented by: J. M. Leprêtre and N. Chahid Nouraï, lawyers)

Defendant: European Commission (represented by: A. Alcover San Pedro and J. F. Brakeland, acting as Agents)

Re:

Action for partial annulment of Commission Directive 2013/2/EU of 7 February 2013 amending Annex I to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ 2013 L 37, p. 10), in so far as the Commission adds rolls, tubes and cylinders around which flexible material is wound, with the exception of those intended as parts of production machinery and not used to present a product as a sales unit, to the list of examples of products illustrating the application of criteria that define the concept of 'packaging'.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *There is no need to adjudicate on the application for leave to intervene of Sphère France and of Schweitzer SAS.*

3. *Delipapier is ordered to bear its own costs and pay those incurred by the European Commission.*

([1]) OJ C 171, 15.6.2013.

Order of the General Court of 7 July 2014 — ICT v Commission

(Case T-243/13) ([1])

(Application for annulment — Environment — Directive 94/62/EC — Packaging and packaging waste — Directive 2013/2/EU — Rolls, tubes and cylinders around which flexible material is wound — Lack of direct concern — Inadmissibility)

(2014/C 315/97)

Language of the case: French

Parties

Applicant: Industrie Cartarie Tronchetti SpA (ICT) (Borgo a Mozzano, Italy) (represented by: J. M. Leprêtre and N. Chahid Nouraï, lawyers)

Defendant: European Commission (represented by: A. Alcover San Pedro and J. F. Brakeland, acting as Agents)

Re:

Action for partial annulment of Commission Directive 2013/2/EU of 7 February 2013 amending Annex I to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ 2013 L 37, p. 10), in so far as the Commission adds rolls, tubes and cylinders around which flexible material is wound, with the exception of those intended as parts of production machinery and not used to present a product as a sales unit, to the list of examples of products illustrating the application of criteria that define the concept of 'packaging'.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Industrie Cartarie Tronchetti SpA (ICT) is ordered to bear its own costs and pay those incurred by the European Commission.*

([1]) OJ C 171, 15.6.2013.

Order of the General Court of 7 July 2014 — Industrie Cartarie Tronchetti Ibérica v Commission

(Case T-244/13) ([1])

(Application for annulment — Environment — Directive 94/62/EC — Packaging and packaging waste — Directive 2013/2/EU — Rolls, tubes and cylinders around which flexible material is wound — Lack of direct concern — Inadmissibility)

(2014/C 315/98)

Language of the case: French

Parties

Applicant: Industrie Cartarie Tronchetti Ibérica, SL (Madrid, Spain) (represented by: J. M. Leprêtre and N. Chahid Nouraï, lawyers)

Defendant: European Commission (represented by: A. Alcover San Pedro and J. F. Brakeland, acting as Agents)

Re:

Action for partial annulment of Commission Directive 2013/2/EU of 7 February 2013 amending Annex I to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ 2013 L 37, p. 10), in so far as the Commission adds rolls, tubes and cylinders around which flexible material is wound, with the exception of those intended as parts of production machinery and not used to present a product as a sales unit, to the list of examples of products illustrating the application of criteria that define the concept of 'packaging'.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Industrie Cartarie Tronchetti Ibérica, SL is ordered to bear its own costs and pay those incurred by the European Commission.*

([1]) OJ C 171, 15.6.2013.

Order of the General Court of 26 May 2014 — AK v Commission

(Case T-288/13 P) ([1])

(Appeal — Civil service — Officials — Reports procedure — Career development report — Appraisal for the years 2001/2002, 2003, 2004, 2005 and 2008 — Delay in drawing up career development reports — Non-material damage — Loss of opportunity for promotion — Appeal in part manifestly inadmissible and in part manifestly unfounded)

(2014/C 315/99)

Language of the case: French

Parties

Appellant: AK (Esbo, Finland) (represented by: originally by D. de Abreu Caldas, S. Orlandi, A. Coolen, J.-N. Louis and É. Marchal, then by D. de Abreu and J.-N. Louis, lawyers)

Other party to the proceedings: European Commission (represented by: G. Berscheid and C.Berardis-Kayser, Agents and B. Wägenbauer, lawyer)

Re:

Appeal against the judgment of the Civil Service Tribunal of the European Union (Third Chamber) of 13 March 2013 in Case F-91/10 *AK* v *Commission* [2013] ECR II-0000 seeking the annulment of that judgment.

Operative part of the order

1. *The appeal is dismissed.*

2. *AK is ordered to bear her own costs and to pay those incurred by the European Commission in the present proceedings.*

([1]) OJ C 233, 10.8.2013.

Order of the President of the General Court of 13 June 2014 — SACE and Sace BT v Commission

(Case T-305/13 R)

(Application for interim measures — State aid — Capital injections in favour of an insurance company by its public holding company — Decision declaring the aid incompatible with the internal market and ordering its recovery — Application for suspension of operation of the decision — Prima facie case — Urgency — Weighing up of interests)

(2014/C 315/100)

Language of the case: Italian

Parties

Applicants: Servizi assicurativi del commercio estero SpA (SACE SpA) (Rome, Italy) and Sace BT SpA (Rome) (represented by: M. Siragusa et G. Rizza, lawyers)

Defendant: European Commission (represented by: G. Conte and D. Grespan, acting as Agents)

Intervener in support of the applicants: The Italian Republic (represented by: G. Palmieri, acting as Agent, and S. Fiorentino, lawyer)

Re:

Application seeking the suspension of the operation of Commission Decision C (2013) 1501 final of 20 March 2013 on the measures SA.23425 (2011/C) (ex NN 41/2010) implemented by Italy in 2004 and 2009 for SACE BT S.p.A.

Operative part of the order

1. *The Order of 28 February 2014 in Case T-305/13 R is cancelled.*

2. *The operation of Article 5 of Commission Decision C (2013) 1501 final of 20 March 2013 on the measures SA.23425 (2011/C) (ex NN 41/2010) implemented by Italy in 2004 and 2009 for SACE BT S.p.A. is suspended in so far as the Italian authorities are obliged to recover from that company an amount in excess of EUR [confidential].*

3. *Costs are reserved.*

Order of the General Court of 16 July 2014 — Kompas MTS v Parliament and Others

(Case T-315/13) ([1])

(Action for damages — Harm allegedly suffered following the transposition into Austrian law of a directive on the manufacture, presentation and sale of tobacco products — Labelling of tobacco products — Restrictions on the import of tobacco products — Action manifestly lacking any basis in law)

(2014/C 315/101)

Language of the case: German

Parties

Applicant: Kompas mejni turistični servis d.d. (Kompas MTS d.d.) ((Ljublijana, Slovenia)) (represented by: J. Tischler, lawyer)

Defendants: European Parliament (represented by: L. Visaggio and P. Schonard, acting as Agents), Council of the European Union (represented by: M. Simm and J. Herrmann, acting as Agents), and European Commission (represented initially by C. Cattabriga and F. Schatz, and subsequently by C. Cattabriga and S. Grünheid, acting as Agents)

Re:

Action for damages brought on the basis of Article 268 TFEU and the second paragraph of Article 340 TFEU seeking compensation for the harm which the applicant allegedly suffered following the implementation of quantitative restrictions on the import of tobacco products into Austrian territory following the adoption of Directive 2001/37/EC of the European Parliament and of the Council of 5 June 2001 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products (OJ 2001 L 194, p. 26).

Operative part of the order

1. *The action is dismissed.*

2. *Kompas mejni turistični servis d.d. (Kompas MTS d.d.) is ordered to bear its own costs and to pay the costs incurred by the European Parliament, the Council of the European Union and the European Commission.*

(1) OJ C 233, 10.8.2013.

Order of the General Court of 14 July 2014 — Lebedef v Commission

(Case T-356/13 P) (1)

(Appeals — Civil service — Officials — Disciplinary proceedings — Disciplinary measure — Downgrading — Appeal manifestly inadmissible and manifestly unfounded)

(2014/C 315/102)

Language of the case: French

Parties

Appellant: Giorgio Lebedef (Senningerberg, Luxembourg) (represented by: F. Frabetti, lawyer)

Other party to the proceedings: European Commission (represented by: J. Baquero Cruz and G. Berscheid, acting as Agents, assisted by B. Wägenbaur, lawyer)

Re:

Appeal against the judgment of the Civil Service Tribunal (First Chamber) of 24 April 2013 in *Lebedef* v *Commission* (F 56/11, RecFP, EU:F:2013:49), seeking to have that judgment set aside.

Operative part of the order

1. *The appeal is dismissed.*

2. *M. Giorgio Lebedef is ordered to bear his own costs and to pay the costs incurred by the European Commission in the appeal proceedings.*

(1) OJ C 298, 12.10.2013.

Order of the General Court of 19 June 2014 — Marcuccio v Commission

(Case T-503/13 P) ([1])

(Appeal — Civil Service — Officials — Article 14 of the Rules of Procedure of the Civil Service Tribunal — Principle of the lawful judge — Dismissal of the action at first instance as manifestly inadmissible — Application filed by facsimile bearing a non-handwritten signature of the lawyer — Application filed by facsimile and original filed later not identical — Action brought out of time — Application seeking payment of a certain sum for a quarter of the costs incurred in the proceedings in Case F-56/09 — Appeal manifestly unfounded)

(2014/C 315/103)

Language of the case: Italian

Parties

Appellant: Luigi Marcuccio (Tricase, Italy) (represented by: G. Cipressa, lawyer)

Other party to the proceedings: European Commission (represented by: C. Berardis-Kayser and G. Gattinara, acting as Agents)

Re:

Appeal against the order of the European Union Civil Service Tribunal (single Judge) of 12 July 2013 in Case F-32/12 *Marcuccio* v *Commission*, not yet published, seeking the setting aside of that order.

Operative part of the order

1. *The appeal is dismissed.*

2. *Mr Luigi Marcuccio shall bear his own costs and pay those incurred by the European Commission at the present instance.*

([1]) OJ C 325, 9.11.2013

Order of the Court of 24 June 2014 — Léon Van Parys v Commission

(Case T-603/13) ([1])

(Action for annulment — Customs Union — Request by the Commission for supplementary information from the Belgian authorities — Letter seeking information from the applicant as regards the request — Challengeable act — Inadmissibility)

(2014/C 315/104)

Language of the case: Dutch

Parties

Applicant: Firma Léon Van Parys (Antwerp, Belgium) (represented by: P. Vlaemminck, B. Van Vooren and R. Verbeke, lawyers)

Defendant: European Commission (represented by: A. Caeiros, B.-R. Killmann and M. van Beek, acting as Agents)

Re:

First, application for annulment of the Commission's letter of 16 September 2013, requesting supplementary information from the Belgian Administration of Customs and Excise, and the Commission's letter of the same day informing the applicant of that request and the suspension of the treatment period pursuant to Article 907 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ 1993 L 253, p. 1) and, second; application for declaration that Article 909 of Regulation No 2454/93 has taken effect to the benefit of the applicant as a result of the judgment of 19 March 2013, *Van Parys Firma* v *Commission* (T-324/10, not yet published in the ECR).

Operative part of the order

1) *The action is dismissed as inadmissible.*

2) *The applicant Firma Leon Van Parys is ordered to bear its own costs and to pay those of the European Commission.*

([1]) OJ C 24, 25.1.2014.

Order of the General Court of 27 June 2014 — Mogyi v OHIM

(Case T-8/14) ([1])

(Community trade mark — Revocation of the decision of the Board of Appeal — No need to adjudicate)

(2014/C 315/105)

Language of the case: Hungarian

Parties

Applicant: Mogyi Kft (Csávoly, Hungary) (represented by: Zs.J. Klauber, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Sipos and A. Folliard-Monguiral, acting as Agents)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 19 September 2013 (Case R 1921/2012-1) concerning an application for registration of the word sign Just crunch it… as a Community trade mark.

Operative part of the order

1. *It is no longer necessary to adjudicate on the action.*

2. *The defendant shall bear its own costs and pay those incurred by the applicant.*

([1]) OJ C 71, 8.3.2014.

Order of the General Court of 27 June 2014 — Mogyi v OHIM (Just crunch it...)

(Case T-9/14) ([1])

(Community trade mark — Revocation of the decision of the Board of Appeal — No need to adjudicate)

(2014/C 315/106)

Language of the case: Hungarian

Parties

Applicant: Mogyi Kft (Csávoly, Hungary) (represented by: Zs. J. Klauber, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Sipos and A. Folliard-Monguiral, acting as Agents)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 19 September 2013 (Case R 1922/2012-1) concerning an application for registration of the figurative mark Just crunch it... as a Community trade mark.

Operative part of the order

1. *There is no further need to adjudicate on the present action.*

2. *The defendant shall bear its own costs and those incurred by the applicant.*

(1) OJ C 71, 8.3.2014.

Order of the President of the General Court of 20 June 2014 — Wilders v Parliament and Council

(Case T-410/14 R)

(Interim measures — European Parliament — Act concerning the election of the Members of the European Parliament by direct universal suffrage — Incompatibility of the office of Member of the European Parliament with that of member of a national parliament (ban on holding a dual mandate) — Application for interim measures — Disregard of formal requirements — Manifest inadmissibility of the main action — Inadmissibility)

(2014/C 315/107)

Language of the case: Dutch

Parties

Applicant: Geert Wilders (represented by: G. Knoops and C. Hamburger, lawyers)

Defendants: European Parliament and Council of the European Union

Re:

Application for interim measures, essentially to permit the applicant to be officially sworn in as a member of the European Parliament, while continuing to hold the office of Member of the Netherlands Parliament

Operative part of the order

1. *The application for interim measures is dismissed.*

2. *The costs are reserved.*

Action brought on 3 June 2014 — Établissement Amra/OHIM

(KJ KANGOO JUMPS XR)

(Case T-390/14)

(2014/C 315/108)

Language of the case: English

Parties

Applicant: Établissement Amra (Vaduz, Liechtenstein) (represented by: S. Rizzo, lawyer)

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

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 10 March 2014 in Case R 1511/2013-2 in its entirety;

— Order the defendant to pay the costs

Pleas in law and main arguments

Community trade mark concerned: The position mark, consisting of the lower spring portion of a sporting and exercising device and containing the word elements 'KJ KANGOO JUMPS XR' for goods in Class 28 — Community trade mark application No 11 726 494

Decision of the Examiner: The application was rejected

Decision of the Board of Appeal: The appeal was dismissed

Pleas in law: Infringement of Article 7(1)(b) of Regulation No 207/2009.

Action brought on 28 May 2014 — Best-Lock (Europe) v OHIM — Lego Juris (Shape of a toy figure)

(Case T-395/14)

(2014/C 315/109)

Language in which the application was lodged: German

Parties

Applicant: Best-Lock (Europe) Ltd (Colne, United Kingdom) (represented by: J. Becker, lawyer)

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

Other party to the proceedings before the Board of Appeal: Lego Juris A/S (Billund, Denmark)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 26 March 2014 in Case R 1695/2013-4 and declare Community trade mark No 50 518 invalid in respect of Class 28;

— Order the defendant to pay the costs.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: the three-dimensional mark in the shape of a toy figure for goods in Classes 9, 25 and 28 — Community trade mark No 50 518

Proprietor of the Community trade mark: Lego Juris A/S

Applicant for the declaration of invalidity of the Community trade mark: the applicant

Grounds for the application for a declaration of invalidity: absolute grounds for invalidity and bad faith

Decision of the Cancellation Division: the application for a declaration of invalidity was rejected

Decision of the Board of Appeal: the appeal was dismissed

Pleas in law: Infringement of Article 52 in conjunction with Article 7(1)(e)(i) and (ii) and 7(1)(b) of Regulation No 207/2009

Action brought on 28 May 2014 — Best-Lock (Europe) v OHIM — Lego Juris (Shape of a toy figure)

(Case T-396/14)

(2014/C 315/110)

Language in which the application was lodged: German

Parties

Applicant: Best-Lock (Europe) Ltd (Colne, United Kingdom) (represented by: J. Becker, lawyer)

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

Other party to the proceedings before the Board of Appeal: Lego Juris A/S (Billund, Denmark)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 26 March 2014 in Case R 1696/2013-4 and declare Community trade mark No 50 450 invalid in respect of Class 28;

— Order the defendant to pay the costs.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: the three-dimensional mark in the shape of a toy figure for goods in Classes 9, 25 and 28 — Community trade mark No 50 450

Proprietor of the Community trade mark: Lego Juris A/S

Applicant for the declaration of invalidity of the Community trade mark: the applicant

Grounds for the application for a declaration of invalidity: absolute grounds for invalidity

Decision of the Cancellation Division: the application for a declaration of invalidity was rejected

Decision of the Board of Appeal: the appeal was dismissed

Pleas in law: Infringement of Article 52 in conjunction with Article 7(1)(e)(i) and (ii) of Regulation No 207/2009

Action brought on 13 June 2014 — Premo v OHIM — Prema Semiconductor (PREMO)

(Case T-440/14)

(2014/C 315/111)

Language in which the application was lodged: English

Parties

Applicant: Premo, SL (Málaga, Spain) (represented by: E. Cornu, F. de Visscher and E. De Gryse, lawyers)

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

Other party to the proceedings before the Board of Appeal: Prema Semiconductor GmbH (Mainz, Germany)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 11 April 2014 in Case R 1719/2011-5;

— Subsidiarily, annul the contested decision to the extent that it upheld the opposition regarding 'induction coils', 'inductive resisters', 'electric transformers' and 'antiparasitic transformers and filters';

— Order the OHIM, and if appropriate the intervening party, to pay the costs

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'PREMO' for goods in Class 9 — Community trade mark application No 5 520 788

Proprietor of the mark or sign cited in the opposition proceedings: Prema Semiconductor GmbH

Mark or sign cited in opposition: The national word mark 'PREMA' for goods in Class 9

Decision of the Opposition Division: The opposition was partially upheld

Decision of the Board of Appeal: The appeal was partially dismissed

Pleas in law:

— Infringement of Rule 22, 6° of Regulation 2868/95 and the rights of defence of the Applicant;

— Infringement of Article 42(2) and (3) of Regulation No 207/2009

— Infringement of Article 8(1)(b) of Regulation No 207/2009.

Action brought on 18 June 2014 — EEB v Commission

(Case T-462/14)

(2014/C 315/112)

Language of the case: English

Parties

Applicant: European Environmental Bureau (EEB) (Brussels, Belgium) (represented by: B. Kloostra, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the contested Commission decision of 8 April 2014;

— order the Commission to pay the costs of the proceeding.

Pleas in law and main arguments

By its present action, the applicant seeks the annulment of the Commission's decision of 8 April 2014 (Ares(2014) 1102834) dismissing as inadmissible the applicant's request for internal review regarding Commission Decision 2013/687/EU of 26 November 2013 on the notification by the Hellenic Republic of a transitional national plan referred to in Article 32 of Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions.

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

1. First plea in law, alleging illegality of Article 10 read in conjunction with Articles 2(1)(g) of Regulation No 1367/2006 ([1]). The applicant submits that by adopting the contested measure the Commission acted in breach of Article 9(3) of the Aarhus Convention as the provisions applied by the Commission — Article 10 read in conjunction with Article 2 (1)(g) of Regulation No 1367/2006 — are incompatible with Article 9(3) of the Aarhus Convention. The illegality of these provisions in Regulation No 1367/2006 should have led the Commission to declare the request for internal review admissible.

2. Second plea in law, alleging in the alternative that by adopting the contested measure the Commission acted in breach of its obligation to act as Convention compliant as possible. The applicant submits that the Commission should have interpreted Article 10 of Regulation No 1367/2006 and in particular the words 'administrative act' in that provision in conformity with Article 9(3) of the Aarhus Convention and should have left aside the definition of 'administrative act' as laid down in Article 2(1)(g) of Regulation No 1367/2006, which is according to the applicant too restrictive.

3. Third plea in law, alleging more alternatively that by adopting the contested measure the Commission acted in breach of Article 2(1)(g) of Regulation No 1367/2006 by holding that Commission Decision 2013/687/EU did not qualify as an act of individual scope.

([1]) Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ 2006 L 264, p. 13).

Action brought on 17 June 2014 — Prysmian and Prysmian cavi e sistemi v Commission

(Case T-475/14)

(2014/C 315/113)

Language of the case: English

Parties

Applicants: Prysmian SpA (Milan, Italy); and Prysmian cavi e sistemi Srl (Milan) (represented by: C. Tesauro, F. Russo and L. Armati, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul the decision;

— in the alternative:

  — annul Article 1(5) of the decision in so far as it found that Prysmian Cavi e Sistemi S.r.l. participated in an infringement of Article 101 TFEU and Article 53 of the EEA Agreement from 18 February 1999 to 27 November 2001;

  — annul Articles 2(f) and 2(g) of the decision in so far as these set the level of the fines on Prysmian Cavi e Sistemi S.r.l., Prysmian S.p.a. and The Goldman Sachs Group Inc. at EUR 37 303 000; and Prysmian Cavi e Sistemi S.r.1. and Pirelli & C. S.p.a. at EUR 67 310 000; and

  — reduce the fine for the reasons set out in this application;

  — annul Annex I and II in so far as they refer to Mr F. R.; and

— order the Commission to pay the applicants' costs.

Pleas in law and main arguments

By its present action, the applicants seek the annulment of Commission Decision C(2014) 2139 final of 2 April 2014 in case AT.39610 — Power Cables.

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

1. First plea in law, alleging that the Commission unlawfully copied and removed forensic images from the hard disks at the applicants' premises during the inspections. The applicants submit that in so doing the Commission acted beyond its powers as provided for in Article 20(2) of Regulation 1/2003 ([1]).

2. Second plea in law, alleging that the Commission breached the principle of reasonable delay for competition proceedings, as these lasted more than 62 months. The applicants contend that the Commission breached Article 6(3) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and failed to apply an equitable reduction of the fine in line with the General Court's case law.

3. Third plea in law, alleging that the Commission breached the principle of sound administration in as far as it failed to conduct a careful and impartial investigation due to the lack of credibility of the applicants for leniency. The applicants claim that the Commission failed to interpret with caution the reliability of the leniency applicants' corporate statements and to collect the necessary corroborating evidence.

4. Forth plea in law, alleging that the Commission wrongly attributed liability to Prysmian Cavi e Sistemi S.r.l. for the period before 27 November 2001 and in so doing breached the principles of personal responsibility and of equal treatment.

5. Fifth plea in law, alleging that the Commission breached Article 23(2) of Regulation 1/2003 to the extent that it failed to allocate the responsibility among jointly and severally liable entities.

6. Sixth plea in law, alleging that the Commission breached Article 101 TFUE in so far as it failed to prove the existence of a single and continuous infringement and misinterpreted the nature and the structure of the relevant markets, whereby it violated the applicants' right of defence.

7. Seventh plea in law, alleging that the Commission failed to establish to the requisite legal standard the duration of the alleged infringement and, in particular, its starting point.

8. Eighth plea in law, alleging that the Commission breached Article 23(2) of Regulation 1/2003, the principle of equal treatment and the principle of proportionality as regards the determination of the basic amount of the fine and in particular as regards the gravity of the infringement. The applicants submit that the basic amount of the fine, as well as the entry fee, are disproportionate and should have been adjusted in light of the limited scope of the infringement, the lack of impact on prices, the loosening of the alleged coordination after 2004 and the significant impact of the costs of raw material on the value of sales. The applicants further submit that the Commission breached the principle of equal treatment as it applied different gravity factors and entry fees to addressees in comparable situations.

9. Ninth plea in law, alleging that the Commission erred in listing one specific manager of the applicants in the 'names and employment record of individuals relevant for this decision'.

([1]) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles [101 TFEU] and [102 TFEU] (OJ 2003 L 1, p. 1).

Action brought on 24 July 2014 — Spain v Commission

(Case T-548/14)

(2014/C 315/114)

Language of the case: Spanish

Parties

Applicant: Kingdom of Spain (represented by: A. Rubio González, Abogado del Estado)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul in part the Decision of 15 May 2014 finding that the remission of import duties is justified for a certain amount and that the remission of import duties is not justified for another amount in a particular case (REM 03/2013), and

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the fifth subparagraph of Article 220(2)(b) of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1993 L 253, p. 1).

   — The applicant submits in that regard that the notice to importers published on 21 May 2010 refers exclusively to the imports of tuna preparations from Colombia and El Salvador, without referring to Ecuador, and includes merely a general reference to the effect that irregularities in respect of cumulation of origin cannot be ruled out in other countries. The notice published meets the requirements of any notice in respect of Colombia and El Salvador, but cannot be extended arbitrarily to other countries solely because it includes a general reference to the mere possibility of irregularities.

2. Second plea in law, alleging infringement of Article 239 of the Community Customs Code.

   — The applicant submits in that regard that in the present case the process for obtaining certificates of origin is carried out in accordance with the rules laid down to that effect by the competent authorities, which apply the legislation incorrectly and fail to fulfil their obligations with regard to issuing certificates and monitoring the orderly functioning of the arrangements. It is also continuing conduct which helps to create legitimate expectations on the part of operators. The requirements are therefore satisfied in order to acknowledge that there is a special situation within the framework of the preferential arrangements.

3. Third plea in law, alleging infringement of the fifth subparagraph of Article 220(2)(b) of the Community Customs Code in relation to the rule on regional cumulation in the implementing regulation.

   — The applicant states in that regard that since belonging to the same regional group is directly connected with the rule on regional cumulation and the notice includes the cumulation in its general reference to the possibility of irregularities, the right to rely on good faith cannot be affected as regards operations in which the rule on cumulation has not been applied to the countries referred to in the notice. In that case, the limitation cannot be applied to those imports which do not use products originating in Colombia and El Salvador.

Action brought on 4 August 2014 — Aduanas y Servicios Fornesa v Commission

(Case T-580/14)

(2014/C 315/115)

Language of the case: Spanish

Parties

Applicant: Aduanas y Servicios Fornesa, SL (Lleida, Spain) (represented by: I. Toda Jiménez, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul the contested decision;

— recognise and declare the applicant's right to the remission of the customs duties in the amount of EUR 2 453 003.38 imposed on it in the assessment decision of 27 June 2011 of the Dependencia Regional de Aduanas e Impuestos Especiales de la delegación Especial de Cataluña (Regional Customs and Excise Office, Catalonia), under the tax heading 'Community external tariff', in respect of the financial years 2006, 2007 and 2008, and

— order the defendant to pay the costs and expenses in this action for annulment.

Pleas in law and main arguments

The applicant in the present proceedings seeks the annulment of the Commission decision of 15 April 2014 (File REM 02/2012) refusing it remission of customs duties imposed on import operations of 'flavoured or coloured sugar syrups' originally declared as processed in Andorra, operations in which it acted as customs agent and indirect representative of the importer.

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

1. First plea in law, alleging infringement of Article 239 of the Customs Code, as a result of the Commission's error in its assessment of the special situation and failure to assess the facts relevant to the decision.

   — In that regard, it is argued that (i) the customs agent was unaware of the manufacturing process of the imported product, which was the decisive factor in requiring the payment of the customs duties, (ii) the importer's operations were complex and were concealed from the customs agent, (iii) the Spanish customs authorities did not inform the latter of their suspicions concerning the importer's conduct, nor did they adopt any form of precautionary measure, (iv) the EUR-1 certificates by which the imports were covered were approved on two occasions by the Andorran authorities and (v) even the first analyses of the Spanish customs authorities confirmed that the products were entitled to preferential treatment.

2. Second plea in law, alleging infringement of Article 239 of the Community Customs Code, since there was no 'deception' or 'obvious negligence' which would exclude the remission of duty claimed.

   — The applicant states in that regard that the Commission simply lists a series of possible actions which the customs agent could allegedly have taken and which could have led it to call in question the lawfulness of the import operations. However, it cannot in any case be inferred from this that there was any 'deception' or 'obvious negligence' on the part of the customs agent, and the remission of duty is not therefore precluded.

   — The applicant also stresses the good faith and diligence displayed by the customs agent at all times.

Order of the General Court of 22 May 2014 — BSA v OHIM — Loblaws (PRÉSIDENT)

(Case T-420/09) ([1])

(2014/C 315/116)

Language of the case: French

The President of the Sixth Chamber has ordered that the case be removed from the register.

([1]) OJ C 312, 19.12.2009.

Order of the General Court of 4 June 2014 — Seatech International and Others v Council and Commission

(Case T-337/10) ([1])

(2014/C 315/117)

Language of the case: French

The President of the Fourth Chamber has ordered that the case be removed from the register.

([1]) OJ C 288, 23.10.2010.

Order of the General Court of 20 June 2014 — Elsid and Others v Commission

(Case T-557/11) ([1])

(2014/C 315/118)

Language of the case: English

The President of the Seventh Chamber has ordered that the case be removed from the register.

([1]) OJ C 370, 17.12.2011.

Order of the General Court of 27 June 2014 — LVM v Commission

(Case T-419/12) ([1])

(2014/C 315/119)

Language of the case: German

The President of the Third Chamber has ordered that the case be removed from the register.

([1]) OJ C 373, 1.12.2012.

Order of the General Court of 26 June 2014 — Pell Amar Cosmetics v OHIM — Alva Management (Pell amar dr. Ionescu — Calinesti)

(Case T-621/13) ([1])

(2014/C 315/120)

Language of the case: English

The President of the Seventh Chamber has ordered that the case be removed from the register.

([1]) OJ C 31, 1.2.2014.

Order of the General Court of 2 June 2014 — Time v OHIM (InStyle)

(Case T-651/13) ([1])

(2014/C 315/121)

Language of the case: English

The President of the Fourth Chamber has ordered that the case be removed from the register.

([1]) OJ C 61, 1.3.2014.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Judgment of the Civil Service Tribunal (Third Chamber) of 2 June 2014 — Da Cunha Almeida v Commission

(Case F-5/13) ([1])

(Civil service — Open competition — Non-inclusion on the reserve list — Verbal reasoning test — Plea of illegality of the competition notice — Choice of the second language from three languages — Principle of non-discrimination)

(2014/C 315/122)

Language of the case: English

Parties

Applicant: Paulo Jorge Da Cunha Almeida (Brussels, Belgium) (represented by: J. Grayston, solicitor, G. Pandey and M. Gambardella, lawyers)

Defendant: European Commission (represented by: J. Currall and B. Eggers, Agents)

Re:

Application to annul the decision not to include the applicant in the reserve list for competition EPSO/AD/205/10.

Operative part of the judgment

The Tribunal:

1. *Annuls the decision of the selection board of Competition EPSO/AD/205/10 of 9 March 2012, transmitted by the European Personnel Selection Office, refusing the request of Mr Da Cunha Almeida for review, following his exclusion from the reserve list of the competition by a decision of 23 December 2011.*

2. *Dismisses the action as to the remainder.*

3. *Declares that the European Commission is to bear its own costs and orders it to pay the costs incurred by Mr Da Cunha Almeida.*

([1]) OJ C 123, 27.4.2013, p. 29.

Judgment of the Civil Service Tribunal (3rd Chamber) of 8 July 2014 — Morgan v OHIM

(Case F-26/13) ([1])

(Civil service — Officials — Reports procedure — Appraisal report — Application for annulment of the appraisal report)

(2014/C 315/123)

Language of the case: English

Parties

Applicant: Rhys Morgan (Alicante, Spain) (represented by: H. Tettenborn, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Faedo, Agent, then M. Paolacci, Agent)

Re:

Application to annul the applicant's appraisal report in respect of the period from 1 October 2010 to 30 September 2011 and an application for damages.

Operative part of the judgment

The Tribunal:

1. *Dismisses the action;*
2. *Declares that Mr Morgan is to bear his own costs and orders him to pay the costs incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs).*

([1]) OJ C 207, 20.7.2013, p. 56.

Order of the Civil Service Tribunal (3rd Chamber) of 16 July 2014 — Klar and Fernandez Fernandez v Commission

(Case F-114/13) ([1])

(Civil service — Commission's staff committee — Central committee — Appointment of members of the Luxembourg local section to the central staff committee — Revocation by the local section of the authority of one of its members appointed to the central committee — Refusal by the appointing authority to recognise the lawfulness of the revocation decision — Legal interest in bringing proceedings — Failure to comply with the pre-litigation procedure — Complaint out of time — Manifest inadmissibility)

(2014/C 315/124)

Language of the case: French

Parties

Applicants: Robert Klar (Grevenmacher, Luxembourg) and Francisco Fernandez Fernandez (Steinsel, Luxembourg) (represented by: A. Salerno and B. Cortese, lawyers)

Defendant: European Commission (represented by: J. Currall and C. Ehrbar, Agents)

Re:

Application to annul the decision of the appointing authority refusing to recognise the lawfulness of the decision of the Luxembourg local staff committee revoking the authority granted to a person mandated to represent it within the Commission's central staff committee.

Operative part of the order

1. *The action is dismissed as manifestly inadmissible.*
2. *Mr Klar and Mr Fernandez Fernandez are to bear their own costs and are ordered to pay the costs incurred by the European Commission.*

([1]) OJ C 52, 22.2.2014, p. 53.

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