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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Fifth Chamber) of 23 April 2015 (request for a preliminary ruling from the Verwaltungsgericht Sigmaringen — Germany) — Sevda Aykul v Land Baden-Württemberg

(Case C-260/13) ([1])

(Reference for a preliminary ruling — Directive 2006/126/EC — Mutual recognition of driving licences — Refusal of a Member State to recognise, in the case of a person having driven under the influence of narcotic substances, the validity of a driving licence issued by another Member State)

(2015/C 205/02)

Language of the case: German

Referring court

Verwaltungsgericht Sigmaringen

Parties to the main proceedings

Applicant: Sevda Aykul

Defendant: Land Baden-Württemberg

Operative part of the judgment

1. *Article 2(1) and the second subparagraph of Article 11(4) of Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences must be interpreted as meaning that a Member State in whose territory the holder of a driving licence issued by another Member State is staying temporarily is not precluded from refusing to recognise the validity of that driving licence on account of unlawful conduct on the part of its holder in the territory of the first Member State after that driving licence has been issued that results, under the national law of the first Member State, in unfitness to drive motor vehicles.*

2. *A Member State which refuses to recognise the validity of a driving licence in a situation such as that at issue in the main proceedings is competent to lay down the conditions with which the holder of a driving licence must comply in order to recover the right to drive in that Member State's territory. It is for the referring court to examine whether, in applying its own rules, the Member State in question is not in fact refusing indefinitely to recognise a driving licence issued by another Member State. In that context, it is for the referring court to ascertain whether the conditions laid down by the legislation of the first Member State, in accordance with the principle of proportionality, do not exceed the limits of what is appropriate and necessary in order to attain the objective of Directive 2006/126, which is to improve road safety.*

([1]) OJ C 189, 29.6.2013.

Judgment of the Court (Second Chamber) of 22 April 2015 (request for a preliminary ruling from the Wojewódzki Sąd Administracyjny w Krakowie — Poland) — Drukarnia Multipress sp. z o.o. v Minister Finansów

(Case C-357/13) ([1])

(Reference for a preliminary ruling — Taxation — Directive 2008/7/EC — Article 2(1)(b) and (c) — Indirect taxes on the raising of capital — Subjection to capital duty — Contributions of capital to a partnership limited by shares — Classification of such a partnership as a capital company)

(2015/C 205/03)

Language of the case: Polish

Referring court

Wojewódzki Sąd Administracyjny w Krakowie

Parties to the main proceedings

Applicant: Drukarnia Multipress sp. z o.o.

Defendant: Minister Finansów

Operative part of the judgment

Article 2(1)(b) and (c) of Council Directive 2008/7/EC of 12 February 2008 concerning indirect taxes on the raising of capital must be interpreted as meaning that a partnership limited by shares under Polish law must be regarded as a capital company within the meaning of that provision even if only some of its capital and members are able to satisfy the conditions laid down by that provision.

([1]) OJ C 274, 21.9.2013.

Judgment of the Court (Ninth Chamber) of 23 April 2015 — European Commission v Republic of Bulgaria

(Case C-376/13) ([1])

(Failure to fulfil obligations — Electronic communications networks and services — Directives 2002/20/EC, 2002/21/EC and 2002/77/EC — Rights of use of the terrestrial digital television broadcasting radio spectrum — Public procurement procedure — Criteria for selection of tenderers — Proportionality — Special rights)

(2015/C 205/04)

Language of the case: Bulgarian

Parties

Applicant: European Commission (represented by: G. Braun, L. Malferrari and G. Koleva, acting as Agents)

Defendant: Republic of Bulgaria (represented by: D. Drambozova, E. Petranova and J. Atanasov, acting as Agents)

Operative part of the judgment

The Court:

1. *Declares that, by restricting, by virtue of Paragraph 5a(1) and (2) of the transitional and final provisions of the Law on electronic communications (Zakon za elektronnite saobshteniya), to two the number of undertakings to which a right of use of the terrestrial digital broadcasting radio spectrum may be allocated and to which a permit to supply corresponding electronic communications services may be issued, the Republic of Bulgaria has failed to fulfil its obligations under Article 2(1) of Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services;*

2. *Declares that, by prohibiting, by virtue of Articles 47a(1) and (2) and 48(3) of the Law on electronic communications, providers of televisual content whose programmes are not broadcast in Bulgaria and persons connected therewith from participating in the public procurement procedure for the award of rights of use of the terrestrial digital broadcasting radio spectrum and to provide corresponding services, the Republic of Bulgaria has failed to fulfil its obligations under Article 7(3) of Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive), as amended by Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009; Article 9(1) of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), as amended by Directive 2009/140, and Article 2(2) and 4(2) of Directive 2002/77;*

3. *Declares that, by prohibiting, by virtue of Article 48(5) of the Law on electronic communications, successful tenderers for the rights of use of the terrestrial digital broadcasting radio spectrum from establishing electronic communication networks for the broadcast of radio and television programmes, the Republic of Bulgaria has failed to fulfil its obligations under Article 7(3) of Directive 2002/20, as amended by Directive 2009/140; Article 9(1) of Directive 2002/21, as amended by Directive 2009/140, and Articles 2 (2) and 4(2) of Directive 2002/77;*

4. *Orders the Republic of Bulgaria to pay the costs.*

([1]) OJ C 252, 31.8.2013.

Judgment of the Court (Fourth Chamber) of 23 April 2015 (request for a preliminary ruling from the Centrale Raad van Beroep — Netherlands) — C.E. Franzen, H.D. Giesen, F. van den Berg v Raad van bestuur van de Sociale verzekeringsbank

(Case C-382/13) ([1])

(Reference for a preliminary ruling — Social security for migrant workers — Regulation (EEC) No 1408/71 — Articles 13(2) and 17 — Casual work in a Member State other than the State of residence — Legislation applicable — Refusal to grant family benefits and reduction of the old-age pension by the State of residence)

(2015/C 205/05)

Language of the case: Dutch

Referring court

Centrale Raad van Beroep

Parties to the main proceedings

Applicants: C.E. Franzen, H.D. Giesen, F. van den Berg

Defendant: Raad van bestuur van de Sociale verzekeringsbank

Operative part of the judgment

1. *Article 13(2)(a) of Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, as amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996, as amended by Regulation (EC) No 1992/2006 of the European Parliament and of the Council of 18 December 2006, must be interpreted as meaning that a resident of a Member State, who comes within the scope of that regulation, as amended, and who works for several days per month on the basis of an on-call contract in the territory of another Member State, is subject to the legislation of the State of employment both on the days on which he performs the employment activities and on the days on which he does not.*

2. *Article 13(2)(a) of Regulation No 1408/71, as amended and updated by Regulation No 118/97, as amended by Regulation No 1992/2006, read in conjunction with Article 13(1) of that regulation, must be interpreted, in circumstances such as those in the main proceedings, as not precluding a migrant worker, who is subject to the legislation of the State of employment, from receiving, by virtue of national legislation of the Member State of residence, an old-age pension and family benefits from the latter State.*

([1]) OJ C 274, 21.9.2013.

Judgment of the Court (Fifth Chamber) of 23 April 2015 (request for a preliminary ruling from the Bayerischer Verwaltungsgerichtshof — Germany) — Zuchtvieh-Export GmbH v Stadt Kempten

(Case C-424/13) ([1])

(References for a preliminary ruling — Agriculture — Regulation (EC) No 1/2005 — Protection of animals during transport — Long journey between Member States and third countries — Article 14(1) — Check to be carried out related to the journey log by the competent authority at the place of departure prior to long journeys — Applicability of that provision in regards to the stages of the journey taking place outside the territory of the European Union — Applicability of the standards fixed by that regulation to that part of the journey)

(2015/C 205/06)

Language of the case: German

Referring court

Bayerischer Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Zuchtvieh-Export GmbH

Defendant: Stadt Kempten

intervening party: Landesanwaltschaft Bayern

Operative part of the judgment

Article 14(1) of Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97 must be interpreted as meaning that, in order for transport involving a long journey for animals concerned which commences on the territory of the European Union and continues outside that territory to be authorised by the competent authority of the place of departure, the organiser of the journey must submit a journey log which, in the light of the arrangements for the journey as planned, is realistic and indicates that the provisions of that regulation will be complied with, including for the stages of the journey which are to take place in the territory of third countries, that authority being empowered, should that not be the case, to require changes to those arrangements to ensure compliance with those provisions throughout the journey.

([1]) OJ C 336, 16.11.2013.

Judgment of the Court (Grand Chamber) of 21 April 2015 — Issam Anbouba v Council of the European Union

(Case C-605/13 P) ([1])

(Appeal — Common foreign and security policy — Restrictive measures against the Syrian Arab Republic — Measures directed against persons and entities benefiting from the regime — Proof that inclusion on the lists is well founded — Set of indicia)

(2015/C 205/07)

Language of the case: French

Parties

Appellant: Issam Anbouba (represented by: M.-A. Bastin, J.-M. Salva, and S. Orlandi, avocats)

Other party to the proceedings: Council of the European Union (represented by: A. Vitro, R. Liudvinaviciute and M.-M. Joséphidès, acting as Agents)

Intervener in support of the defendant: European Commission (represented by: S. Pardo Quintillán and F. Castillo de la Torre, acting as Agents)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Mr Issam Anbouba to bear his own costs and to pay those incurred by the Council of the European Union;*

3. *Orders the European Commission to bear its own costs.*

([1]) OJ C 45, 15.2.2014.

Judgment of the Court (Grand Chamber) of 21 April 2015 — Issam Anbouba v Council of the European Union

(Case C-630/13 P) ([1])

(Appeal — Common foreign and security policy — Restrictive measures against the Syrian Arab Republic — Measures directed against persons and entities benefiting from the regime — Proof that inclusion on the lists is well founded — Set of indicia)

(2015/C 205/08)

Language of the case: French

Parties

Appellant: Issam Anbouba (represented by: M.-A. Bastin, J.-M. Salva and S. Orlandi, avocats)

Other party to the proceedings: Council of the European Union (represented by: A. Vitro, R. Liudvinaviciute and M.-M. Joséphidès, acting as Agents)

Intervener in support of the defendant: European Commission (represented by: S. Pardo Quintillán and F. Castillo de la Torre, acting as Agents)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Mr Issam Anbouba to bear his own costs and to pay those incurred by the Council of the European Union;*

3. *Orders the European Commission to bear its own costs.*

(1) OJ C 45, 15.2.2014.

Judgment of the Court (Tenth Chamber) of 23 April 2015 (request for a preliminary ruling from the Tribunalul București — Romania) — SC ALKA CO SRL v Autoritatea Națională a Vămilor — Direcția Regională pentru Accize și Operațiuni Vamale Galați, formerly Autoritatea Națională a Vămilor — Direcția Regională pentru Accize și Operațiuni Vamale Constanța, Direcția Generală a Finanțelor Publice a Municipiul

(Case C-635/13) (1)

(Reference for a preliminary ruling — Common customs tariff — Tariff classification — Combined Nomenclature — Heading 1207 — Oilseeds — Heading 1209 — Seeds for sowing — Heading 1212 — Seeds principally used for human foodstuffs, not specified or included elsewhere — Import of raw shelled pumpkin seeds originating from China)

(2015/C 205/09)

Language of the case: Romanian

Referring court

Tribunalul București

Parties to the main proceedings

Applicant: SC ALKA CO SRL

Defendants: Autoritatea Națională a Vămilor — Direcția Regională pentru Accize și Operațiuni Vamale Galați, formerly Autoritatea Națională a Vămilor — Direcția Regională pentru Accize și Operațiuni Vamale Constanța, Direcția Generală a Finanțelor Publice a Municipiul

Operative part of the judgment

It is for the referring court, in order to make a tariff classification of the pumpkin seeds at issue in the main proceedings, to ascertain whether those seeds are normally used for the extraction of edible or industrial oils and fats, but are not covered by headings 1201 to 1206 of 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 1549/2006 of 17 October 2006 and Commission Regulation (EC) No 1214/2007 of 20 September 2007. If that is the case, those seeds must be classified under heading 1207 of the Combined Nomenclature because they are oilseeds, whether or not they are actually used for the extraction of edible or industrial oils and fats or for sowing or human consumption. If that is not the case, those seeds will come under heading 1209 of the Combined Nomenclature if they could still be germinated when they were imported, whether or not they are actually used for the extraction of edible or industrial oils and fats or for sowing or human consumption, or under heading 1212 of the Combined Nomenclature if they could not still be germinated.

(1) OJ C 39, 8.2.2014.

Judgment of the Court (Third Chamber) of 23 April 2015 (request for a preliminary ruling from the Hof van beroep te Gent — Belgium) — Property Development Company NV v Belgische Staat

(Case C-16/14) ([1])

(Reference for a preliminary ruling — Taxation — Sixth VAT Directive — Article 11A — Application of goods treated as a supply for consideration — Application of a building for an activity exempt from VAT — Taxable amount for that application — Interim interest paid during the construction of the building)

(2015/C 205/10)

Language of the case: Dutch

Referring court

Hof van beroep te Gent

Parties to the main proceedings

Applicant: Property Development Company NV

Defendant: Belgische Staat

Operative part of the judgment

Article 11A(1)(b) of the 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 must be interpreted as meaning that, in a case such as that at issue in the main proceedings, the taxable amount for the calculation of VAT on an application, within the meaning of Article 5(7)(b) thereof, of a building that the taxable person has constructed, is to be the purchase price, at the time the application is made, of buildings whose location, size and other essential characteristics are similar to those of the building in question. In that regard, it is irrelevant whether part of the purchase price is due to interest on borrowed capital.

([1]) OJ C 102, 7.4.2014.

Judgment of the Court (Fourth Chamber) of 23 April 2015 (request for a preliminary ruling from the Tribunal Superior de Justicia de la Comunidad Autónoma del País Vasco — Spain) — Subdelegación del Gobierno en Gipuzkoa — Extranjería v Samir Zaizoune

(Case C-38/14) ([1])

(Reference for a preliminary ruling — Area of freedom, security and justice — Directive 2008/115/EC — Common standards and procedures for returning illegally staying third-country nationals — Articles 6(1) and 8(1) — National legislation providing, in the event of illegal staying, for either a fine or removal, depending on the circumstances)

(2015/C 205/11)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de la Comunidad Autónoma del País Vasco

Parties to the main proceedings

Appellant: Subdelegación del Gobierno en Gipuzkoa — Extranjería

Respondent: Samir Zaizoune

Operative part of the judgment

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, in particular, Articles 6(1) and Article 8(1), read in conjunction with Article 4(2) and (3), must be interpreted as precluding legislation of a Member State such as that at issue in the main proceedings, which provides, in the event of third-country nationals illegally staying in the territory of that Member State, depending on the circumstances, for either a fine or removal, since the two measures are mutually exclusive.

([1]) OJ C 93, 29.3.2014.

Judgment of the Court (Third Chamber) of 23 April 2015 (request for a preliminary ruling from the Tribunal de grande instance de Nîmes — France) — Jean-Claude Van Hove v CNP Assurances SA

(Case C-96/14) ([1])

(Reference for a preliminary ruling — Directive 93/13/EEC — Unfair terms — Insurance contract — Article 4(2) — Assessment of the unfairness of contractual terms — Exclusion of terms relating to the main subject-matter of the contract — Term intended to ensure that mortgage loan repayments are covered — Borrower's total incapacity for work — Exclusion from cover in the event of recognised fitness to undertake an activity, paid or otherwise)

(2015/C 205/12)

Language of the case: French

Referring court

Tribunal de grande instance de Nîmes

Parties to the main proceedings

Applicant: Jean-Claude Van Hove

Defendant: CNP Assurances SA

Operative part of the judgment

Article 4(2) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, must be interpreted as meaning that a term of an insurance contract intended to ensure that loan repayments payable to the lender will be covered in the event of the borrower's total incapacity for work falls within the exception set out in that provision only where the referring court finds:

— *first, that, having regard to the nature, general scheme and the stipulations of the contractual framework of which it forms part, and to its legal and factual context, that term lays down an essential component of that contractual framework, and, as such, characterises it, and*

— *secondly, that that term is drafted in plain, intelligible language, that is to say that it is not only grammatically intelligible to the consumer, but also that the contract sets out transparently the specific functioning of the arrangements to which the relevant term refers and the relationship between those arrangements and the arrangements laid down in respect of other contractual terms, so that that consumer is in a position to evaluate, on the basis of precise, intelligible criteria, the economic consequences for him which derive from it.*

([1]) OJ C 142, 12.5.2014.

Judgment of the Court (Sixth Chamber) of 23 April 2015 (request for a preliminary ruling from the Varhoven administrativen sad — Bulgaria) — GST — Sarviz AG Germania v Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' Plovdiv pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite

(Case C-111/14) ([1])

(Common system of value added tax — Directive 2006/112/EC — Principle of fiscal neutrality — Person liable for payment of VAT — Erroneous payment of VAT by the person to whom the supply is made — Liability to VAT of the supplier of services — Refusal to grant the supplier of services a refund of the VAT)

(2015/C 205/13)

Language of the case: Bulgarian

Referring court

Varhoven administrativen sad

Parties to the main proceedings

Applicant: GST — Sarviz AG Germania

Defendant: Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' Plovdiv pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite

Operative part of the judgment

1. *Article 193 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2010/88/EU of 7 December 2010, must be interpreted as meaning that the only person liable to pay the value added tax is the taxable person supplying services, where those services were supplied from a fixed establishment located in the Member State in which the value added tax is payable.*

2. *Article 194 of Directive 2006/112, as amended by Directive 2010/88, must be interpreted as not permitting the tax authorities of a Member State to regard as liable for the payment of value added tax the recipient of services supplied from a fixed establishment of the supplier, where both the latter and the recipient of those services are established in the territory of the same Member State, even if that recipient has already paid that tax on the mistaken assumption that the supplier did not have a fixed establishment in that State.*

3. *The principle of the neutrality of value added tax must be interpreted as precluding a national provision which permits the tax authorities to refuse to grant the supplier of services a refund of the value added tax which the supplier has paid, when the recipient of those services, who has also paid the value added tax in respect of the same services, is refused the right of deduction on the ground that that recipient did not have the corresponding tax document, any adjustment of tax documents being precluded under national law where a definitive tax adjustment notice exists.*

([1]) OJ C 142, 12.5.2014.

Judgment of the Court (Grand Chamber) of 21 April 2015 — European Commission v Kingdom of Sweden

(Case C-114/14) ([1])

(Failure of a Member State to fulfil obligations — Value added tax — Sixth Directive 77/388/EEC — Directive 2006/112/EC — Articles 132(1)(a) and 135(1)(h) — Exemptions — Public postal services — Postage stamps — Directive 97/67/CE)

(2015/C 205/14)

Language of the case: Swedish

Parties

Applicant: European Commission (represented by: J. Enegren and L. Lozano Palacios, acting as Agents)

Defendant: Kingdom of Sweden (represented by: U. Persson and A. Falk, acting as Agents)

Operative part of the judgment

The Court:

1. *Declares that, by failing to exempt from value added tax the supply by the public postal services of services other than passenger transport and telecommunications services, and the supply of goods incidental thereto, and the supply at face value of postage stamps valid for use for postal services within national territory, the Kingdom of Sweden has failed to fulfil its obligations under Articles 132(1)(a) and 135(1)(h) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax;*

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

([1]) OJ C 135, 5.5.2014.

Judgment of the Court (Second Chamber) of 22 April 2015 — Christoph Klein v European Commission

(Case C-120/14 P) ([1])

(Appeal — Non-contractual liability — Directive 93/42/EEC — Articles 8 and 18 — Medical devices — Inaction by the Commission following notification of a decision to prohibit placing on the market — Limitation period — Suspensory effect of an application for legal aid on the limitation period — Safeguard clause procedure)

(2015/C 205/15)

Language of the case: German

Parties

Appellant: Christoph Klein (represented by: H. Ahlt and M. Ahlt, Rechtsanwälte)

Other party to the proceedings: European Commission (represented by: A. Sipos and G. von Rintelen, acting as Agents)

Operative part of the judgment

The Court:

1. *Sets aside the judgment of the General Court of the European Union in Klein v Commission (T-309/10, EU:T:2014:19) in so far as, by that judgment, the General Court dismissed the action in that it sought that the European Commission be ordered to pay compensation for the damage allegedly suffered by Mr Christoph Klein from 15 September 2006;*

2. *dismisses the appeal as to the remainder;*

3. *refers the case back to the General Court of the European Union;*

4. *reserves the costs.*

(1) OJ C 184, 16.06.2014.

Judgment of the Court (Ninth Chamber) of 23 April 2015 — European Commission v Hellenic Republic

(Case C-149/14) (1)

(Failure of a Member State to fulfil obligations — Directive 91/676/EEC — Protection of waters against pollution caused by nitrates from agricultural sources — Designation of waters and vulnerable zones — Excessive concentration of nitrates — Eutrophification — Obligation of four-yearly revision — Insufficiency — Establishment of action programmes — None)

(2015/C 205/16)

Language of the case: Greek

Parties

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

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

Operative part of the judgment

The Court:

— *declares that, by having failed to designate as vulnerable zones the zones characterised by the presence of bodies of surface water or groundwater which are affected by concentrations of nitrates above 50 milligrammes per litre and/or by the phenomenon of eutrophification, and by not having established the action programmes related to those zones within one year after that designation, the Hellenic Republic has failed to fulfil its obligations under Articles 3(4) and 5(1) of Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources;*

— *orders the Hellenic Republic to pay the costs.*

(1) OJ C 184, 16.06.2014.

Judgment of the Court (Eighth Chamber) of 23 April 2015 — LG Display Co. Ltd, LG Display Taiwan Co. Ltd v European Commission

(Case C-227/14 P) (1)

(Appeal — Competition — Agreements, decisions and concerted practices — Article 101 TFEU and Article 53 of the EEA Agreement — Worldwide market for liquid crystal display (LCD) panels — Price-fixing — Fines — Guidelines on the method of setting fines (2006) — Point 13 — Determination of value of sales — Joint venture — Taking sales to parent companies into account — Notice on immunity from fines and reduction of fines in cartel cases (2002) — Point 23(b), final paragraph — Partial immunity from fines — Evidence of facts previously unknown to the Commission)

(2015/C 205/17)

Language of the case: English

Parties

Appellants: LG Display Co. Ltd, LG Display Taiwan Co. Ltd (represented by: A. Winckler and F.-C. Laprévote, avocats)

Other party to the proceedings: European Commission (represented by: F. Ronkes Agerbeek and P. Van Nuffel, acting as Agents)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders LG Display Co. Ltd and LG Display Taiwan Co. Ltd to pay the costs.*

([1]) OJ C 303, 8.9.2014.

Request for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 12 March 2015 — Verein für Konsumenteninformation v INKO, Inkasso GmbH

(Case C-127/15)

(2015/C 205/18)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Appellant: Verein für Konsumenteninformation

Respondent: INKO, Inkasso GmbH

Questions referred

1. Is a debt collection agency that offers instalment agreements in connection with the professional recovery of debts on behalf of its client and that charges fees for this service that are ultimately to be borne by the debtors operating as a 'credit intermediary' within the meaning of Article 3(f) of 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 ([1])?

2. If Question 1 is answered in the affirmative:

   Is an instalment agreement entered into between a debtor and his creditor through the intermediation of a debt collection agency a 'deferred payment, free of charge' within the meaning of Article 2(2)(j) of Directive 2008/48 if the debtor only undertakes therein to pay the outstanding debt and such interest and costs as he would have incurred by law in any case as a result of his default — in other words, even in the absence of such an agreement?

([1]) OJ 2008 L 133, p. 66.

Appeal brought on 19 March 2015 by the Court of Justice of the European Union against the order of the General Court (Third Chamber) of 13 February 2015 in Case T-725/14 Aalberts Industries v European Union

(Case C-132/15 P)

(2015/C 205/19)

Language of the case: Dutch

Parties

Appellant: Court of Justice of the European Union (represented by: A. V. Placco and E. Beysen, acting as Agents)

Other parties to the proceedings: Aalberts Industries NV, European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the order of the General Court of the European Union (Third Chamber) of 13 February 2015 in Case T-725/14 *Aalberts Industries* v *European Union* in so far as it rejected the two heads of claim of the Court of Justice of the European Union ('the CJEU') in its application made to the General Court pursuant to Article 114 of its Rules of Procedure and upheld the objection of inadmissibility raised by the European Commission ('the Commission');

— grant the heads of claim referred to and accordingly, delivering final judgment in the case, declare Aalberts Industries' action for damages to be inadmissible on the ground that it is brought against the CJEU (as the representative of the European Union);

— order Aalberts Industries to pay the costs of the CJEU in the proceedings at first instance and on appeal.

Grounds of appeal and main arguments

By order of 13 February 2015, the General Court of the European Union dismissed the application lodged by the CJEU, pursuant to Article 114 of the Rules of Procedure of the General Court, in Case T-725/14 *Aalberts Industries* v *European Union*. The application of the CJEU sought a declaration of inadmissibility in respect of Aalberts Industries' action in so far as it was brought against it as the representative of the European Union; that action was also served on the Commission on the same basis. Aalberts Industries sought, with its action, to engage the non-contractual liability of the European Union in order to obtain compensation for the damage which it claims to have suffered as a result of the General Court's failure to adjudicate within a reasonable time in Case T-385/06 *Aalberts Industries and Others* v *Commission*. In the order of 13 February 2015, the General Court, differently to how the CJEU had argued and accepting the position maintained by the Commission, came to the conclusion that it was for the CJEU and not the Commission to represent the European Union in that action.

The CJEU now brings an appeal before the Court of Justice pursuant to Article 56 of the Statute of the CJEU, by which it seeks to have that order set aside to the extent that it dismissed the CJEU's application. In support of that appeal, the CJEU claims, first, that the rules on representation of the European Union before its judicial bodies have not been observed and, second, that the obligation to state reasons has not been complied with.

In the context of the **first ground of appeal, concerning non-observance of the rules on the representation of the European Union before its judicial bodies**, the CJEU submits that, in view of the fact that there is no express rule governing representation of the European Union before its judicial bodies in actions brought pursuant to Article 268 TFEU with a view to engaging the non-contractual liability of the European Union, the rules governing such representation must be derived from the general principles applicable to the exercise of the judicial function, in particular the principle of the sound administration of justice and the principles relating to judicial independence and impartiality.

That first ground of appeal of the CJEU comprises two parts, that is to say, non-observance of the requirements of the principle of the sound administration of justice and non-observance of the requirements of the principles of judicial independence and impartiality.

In the context of the first ground of appeal, the CJEU submits that the General Court's finding that it is for the CJEU to represent the European Union in the context of the abovementioned action for damages is clearly based on the case-law originating in the judgment in *Werhahn Hansamühle and Others* v *Council and Commission* (63/72 to 69/72, EU:C:1973:121; '*Werhahn and Others*'). The approach taken in that case-law implies that, where the liability of the Community (now the European Union) is engaged by reason of the conduct of one of its institutions, it should be represented before the EU Courts by the institution or institutions against which the matter giving rise to liability is alleged. The CJEU takes the view that that approach should not be applied to the present case because it would, by reason of several factors, lead to a situation that would appear to be at variance with the interest of a sound administration of justice, which, according to the express wording of *Werhahn and Others*, is the rationale for that solution. In that context, the CJEU also raises, as a subsidiary argument, a failure to have regard to the scope of the first paragraph of Article 317 TFEU and Article 53(1) of Regulation No 966/2012 ([1]), on the basis of which the General Court ought to have recognised the principle that compensation such as that claimed in the present case must come from that part of the EU budget which relates to the Commission.

In the context of the second part of the first ground of appeal, the CJEU, relying in this regard on the judgment of the European Court of Human Rights of 10 July 2008 in *Mihalkov* v *Bulgaria* (application no 67719/01), argues that the General Court failed to take account of the requirements of judicial independence and impartiality when it ruled that the CJEU had to represent the European Union in Aalberts Industries' action for damages. In view of the fact that, in the present case, first, the matter allegedly giving rise to liability came about in the exercise of judicial functions by a formation of a judicial body and, secondly, the formation that will have to take cognisance of the case (i) belongs to the same judicial body (the General Court) as the formation of the judicial body being held responsible for the matter giving rise to liability and (ii) is an integral part of the defendant party in this case (the CJEU), with which the judges of that formation are professionally affiliated, the abovementioned requirements are compromised, a fortiori where, as the General Court has held, damages such as those here being claimed must come from that part of the budget which relates to the CJEU.

Accordingly, the CJEU argues in its **second ground of appeal** that, in the contested order, there has been a **failure to comply with the obligation to state reasons**, since that order contains no specific rebuttal of the argument concerning the scope of a series of judgments of the Court of Justice — including the judgments in *Groupe Gascogne* v *Commission* (C-58/12 P, EU:C:2013:770), *Gascogne Sack* v *Commission* (C-40/12 P, EU:C:2013:768) and *Kendrion* v *Commission* (C-50/12 P, EU:C:2013:771) — that the CJEU had raised before the General Court.

(1) Regulation (EU, Euratom) of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ 2012 L 298, p. 1).

Request for a preliminary ruling from the Sächsisches Oberverwaltungsgericht (Germany) lodged on 19 March 2015 — Lidl Dienstleistungs-GmbH & Co. KG v Freistaat Sachsen

(Case C-134/15)

(2015/C 205/20)

Language of the case: German

Referring court

Sächsisches Oberverwaltungsgericht

Parties to the main proceedings

Appellant: Lidl Dienstleistungs-GmbH & Co. KG

Respondent: Freistaat Sachsen

Questions referred

1. Is Article 5(4)(b) of Regulation (EC) No 543/2008 (1) compatible with the first subparagraph of Article 6(1) of the Treaty on European Union (TEU), in conjunction with Articles 15(1) and 16 of the Charter of Fundamental Rights of the European Union?

2. Is Article 5(4)(b) of Regulation (EC) No 543/2008 compatible with the second subparagraph of Article 40(2) TFEU?

(1) Commission Regulation (EC) No 543/2008 of 16 June 2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultrymeat (OJ 2008 L 157, p. 46).

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 26 March 2015 — Provincia di Bari v Edilizia Mastrodonato S.r.l.

(Case C-147/15)

(2015/C 205/21)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellant: Provincia di Bari

Respondent: Edilizia Mastrodonato S.r.l.

Question referred

Must Article 10(2) of Directive 2006/21/EC ([1]) be interpreted as meaning that backfilling with waste — if carried out using waste other than extractive waste — must be subject to the legislation regarding waste set out in Directive 1999/31/EC ([2]) even when the operation does not consist of the disposal of waste but of recovery?

([1]) Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC — Statement by the European Parliament, the Council and the Commission (OJ 2006 L 102, p. 15).

([2]) Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ 1999 L 182, p. 1).

Request for a preliminary ruling from the Tribunal da Relação de Coimbra (Portugal) lodged on 30 March 2015 — Sociedade Portuguesa de Autores CRL v Ministério Público

(Case C-151/15)

(2015/C 205/22)

Language of the case: Portuguese

Referring court

Tribunal da Relação de Coimbra

Parties to the main proceedings

Applicant: Sociedade Portuguesa de Autores CRL

Defendant: Ministério Público

Questions referred

i) Is the concept of the communication of works to the public within the meaning of Article 3(1) of Directive 2001/29 ([1]) to be interpreted as encompassing the transmission of broadcast works in commercial premises such as bars, cafes, restaurants or other such establishments with similar characteristics, via television receiving apparatus, where the transmission of such works is amplified by speakers or amplifiers, thus constituting, in that context, a new use of copyright-protected works?

ii) Does the use of speakers and/or amplifiers, that is, technical means other than television broadcast reception equipment, to amplify broadcast sound have any affect on the answer to the first question?

(1) Directive 2001/29/EC 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 (OJ 2001 L 167, p. 10).

Request for a preliminary ruling from the Tribunal da Relação de Lisboa (Portugal) lodged on 30 March 2015 — Cruz & Companhia Lda v Instituto de Financiamento da Agricultura e Pescas IP (IFAP), Caixa Central — Caixa Central de Crédito Agrícola Mútuo CRL

(Case C-152/15)

(2015/C 205/23)

Language of the case: Portuguese

Referring court

Tribunal da Relação de Lisboa (Portugal)

Parties to the main proceedings

Applicant: Cruz & Companhia Lda

Defendant: Instituto de Financiamento da Agricultura e Pescas IP (IFAP), Caixa Central — Caixa Central de Crédito Agrícola Mútuo CRL

Question referred

The Tribunal da Relação de Lisboa asks the ECJ:

— whether a bank guarantee, provided in order to obtain an advance on export refunds, may not be enforced where it is only during inspections carried out after the actual export and customs clearance of the goods at issue that it is established that 'other conditions' have not yet been satisfied;

— or whether, on the contrary, such a guarantee may be enforced where the 'other conditions' are not satisfied, even if that fact is established only after customs clearance.

Request for a preliminary ruling from the Hof van Cassatie (Belgium) lodged on 3 April 2015 — Samira Achbita, Centrum voor gelijkheid van kansen en voor racismebestrijding v G4S Secure Solutions NV

(Case C-157/15)

(2015/C 205/24)

Language of the case: Dutch

Referring court

Hof van Cassatie

Parties to the main proceedings

Applicants: Samira Achbita, Centrum voor gelijkheid van kansen en voor racismebestrijding

Defendant: G4S Secure Solutions NV

Question referred

Should Article 2(2)(a) of Council Directive 2000/78/EC [1] of 27 November 2000 establishing a general framework for equal treatment in employment and occupation be interpreted as meaning that the prohibition on wearing, as a female Muslim, a headscarf at the workplace does not constitute direct discrimination where the employer's rule prohibits all employees from wearing outward signs of political, philosophical and religious beliefs at the workplace?

[1] OJ 2000 L 303, p. 16.

Request for a preliminary ruling from the Raad van State (Netherlands) lodged on 3 April 2015 — Elektriciteits Produktiemaatschappij Zuid-Nederland NV v het bestuur van de Nederlandse Emissieautoriteit

(Case C-158/15)

(2015/C 205/25)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Applicant: Elektriciteits Produktiemaatschappij Zuid-Nederland NV

Other party: het bestuur van de Nederlandse Emissieautoriteit

Questions referred

1. Does a situation such as the present, where coal is stored in a coal park where CO_2 emissions occur as a result of self-heating, where the centre of the coal park is about 800 meters distant from the edge of the coal-fired power plant, where the two sites are separated from each other by a public road and where the coal is transported from the storage site to the power plant by means of a conveyor belt passing over the road, fall within the scope of the term 'installation' as referred to in Article 3(e) of Directive 2003/87/EC [1] of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC?

2. Does 'fuel exported from the installation' in Article 27(2) of Commission Regulation (EU) No 601/2012 [2] of 21 June 2012 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council refer to a situation such as the present, where coal is lost during storage in the coal park due to combustion resulting from self-heating?

[1] OJ 2003 L 275, p. 32.
[2] OJ 2012 L 181, p. 30.

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 7 April 2015 — GS Media BV v Sanoma Media Netherlands BV and Others

(Case C-160/15)

(2015/C 205/26)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: GS Media BV

Defendants: Sanoma Media Netherlands BV, Playboy Enterprises International Inc., Britt Geertruida Dekke

Questions referred

1(a) If anyone other than the copyright holder refers by means of a hyperlink on a website controlled by him to a website which is managed by a third party and is accessible to the general internet public, on which the work has been made available without the consent of the rightholder, does that constitute a 'communication to the public' within the meaning of Article 3(1) of Directive 2001/29 ([1])?

1(b) Does it make any difference if the work was also not previously communicated, with the rightholder's consent, to the public in some other way?

1(c) Is it important whether the 'hyperlinker' is or ought to be aware of the lack of consent by the rightholder for the placement of the work on the third party's website mentioned in 1(a) above and, as the case may be, of the fact that the work has also not previously been communicated, with the rightholder's consent, to the public in some other way?

2(a) If the answer to question 1(a) is in the negative: in that case, is there, or could there be deemed to be, a communication to the public if the website to which the hyperlink refers, and thus the work, is indeed findable for the general internet public, but not easily so, with the result that the publication of the hyperlink greatly facilitates the finding of the work?

2(b) In answering question 2(a), is it important whether the 'hyperlinker' is or ought to be aware of the fact that the website to which the hyperlink refers is not easily findable by the general internet public?

3. Are there other circumstances which should be taken into account when answering the question whether there is deemed to be a communication to the public if, by means of a hyperlink, access is provided to a work which has not previously been communicated to the public with the consent of the rightholder?

([1]) Directive 2001/29/EC 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 (OJ 201 L 167, p. 10).

Appeal brought on 9 April 2015 by European Commission against the judgment of the General Court (Ninth Chamber) delivered on 5 February 2015 in Case T-473/12: Aer Lingus Ltd. v European Commission

(Case C-164/15 P)

(2015/C 205/27)

Language of the case: English

Parties

Appellant: European Commission (represented by: L. Flynn, D. Grespan, T. Maxian Rusche, B. Stromsky, Agents)

Other parties to the proceedings: Aer Lingus Ltd., Ireland

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court (Ninth Chamber) of 5 February 2015 in Case T-473/12 Aer Lingus v Commission in so far as it held that Commission Decision 2013/199/EU of 25 July 2012 on State aid SA.29064 (11/C, ex 11/NN) — Differentiated air travel tax rates implemented by Ireland ([1]) was annulled in so far as that decision orders the recovery of the aid from the beneficiaries for an amount which is set at EUR 8 per passenger in recital 70 of that decision; and

— reject the application to annul Commission Decision 2013/199/EU of 25 July 2012 on State aid SA.29064 (11/C, ex 11/NN) — Differentiated air travel tax rates implemented by Ireland;

— order the applicant at first instance to pay the costs;

alternatively,

— refer back the case to the General Court for reconsideration;

— reserve the costs of the proceedings at first instance and on appeal.

Pleas in law and main arguments

In support of its appeal, the appellant puts forward a single ground of appeal.

The appellant claims that by creating a new economic test to be applied when determining the amounts to be recovered from beneficiaries of State aid consisting of a tax measure fixing a lower rate by reference to a standard rate, the General Court violated Article 108(3) TFEU and Article 14 of Regulation 659/1999 ([2]).

([1]) OJ L 119, p. 30.
([2]) Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, OJ L 83, p. 1.

Appeal brought on 9 April 2015 by European Commission against the judgment of the General Court (Ninth Chamber) delivered on 5 February 2015 in Case T-500/12: Ryanair Ltd. v European Commission

(Case C-165/15 P)

(2015/C 205/28)

Language of the case: English

Parties

Appellant: European Commission (represented by: L. Flynn, D. Grespan, T. Maxian Rusche, B. Stromsky, Agents)

Other parties to the proceedings: Ryanair Ltd., Ireland, Aer Lingus Ltd.

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court (Ninth Chamber) of 5 February 2015 in Case T-500/12 Ryanair v Commission in so far as it held that Commission Decision 2013/199/EU of 25 July 2012 on State aid SA.29064 (11/C, ex 11/NN) — Differentiated air travel tax rates implemented by Ireland ([1]) was annulled in so far as that decision orders the recovery of the aid from the beneficiaries for an amount which is set at EUR 8 per passenger in recital 70 of that decision; and

— reject the application to annul Commission Decision 2013/199/EU of 25 July 2012 on State aid SA.29064 (11/C, ex 11/NN) — Differentiated air travel tax rates implemented by Ireland;

— order the applicant at first instance to pay the costs;

alternatively,

— refer back the case to the General Court for reconsideration;

— reserve the costs of the proceedings at first instance and on appeal.

Pleas in law and main arguments

In support of its appeal, the appellant puts forward a single ground of appeal.

The appellant claims that by creating a new economic test to be applied when determining the amounts to be recovered from beneficiaries of State aid consisting of a tax measure fixing a lower rate by reference to a standard rate, the General Court violated Article 108(3) TFEU and Article 14 of Regulation 659/1999 ([2]).

([1]) OJ L 119, p. 30.
([2]) Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, OJ L 83, p. 1.

Request for a preliminary ruling from the Rīgas apgabaltiesas Krimināllietu tiesu kolēģija (Latvia) lodged on 13 April 2015 — Criminal proceedings against Aleksandrs Ranks and Jurijs Vasiļevičs

(Case C-166/15)

(2015/C 205/29)

Language of the case: Latvian

Referring court

Rīgas apgabaltiesas Krimināllietu tiesu kolēģija

Party to the main proceedings

Criminal proceedings against: Aleksandrs Ranks, Jurijs Vasiļevičs

Other parties in the case: Finanšu un ekonomisko noziegumu izmeklēšanas prokuratūra, Microsoft Corporation

Questions referred

1. Under Articles 5(1) and 4(2) of Directive 2009/24 ([1]) of the European Parliament and of the Council, may a person who has acquired a computer program with a 'used' licence on a non-original disk, which works and is not used by any other user, rely upon the exhaustion of the right to distribute a copy of that computer program, the first purchaser of which acquired it from the rightholder with the original disk, which however has been damaged, when the first purchaser has erased his copy and no longer uses it?

2. If the answer to the first question is in the affirmative, then, does a person who may rely upon the exhaustion of the right to distribute a copy of the computer program have the right to resell that computer program on a non-original disk to a third person, in accordance with Articles 4(2) and 5(2) of Directive 2009/24?

([1]) Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs (Codified version) (Text with EEA relevance) (OJ 2009 L 111, p. 16).

Request for a preliminary ruling from the Nacka tingsrätt, Mark- och miljödomstolen (Sweden) lodged on 21 April 2015 — Borealis Ab and Others v Naturvårdsverket

(Case C-180/15)

(2015/C 205/30)

Language of the case: Swedish

Referring court

Nacka tingsrätt, Mark- och miljödomstolen

Parties to the main proceedings

Applicants: Borealis AB, Kubikenborg Aluminium AB, Yara AB, SSAB EMEA AB, Lulekraft AB, Värmevärden i Nynäshamn AB, Cementa AB, Höganäs Sweden AB

Defendant: Naturvårdsverket

Questions referred

1. In the calculation of the cross-sectoral correction factor for the industrial sector, is it compatible with Article 10a(1) and (4) of the trading directive ([1]) to attribute all emissions from incineration of residual gas for electricity production to the auction pot and not to the Industritaket (ceiling for free allocation of allowances; 'industry ceiling'), despite the fact that emissions from residual gas are eligible for free allocation of allowances under Article 10a(1) of the trading directive?

2. In the calculation of the cross-sectoral correction factor for the industrial sector, is it compatible with Article 10a(1) and (4) of the trading directive to attribute all emissions produced in heat production in cogeneration installations for onward delivery to … installations [covered by the emissions trading system ('ETS installations')] to the auction pot and not to the industry ceiling, despite the fact that the emissions from heat production are eligible for free allocation of allowances under Article 10a(4) of the trading directive?

3. If the answers to questions 1 and 2 are negative, is the calculation, in that case, of the industries' share (34,78 per cent) of the total emissions in the reference period correct?

4. Is Commission Decision 2013/448/EU ([2]) invalid and incompatible with the third subparagraph of Article 10a(5) of the trading directive, since the Commission's calculation of the industry ceiling means that a cross-sectoral correction factor must inevitably be applied instead of being applied 'if necessary'?

5. Has the product benchmark for hot metal been established in accordance with Article 10a(2) of the trading directive on the basis of the fact that, in defining the principles for setting ex-ante benchmarks, the starting point is to be the average performance of the 10 per cent most efficient installations in the relevant sector?

6. As regards the free allocation of allowances for the export of heating to private households, is it compatible with Article 10a(4) of the trading directive not to grant allocation of free allowances in respect of heating which is exported to private households?

7. In connection with applications for the free allocation of allowances, is it compatible with Annex IV to Commission Decision 2011/278/EU ([3]), as the Naturvårdsverket (Swedish Environmental Protection Agency) has done, not to state all greenhouse gas emissions arising from the production of heating which is exported to private households?

8. In the allocation of free allowances for the export of heating to private households, is it compatible with Article 10a(1) and (4) of the trading directive and Article 10(3) of Commission Decision 2011/278/EU not to give allocation of extra free allowances in respect of the fossil-fuel emissions which exceed the allocation given for heating exported to private households?

9. In connection with applications for allocation of free allowances, is it compatible with Annex IV to Commission Decision 2011/278/EU, as the Naturvårdsverket has done, to adjust the figures in an application so that the greenhouse gas emissions attributable to the incineration of residual gas are equated to those attributable to the incineration of natural gas?

10. Does Article 10(8) of Commission Decision 2011/278/EU mean that an operator cannot obtain an allocation of free allowances in respect of heat consumption in a heat benchmark sub-installation produced in a different fuel benchmark sub-installation?

11. If the answer to question 10 is affirmative, does Article 10(8) of Commission Decision 2011/278/EU run counter to Article 10a(1) of the trading directive?

12. In the allocation of free allowances in respect of heat consumption, is it compatible with the trading directive and Guidance Documents No 2 and 6 to have regard in the assessment to the heat source which produces the heat consumed?

13. Is Commission Decision 2013/448/EU invalid and incompatible with Article 290 TFEU and Article 10a(1) and (5) of the trading directive on the basis that it alters the calculation method set out in Article 10a(5), second subparagraph, (a) and (b) of the trading directive by excluding from the basis of calculation emissions which are caused by the incineration of residual gas and the production of combined heat and power, despite the fact that the free allocation of allowances is permitted in that regard pursuant to Article 10a(1) and (4) of the trading directive and Commission Decision 2011/278/EU?

14. Is measurable heat in the form of steam from an ETS installation which is delivered to a steam network with many consumers of steam, of which at least one is not an ETS installation, to be regarded as constituting a heat benchmark sub-installation under Article 3(c) of Commission Decision 2011/278/EU?

15. Is it relevant to the answer to question 14:

    (a) whether the steam network is owned by the largest consumer of steam in the network and that consumer is an ETS installation,

    (b) what share of the total heat delivery to the steam network is used by the largest consumer,

    (c) how many suppliers and consumers of steam there are in the steam network,

    (d) whether there is uncertainty as to who has produced the measurable heat which the respective consumers of steam acquire, and

    (e) whether the allocation of steam usage within the network can be altered in such a way that a number of consumers of steam which are not ETS installations join it or the existing non-ETS installations' usage increases?

16. If the answer to question 14 depends on the facts of the individual case, to which facts is particular weight to be given?'

([1]) Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ 2003 L 275, p. 32).

([2]) Commission Decision of 5 September 2013 concerning national implementation measures for the transitional free allocation of greenhouse gas emission allowances in accordance with Article 11(3) of Directive 2003/87/EC of the European Parliament and of the Council (notified under document C(2013) 5666) (OJ 2013 L 240, p. 27).

([3]) Commission Decision of 27 April 2011 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (notified under document C(2011) 2772) (OJ 2011 L 130, p. 1).

Request for a preliminary ruling from the Augstākā tiesa (Latvia) lodged on 22 April 2015 — Aleksei Petruhhin

(Case C-182/15)

(2015/C 205/31)

Language of the case: Latvian

Referring court

Augstākā tiesa

Parties to the main proceedings

Applicant: Aleksei Petruhhin

Other party to the proceedings: Latvijas Republikas Ģenerālprokuratūra

Questions referred

1. Are the first paragraph of Article 18 and Article 21(1) of the Treaty on the Functioning of the European Union to be interpreted as meaning that, in the event of extradition of a citizen of any Member State of the European Union to a non-Member State under an extradition agreement concluded between a Member State and a third country, the same level of protection must be guaranteed as is guaranteed to a citizen of the Member State in question?

2. In those circumstances, must the court of the Member State to which the request for extradition has been made apply the conditions for extradition of the EU State of which the person concerned is a citizen or of that in which he has his habitual residence?

3. In cases in which extradition must be carried out without taking into consideration the specific level of protection established for the citizens of the State to which the request for extradition has been made, must the Member State to which the request for extradition has been made verify compliance with the safeguards established in Article 19 of the Charter of Fundamental Rights of the European Union, that is, that no one may be extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment? May such verification be limited to checking that the State requesting extradition is a party to the Convention against Torture or is it necessary to check the factual situation by taking into consideration the evaluation of that State carried out by the bodies of the Council of Europe?

Appeal brought on 27 April 2015 by Tarif Akhras against the judgment of the General Court (Seventh Chamber) delivered on 12 February 2015 in Case T-579/11: Tarif Akhras v Council of the European Union

(Case C-193/15 P)

(2015/C 205/32)

Language of the case: English

Parties

Appellant: Tarif Akhras (represented by: S. Millar, S. Ashley, Solicitors, D. Wyatt QC, R. Blakeley, Barrister)

Other parties to the proceedings: Council of the European Union, European Commission

Form of order sought

The appellant claims that the Court should:

— Set aside in part the judgment of the General Court (Seventh Chamber) of 12 February 2015 in Case T-579/11 Tarif Akhras v Council of the European Union;

— Annul the measures contested in Case T-579/11 dated 23 March 2012 and later insofar as they apply to the Appellant;

— Order the Council to pay the costs of the appeal and the costs of the proceedings before the General Court.

Pleas in law and main arguments

In support of its appeal, the Appellant invokes two grounds.

First, the General Court erred in law in holding that the Council was entitled to apply a presumption that the Appellant benefitted from and/or supported the regime, and the General Court failed to apply the correct test, viz., whether the established facts amounted to a set of indicia sufficiently specific, precise and consistent to establish that the Appellant benefitted from and/or supported the regime.

Second, the General Court erred in law in that it distorted the evidence relevant to the question whether the Appellant benefitted from and/or supported the regime, which, had it not been so distorted, demonstrated that the Appellant did not support or benefit from the regime.

Had the General Court not applied the presumption, and/or had it applied the correct test, and/or had it not distorted the evidence referred to above, it would have annulled the measures contested in Case T-579/11 dated 23 March 2012 and later.

Action brought on 29 April 2015 — European Commission v Portuguese Republic

(Case C-200/15)

(2015/C 205/33)

Language of the case: Portuguese

Parties

Applicant: European Commission (represented by: M. Wasmeier, P. Guerra and A. Andrade, acting as Agents)

Defendant: Portuguese Republic

Form of order sought

— Declare that, by applying, for the purpose of determining the taxable amount of second-hand vehicles brought into Portuguese territory from another Member State, a system for the calculation of the depreciation of vehicles which does not take account of the actual value of the vehicle and, in particular, does not take account of the depreciation in the vehicle's value during its first year of use, or any other depreciation in the case of vehicles more than five years old, the Portuguese Republic has failed to fulfil its obligations under Article 110 of the Treaty on the Functioning of the European Union.

— order Portuguese Republic to pay the costs.

Pleas in law and main arguments

The Commission is of the view that Article 11 of Portuguese Code of Taxes on Vehicles is discriminatory, in so far as concerns motor vehicles allowed into Portugal, that is second-hand vehicles bearing a permanent number-plate issued by another Member State which are placed on the Portuguese market. Unlike second-hand vehicles which are, from the outset, on the Portuguese market, vehicles allowed into Portugal from other Member States are taxed at such a rate that does not adequately reflect the depreciation in value. In particular, the tax rate is reduced only after one year of use and, after five years of use, the reduction cannot exceed 52 %.

GENERAL COURT

Judgment of the General Court of 5 May 2015 — Spa Monopole v OHIM — Orly International (SPARITUAL)

(Case T-131/12) ([1])

(Community trade mark — Opposition proceedings — Application for registration of the word mark SPARITUAL — Earlier Benelux figurative and word marks SPA and LES THERMES DE SPA — Relative ground for refusal — Article 8(5) of Regulation (EC) No 207/2009)

(2015/C 205/34)

Language of the case: English

Parties

Applicant: Spa Monopole compagnie fermière de Spa SA/NV (Spa, Belgium) (represented by: L. De Brouwer, E. Cornu and É. De Gryse, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Orly International, Inc. (Van Nuys, California, United States) (represented by: P. Kremer and J. Rotsch, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of OHIM dated 9 January 2012 (Case R 2396/2010-1), relating to opposition proceedings between Spa Monopole, compagnie fermière de Spa SA/NV and Orly International Inc.

Operative part of the judgment

The Court:

1. *Annuls the decision of 9 January 2012 (Case R 2396/2010-1) of the First Board Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM);*

2. *Orders OHIM and Orly International, Inc. to each bear their costs and to pay the costs of Spa Monopole, compagnie fermière de Spa SA/NV.*

([1]) OJ C 165, 9.6.2012.

Judgment of the General Court of 5 May 2015 — Skype v OHIM — Sky and Sky IP International (skype)

(Case T-423/12) ([1])

(Community trade mark — Opposition proceedings — Application for Community figurative mark skype — Earlier Community word mark SKY — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 205/35)

Language of the case: English

Parties

Applicant: Skype Ultd (Dublin, Ireland) (represented: initially by I. Fowler, Solicitor, J. Schmitt, lawyer, and J. Mellor QC, and subsequently by A. Carboni and M. Browne, Solicitors)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Bullock, acting as Agent)

Other parties to the proceedings before the Board of Appeal of OHIM: Sky plc, formerly British Sky Broadcasting Group plc (Isleworth, United Kingdom); and Sky IP International Ltd (Isleworth) (represented by: D. Rose and V. Baxter, Solicitors, and subsequently by D. Rose, R. Guthrie, Solicitors, T. Moody-Stuart, Barrister, and J. Curry, Solicitor)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 26 July 2012 (Case R 1561/2010-4) concerning opposition proceedings between, on the one hand, British Sky Broadcasting Group plc and Sky IP International Ltd and, on the other hand, Skype Ultd.

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders Skype Ultd to bear its own costs and to pay those incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM), Sky plc and Sky IP International Ltd.*

([1]) OJ C 355, 17.11.2012.

Judgment of the General Court of 5 May 2015 — Skype v OHIM — Sky and Sky IP International (SKYPE)

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

(Community trade mark — Opposition proceedings — Application for Community word mark SKYPE — Earlier Community word mark SKY — Relative ground for refusal — Likelihood of confusion — Article 8 (1)(b) of Regulation (EC) No 207/2009)

(2015/C 205/36)

Language of the case: English

Parties

Applicant: Skype Ultd (Dublin, Ireland) (represented: initially by I. Fowler, Solicitor, J. Schmitt, lawyer, and J. Mellor QC, and subsequently by A. Carboni and M. Browne, Solicitors)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Bullock and N. Bambara, acting as Agents)

Other parties to the proceedings before the Board of Appeal of OHIM: Sky plc, formerly British Sky Broadcasting Group plc (Isleworth, United Kingdom); and Sky IP International Ltd (Isleworth) (represented by: R. Guthrie, D. Rose, V. Baxter, Solicitors, and T. Moody-Stuart, Barrister, and subsequently by R. Guthrie, D. Rose, Solicitors, T. Moody-Stuart, Barrister, and J. Curry, Solicitor)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 30 January 2013 (Case R 2398/2010-4) concerning opposition proceedings between, on the one side, British Sky Broadcasting Group plc and Sky IP International Ltd and, on the other, Skype Ultd.

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders Skype Ultd to bear its own costs and to pay those incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM), Sky plc and Sky IP International Ltd.*

([1]) OJ C 171, 15.6.2013.

Judgment of the General Court of 5 May 2015 — Skype v OHIM — Sky and Sky IP International (SKYPE)

(Case T-184/13) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark SKYPE — Earlier Community word mark SKY — Relative ground for refusal — Likelihood of confusion — Article 8 (1)(b) of Regulation (EC) No 207/2009)

(2015/C 205/37)

Language of the case: English

Parties

Applicant: Skype Ultd (Dublin, Ireland) (represented: initially by I. Fowler, Solicitor, J. Schmitt, lawyer, and J. Mellor QC, and subsequently by A. Carboni and M. Browne, Solicitors)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Bullock and N. Bambara, acting as Agents)

Other parties to the proceedings before the Board of Appeal of OHIM: Sky plc, formerly British Sky Broadcasting Group plc (Isleworth, United Kingdom); and Sky IP International Ltd (Isleworth) (represented by: R. Guthrie, D. Rose, V. Baxter, Solicitors, and T. Moody-Stuart, Barrister, subsequently by R. Guthrie, D. Rose, T. Moody-Stuart and J. Curry, Solicitor)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 30 January 2013 (Case R 121/2011-4) concerning opposition proceedings between, on the one hand, British Sky Broadcasting Group plc and Sky IP International Ltd and, on the other hand, Skype Ultd.

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders Skype Ultd to bear its own costs and to pay those incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM), Sky plc and Sky IP International Ltd.*

([1]) OJ C 171, 15.6.2013.

Judgment of the General Court of 5 May 2015 — Petropars Iran and Others v Council

(Case T-433/13) ([1])

(Common foreign and security policy — Restrictive measures against Iran with the aim of preventing nuclear proliferation — Freezing of funds — Obligation to state reasons — Error of assessment — Plea of illegality — Right to conduct business — Right to property — Protection of public health, security and the environment — Precautionary principle — Proportionality — Rights of defence)

(2015/C 205/38)

Language of the case: English

Parties

Applicants: Petropars Iran Co. (Kish Island, Iran); Petropars Oilfields Services Co. (Kish Island); Petropars Aria Kish Operation and Management Co. (Tehran, Iran); Petropars Resources Engineering Kish Co. (Tehran) (represented by: S. Zaiwalla, P. Reddy, Z. Burbeza, Solicitors, R. Blakeley, G. Beck, Barristers, and M. Brindle QC)

Defendant: Council of the European Union (represented by: V. Piessevaux and M. Bishop, acting as Agents)

Re:

Application for (i) annulment of Council Decision 2013/270/CFSP of 6 June 2013 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2013 L 156, p. 10) and of Council Implementing Regulation (EU) No 522/2013 of 6 June 2013 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2013 L 156, p. 3) and (ii) a declaration that Article 20(1)(c) of Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ 2010 L 195, p. 39) and Article 23(2)(d) of Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (OJ 2012 L 88, p. 1) are inapplicable.

Operative part of the judgment

The Court:

1. *Annuls the following, in so far as they concern Petropars Aria Kish Operation and Management Co. and Petropars Resources Engineering Kish Co.:*

   — *Council Decision 2013/270/CFSP of 6 June 2013 amending Decision 2010/413/CFSP concerning restrictive measures against Iran;*

   — *Council Implementing Regulation (EU) No 522/2013 of 6 June 2013 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran;*

2. *Orders that the effects of Decision 2013/270 and Regulation No 522/2013 be maintained as regards Petropars Aria Kish Operation and Management Co. and Petropars Resources Engineering Kish Co. until the date of expiry of the period for bringing an appeal, as provided for in the first paragraph of Article 56 of the Statute of the Court of Justice of the European Union, or, if an appeal is brought within that period, until the date of any dismissal of that appeal;*

3. *Dismisses the action as to the remainder;*

4. *Orders each party to bear its own costs.*

([1]) OJ C 313, 26.10.2013.

Judgment of the General Court of 7 May 2015 — Cosmowell v OHIM — Haw Par (GELENKGOLD)

(Case T-599/13) ([1])

(Community trade mark — Opposition proceedings — Application for Community figurative mark GELENKGOLD — Earlier Community figurative mark representing a tiger — Relative ground for refusal — Likelihood of confusion — Alteration of the distinctive character of the earlier mark — Phonetic similarity of the signs — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 205/39)

Language of the case: German

Parties

Applicant: Cosmowell GmbH (Sankt Johann in Tirol, Austria) (represented by: J. Sachs, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Haw Par Corp. Ltd (Singapore, Singapore) (represented by: C. Schultze, J. Ossing, R.-D. Härer, C. Weber, H. Ranzinger, C. Brockmann and C. Gehweiler, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 5 September 2013 (Case R 2013/2012-4), relating to opposition proceedings between Haw Par Corp. Ltd and Cosmowell GmbH.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 5 September 2013 (Case R 2013/2012-4);*

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

3. *Orders OHIM to bear its own costs and to pay half of the costs incurred by Cosmowell GmbH during both the proceedings before the Court and the Board of Appeal;*

4. *Orders Haw Par Corp. Ltd to bear its own costs and to pay half of the costs incurred by Cosmowell during both the proceedings before the Court and the Board of Appeal.*

([1]) OJ C 39, 8.2.2014.

Judgment of the General Court of 5 May 2015 — Lidl Stiftung v OHIM — Horno del Espinar (Castello)

(Case T-715/13) ([1])

(Community trade mark — Opposition proceedings — Application for the figurative Community mark Castello — Earlier national figurative mark 'Castelló' — Relative ground for refusal — No likelihood of confusion — Article 8(1)(b) of Regulation No (EC) 207/2009 — Right to be heard — Second sentence of Article 75 of Regulation No 207/2009)

(2015/C 205/40)

Language of the case: English

Parties

Applicant: Lidl Stiftung & Co. KG (Neckarsulm, Germany) (represented by: M. Wolter, M. Kefferpütz and A. Marx, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Geroulakos, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Horno del Espinar, S L (El Espinar, Spain)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 1 October 2013 (Case R 2338/2012-2), concerning opposition proceedings between Horno del Espinar, S L and Lidl Stiftung & Co. KG.

Operative part of the judgment

The Court:

1) *Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 1 October 2013 (Case R 2338/2012-2), concerning opposition proceedings between Horno del Espinar, S L and Lidl Stiftung & Co. KG;*

2) *Orders OHIM to pay the costs.*

([1]) OJ C 78, 15.3.2014.

Order of the General Court of 23 April 2015 — Chatzianagnostou v Council and Others

(Case T-383/13) ([1])

(Action for annulment — Common Foreign and Security Policy — Seconded National expert for the EULEX Kosovo mission — Decisions of a Head of Mission on disciplinary sanctions)

(2015/C 205/41)

Language of the case: Greek

Parties

Applicant: Antonios Chatzianagnostou (Serres, Greece) (represented by: C. Makris, lawyer)

Defendants: Council of the European Union (represented by: S. Kyriakopoulou, A. Vitro and M. Bauer, acting as Agents) European Commission (represented by: J. Currall, A.-C. Simon and M. Konstantinidis, acting as Agents); and Eulex Kosovo (Pristina, Kosovo) (represented by: B. Borchardt, acting as Agent, assisted by D. Fouquet, lawyer)

Re

Action for annulment of decisions of 10 May 2013 in disciplinary cases Nos 02/2013 and 06/2013, signed by the Head of the EULEX Kosovo mission.

Operative part of the order

1) *The action is dismissed as inadmissible.*

2) *Mr Antonios Chatzianagnostou is ordered to bear his own costs and pay those incurred by the Council of the European Union, the European Commission and Eulex Kosovo.*

([1]) OJ C 313, 26.10.2013.

Order of the General Court of 14 April 2015 — SolarWorld and Solsonica v Commission

(Case T-393/13) ([1])

(Dumping — Imports of crystalline silicon photovoltaic modules and key components (cells and wafers) originating in or consigned from China — Provisional anti-dumping duty)

(2015/C 205/42)

Language of the case: English

Parties

Applicants: SolarWorld AG (Bonn, Germany) and Solsonica SpA (Cittaducale, Italy), (represented by: L. Ruessmann, lawyer, and J. Beck, Solicitor)

Defendant: European Commission (represented by: J.-F. Brakeland and T. Maxian Rusche, acting as Agents)

Re:

Application, first, for annulment of Commission Regulation (EU) No 513/2013 of 4 June 2013 imposing a provisional anti-dumping duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells and wafers) originating in or consigned from the People's Republic of China and amending Regulation (EU) No 182/2013 making these imports originating in or consigned from the People's Republic of China subject to registration (OJ 2013 L 152, p. 5), to the extent that the rate of those provisional duties was established, for the period from 6 June to 5 August 2013, at a level which eliminates neither the dumping nor the loss, secondly, an application for an order that the customs authorities of the Member States be directed to apply the full anti-dumping duty rates as from 6 June 2013 and, thirdly, an action in non-contractual liability against the Commission for the loss that the applicants allegedly suffered due to the application, for the period from 6 June to 5 August 2013, of the provisional anti-dumping duties at the rate introduced by Regulation No 513/2013.

Operative part of the order

1) *The second head of claim of SolarWorld AG and Solsonica SpA, seeking an order that the customs authorities of the Member States be directed to apply the anti-dumping duty rates set out in Article 1(2)(ii) of Commission Regulation (EU) No 513/2013 of 4 June 2013 imposing a provisional anti-dumping duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells and wafers) originating in or consigned from the People's Republic of China and amending Regulation (EU) No 182/2013 making these imports originating in or consigned from the People's Republic of China subject to registration, as from 6 June 2013, is manifestly inadmissible.*

2) *There is no longer any need to adjudicate on the action for annulment of Regulation No 513/2013, nor on the action for damages.*

3) *SolarWorld and Solsonica shall bear their own costs, as well as one-third of the costs of the European Commission. The latter shall bear the remainder of its own costs.*

([1]) OJ C 274, 21.9.2013.

Order of the General Court of 28 April 2015 — Dyckerhoff Polska v Commission

(Case T-284/14) ([1])

(Action for annulment — Time-limit for bringing an action — Out of time — No force majeure or unforeseeable circumstances — Manifest inadmissibility — Plea of illegality)

(2015/C 205/43)

Language of the case: Polish

Parties

Applicant: Dyckerhoff Polska sp. z o.o. (Nowiny, Poland) (represented by: K. Kowalczyk, lawyer)

Defendant: European Commission (represented by: E. White and K. Herrmann, acting as Agents)

Re:

Application for annulment of Commission Decision 2013/448/EU of 5 September 2013 concerning national implementation measures for the transitional free allocation of greenhouse gas emission allowances in accordance with Article 11(3) of Directive 2003/87/EC of the European Parliament and of the Council (OJ 2013 L 240, p. 27).

Operative part of the order

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

2. *There is no need to adjudicate on the applications for leave to intervene made by the Council of the European Union and the European Parliament.*

3. *Dyckerhoff Polska sp. z o.o. shall pay the costs.*

([1]) OJ C 245, 28.7.2014.

Order of the General Court of 27 April 2015 —Vierling v OHIM — IP Leanware (BRAINCUBE)

(Case T-581/14) ([1])

(Community trade mark — Opposition — Withdrawal of the opposition — No need to adjudicate)

(2015/C 205/44)

Language of the case: English

Parties

Applicant: Yvonne Vierling (Cologne, Germany) (represented by: G. Hasselblatt and D. Kipping, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: I. Harrington, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM: IP Leanware (Issoire, France)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 30 April 2014 (Case R 1486/2013-2) concerning opposition proceedings between Yvonne Vierling and IP Leanware.

Operative part of the order

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

2) *Ms Yvonne Vierling shall bear her own costs and pay those incurred by OHIM.*

([1]) OJ C 351, 6.10.2014.

Order of the President of the General Court of 24 April 2015 — CRM v Commission

(Case T-43/15 R)

(Application for interim measures — Registration of a protected geographical indication — 'Piadina Romagnola/Piada Romagnola' — Application for suspension of operation of a measure — No urgency)

(2015/C 205/45)

Language of the case: Italian

Parties

Applicant: CRM Srl (Modena, Italy) (represented by: G. Forte, C. Marinuzzi and A. Franchi, lawyers)

Defendant: European Commission (represented by: D. Bianchi and J. Guillem Carrau, acting as Agents)

Re:

Application for suspension of the operation of Commission Implementing Regulation (EU) No 1174/2014 of 24 October 2014 entering a name in the register of protected designations of origin and protected geographical indications (Piadina Romagnola/Piada Romagnola (PGI)) (OJ 2014 L 316, p. 3).

Operative part of the order

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

2. *The costs are reserved.*

Order of the President of the General Court of 24 April 2015 — Hydrex v Commission

(Case T-45/15 R)

(Application for interim measures — Grant agreement relating to a project concerning a financial instrument for the environment — Recovery order — Application to suspend adoption — Disregard of formal requirements — Inadmissibility)

(2015/C 205/46)

Language of the case: Dutch

Parties

Applicant: Hydrex NV (Anvers, Belgium) (represented by: P. Van Eysendeyk, lawyer)

Defendant: European Commission (represented by: S. Lejeune and G. Wils, acting as agents)

Re

Application to suspend the enforcement of Commission decision C (2015) 103 final of 12 January 2015, relating to recovery order No 3241405101issued against the applicant and involving an amount of EUR 540 721,10.

Operative part of the order

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

2) *The costs are reserved.*

Action brought on 08 April 2015— EFB/Commission

(Case T-174/15)

(2015/C 205/47)

Language of the case: English

Parties

Applicant: European Federation of Biotechnology (EFB) (Liège, Belgium) (represented by: M. Troncoso Ferrer and S. Moya Izquierdo, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare the action admissible and well-founded;

— order the European Commission to pay the applicant 36 457,79 EUR;

— condemn the European Commission to pay all the legal costs.

Pleas in law and main arguments

Under its claim, the applicant requests the General Court to declare that the European Commission has breached its contractual obligations under the Contract of 24 January 2007 on the project for European Federation of Biotechnology Latin American Action on Functional Foods, with reference CT-2006-043158 ('the Contract'), and claims for payment of the final amount of 36 457,79 EUR.

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

1. First plea in law, alleging manifest errors of assessment concerning several eligible costs which constitutes an error in the appreciation of proof contrary to Article 1315 of the Belgian Civil Code.

2. Second plea in law, alleging an infringement of Articles II.20 and II.6 of the General Conditions of the Contract.

3. Third plea in law, alleging an infringement of Article 1134 of the Belgian Civil Code and the principle of execution of contract in good faith.

4. Fourth plea in law, alleging a lack of motivation from the European Commission in the refusal to reimburse some costs.

5. Fifth plea in law, alleging an infringement of the protection of legitimate expectations.

6. Sixth plea in law, alleging a lack of clarity in the rules applicable to the 6th Framework Programme for Research and Technological Development ('FP6').

Action brought on 10 April 2015 — SLE Schuh v OHIM — Vigoss Tekstil Konfeksiyon Sanayi ve Ticaret (VIOS)

(Case T-191/15)

(2015/C 205/48)

Language in which the application was lodged: German

Parties

Applicant: SLE Schuh GmbH (Graz, Austria) (represented by: A. Stolitzka, lawyer)

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

Other party to the proceedings before the Board of Appeal: Vigoss Tekstil Konfeksiyon Sanayi ve Ticaret Ltd Sirketi (Istanbul, Turkey)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community word mark 'VIOS' — Application No 11 283 546

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 22 January 2015 in Case R 623/2014-5

Form of order sought

The applicant claims that the Court should:

— uphold the action and alter the contested decision to the effect that registration of the mark 'VIOS' is allowed to proceed in respect of all the Classes and thus also in respect of:

Class 18: Goods made of these materials (of leather and imitations of leather) and not included in other classes; Trunks and travelling bags; Parasols;

Class 25: Clothing, headgear;

In the alternative:

— uphold the action and annul the contested decision;

— order OHIM to pay the costs.

Plea in law

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

Action brought on 24 April 2015 — Aguirre and Company v OHIM — Puma (Representation of a sports shoe)

(Case T-205/15)

(2015/C 205/49)

Language in which the application was lodged: Spanish

Parties

Applicant: Aguirre and Company, SA. (Madrid, Spain) (represented by: M. Pomares Caballero and A. Pomares Caballero, lawyers)

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

Other party to the proceedings before the Board of Appeal: Puma SE (Herzogenaurach, Germany)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community figurative mark representing a sports shoe —Community trade mark No 1050520-0001

Contested decision: Decision of the Third Board of Appeal of OHIM of 20 January 2015 in Case R 696/2013-3

Forms of order sought

The applicant claims that the General Court should:

— alter the contested decision so as to find that the ground of invalidity laid down in Article 25(1)(e) of Regulation No 6/2002 found by the Board of Appeal is not met in this case;

— or, alternatively, annul the contested decision;

— and, in any event, order OHIM to pay the costs and the costs of the applicant.

Pleas in law

— infringement of an essential procedural requirement in that the contested decision contained inconsistent statements with the result that it is insufficiently reasoned.

— infringement of Article 25(1)(e) Regulation No 6/2002.

— infringement of Article 63 of Regulation No 6/2002.

Action brought on 23 April 2015 — Gmina Kosakowo v Commission

(Case T-209/15)

(2015/C 205/50)

Language of the case: Polish

Parties

Applicant: Gmina Kosakowo (Kosakowo, Poland) (represented by: M. Leśny, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Article 2(1) and (2) of the Decision of the European Commission of 26 February 2015 on the measure SA.35388 (2013/C) (ex 2013/NN and ex 2012/N);

— annul Article 3(1), (2), (3) and (4) of the Decision of the European Commission of 26 February 2015 on the measure SA.35388 (2013/C) (ex 2013/NN and ex 2012/N);

— annul Article 4(1) and (2) of the Decision of the European Commission of 26 February 2015 on the measure SA.35388 (2013/C) (ex 2013/NN and ex 2012/N);

— order the defendant to pay the costs of the proceedings, including the costs incurred by the applicant for the purposes of its legal representation.

Pleas in law and main arguments

In support of the action the applicant sets out five pleas in law.

1. First plea in law:

   — erroneous determination of the facts taken as the basis for the contested decision.

2. Second plea in law:

— Breach of Article 107(1) TFEU by reason of the baseless assumption that Gmina Kosakowo (Municipality of Kosakowo), contrary to that provision, granted public aid, even though the receipt by that municipality of shares in the company Port Lotniczy Gdynia-Kosakowo sp. z o.o. (Gdynia-Kosakowo Airport company with limited liability) represented the settlement of a transaction carried out in the context of a land-tenancy contract, by reason of the improper application by the European Commission of the private-investor test, and by reason of the baseless assumption that the granting of public aid to the company Port Lotniczy Gdynia-Kosakowo sp. z o.o. distorted, or threatened to distort, competition and adversely affected trade between Member States.

3. Third plea in law:

— Breach of Article 107(3)(a) and (c) TFEU by reason of the assumption that the making of the investments was not justified in terms of regional development and was not in proportion to the disadvantages which it was intended to alleviate thereby, and also by reason of the assumption that the aid granted in favour of the company Port Lotniczy Gdynia-Kosakowo sp. z o.o. was incompatible with the conditions governing the operation of the internal market.

4. Fourth plea in law:

— Breach of the first subparagraph of Article 108(2) TFEU on the ground that the European Commission misused the power granted to it by reason of the disregard for, and inappropriate classification of, the applicant's activity, incorrect classification of the aid measure, failure to carry out the legally required analysis of the 'private-investor test' to appraise the project for the construction of the Gdynia-Kosakowo Airport, and by reason of a defective and incomplete analysis of the market for local and regional airports in Poland.

5. Fifth plea in law:

— Breach of procedural provisions: breach of Article 107(1) TFEU, in conjunction with Article 5(1) of Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 108 of the Treaty on the functioning of the European Union (OJ 1999 L 83 of 27.3.1999, p. 1), by reason of the legally defective conduct of the private-investor test; breach of the second paragraph of Article 296 TFEU by reason of an inadequate statement of reasons for the contested decision; infringement of the principle of sound administration; infringement of the principle of equality before the law; and infringement of the principle of legal certainty.

Appeal brought on 27 April 2015 by Claudio Necci against the order of the Civil Service Tribunal of 25 March 2015 in Case F-5/15 *Necci* v *Commission*

(Case T-211/15 P)

(2015/C 205/51)

Language of the case: French

Parties

Appellant: Claudio Necci (Auderghem, Belgium) (represented by S. Orlandi and T. Martin, lawyers)

Other party to the proceedings: European Commission

Form of order sought by the appellant

— Annul the order of the European Civil Service Tribunal of 25 March 2015 in Case F-5/15 *Necci* v *Commission*;

— Refer the matter back to the European Civil Service Tribunal.

Pleas in law and main arguments

In support of the appeal, the appellant relies on two pleas in law.

1. First plea in law, alleging infringement of the right to effective judicial protection, since the Civil Service Tribunal (CST) dismissed the action for annulment brought by the applicant on the ground of inadmissibility which it classified as 'manifest'.

2. Second plea in law, alleging an error of law committed by the CST in that it held that the time-limit for bringing proceedings under Article 90 of the Staff Regulations started to run from receipt of the proposal for the bonus loading of the annuities and not from its acceptance by the member of staff.

Action brought on 24 April 2015 — Lidl Stiftung v OHIM — toom Baumarkt (Super-Samstag)

(Case T-213/15)

(2015/C 205/52)

Language in which the application was lodged: German

Parties

Applicant: Lidl Stiftung & Co. KG (Neckarsulm, Germany) (represented by: M. Wolter and A. Berger, lawyers)

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

Other party to the proceedings before the Board of Appeal: toom Baumarkt GmbH (Cologne, Germany)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community word mark 'Super-Samstag' — Community trade mark No 10 304 178

Procedure before OHIM: Invalidity proceedings

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 16 February 2015 in Case R 657/2014-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs, including the costs in respect of the appeal proceedings.

Pleas in law

— Infringement of 52(1)(a) of Regulation No 207/2009 in conjunction with Rule 37(b)(i) and (iv) of Regulation No 2868/95;

— Infringement of Article 7(1)(b) of Regulation No 207/2009;

— Infringement of Article 7(1)(c) of Regulation No 207/2009.

Action brought on 23 April 2015 — Novartis v OHIM — Meda (Zymara)

(Case T-214/15)

(2015/C 205/53)

Language in which the application was lodged: English

Parties

Applicant: Novartis AG (Basel, Switzerland) (represented by: M. Douglas, lawyer)

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

Other party to the proceedings before the Board of Appeal: Meda AB (Solna, Sweden)

Details of the proceedings before OHIM

Applicant: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Community word mark 'Zymara' — Application for registration No 9 982 745

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 6 February 2015 in Case R 550/2014-5

Form of order sought

The applicant claims that the Court should:

— Annul the contested decision;

— Order OHIM to pay the costs.

Pleas in law

— The Board of Appeal has misinterpreted the goods which are 'pharmaceutical preparations, namely preparations for the treatment of cancer';

— The Board of Appeal has incorrectly based its decision on spelling rules which are not existing;

— The Board of Appeal has ignored arguments put forward with respect to the comparison of signs and, therefore, incorrectly held that the signs are phonetically similar only to a low degree;

— The Board of Appeal has put too much wait on the word beginnings within the visual comparison.

Action brought on 30 April 2015 — Fiesta Hotels & Resorts v OHIM — Residencial Palladium (PALLADIUM PALACE IBIZA RESORT & SPA)

(Case T-217/15)

(2015/C 205/54)

Language in which the application was lodged: Spanish

Parties

Applicant: Fiesta Hotels & Resorts, SL (Ibiza, Spain) (represented by: J. Devaureix, lawyer)

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

Other party to the proceedings before the Board of Appeal: Residencial Palladium, SL (Ibiza, Spain)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community figurative mark containing the word elements 'PALLADIUM PALACE IBIZA RESORT & SPA' — Community trade mark No 10 524 213

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the Second Board of Appeal of OHIM of 23 February 2015 in Case R 2391/2013-2

Form of order sought

The applicant claims that the Court should:

— annul and declare ineffective the decision of the Second Board of Appeal of OHIM of 23 February 2015;

— order the defendant to pay the costs.

Pleas in law

— Infringement of Article 53(1)(c) of Regulation No 207/2009, read in conjunction with Article 8(4) of Regulation No 207/2009.

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

Action brought on 6 May 2015 — Cofely Solelec and Others v Parliament

(Case T-224/15)

(2015/C 205/55)

Language of the case: French

Parties

Applicants: Cofely Solelec (Esch-sur-Alzette, Luxembourg), Mannelli & Associés SA (Bertrange, Luxembourg) and Cofely Fabricom (Brussels, Belgium) (represented by: S. Marx, lawyer)

Defendant: European Parliament

Form of order sought

— Annul Decision No 103299 of 27 April 2015 of the Directorate General for Infrastructures and Logistics of the European Parliament by which the applicants' bid for lot 75 'electricity — power' submitted on 29 September 2014 in respect of the public procurement procedure INLO-D-UPIL-T-14-AO4 concerning the project to extend and modernise the Konrad Adenauer Building in Luxembourg was rejected and the decision awarding the contract in question to another tenderer;

— Order the production of the following documents:

  — the report of the evaluation committee to which the defendant referred in its communication No 101690 of 27 February 2015; and

— the documents in the procurement file in which the contacts between the Parliament and the tenderers were recorded in accordance with Article 160(4) of Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002;

— Order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging a failure to comply with the selection criteria and, more precisely, the criteria concerning financial and economic standing and technical and professional standing.

2. Second plea in law, alleging a failure to comply with the award criteria. The applicants submit that, in so far as it proves to be the case that, when comparing the successful tenderer's bid and the bids submitted by the other tenderers, that bid is abnormally low, the defendant ought to have rejected the bid and awarded the contract to the applicants.

Order of the General Court of 17 April 2015 — Microsoft v OHIM — Softkinetic Software (KINECT)

(Case T-536/13) ([1])

(2015/C 205/56)

Language of the case: English

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

([1]) OJ C 377, 21.12.2013.

Order of the General Court of 23 April 2015 — Marzocchi Pompe v OHIM — Settima Meccanica (ELIKA)

(Case T-182/14) ([1])

(2015/C 205/57)

Language of the case: Italian

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

([1]) OJ C 159, 26.5.2014.

Order of the General Court of 13 April 2015 — noon Copenhagen v OHIM — Wurster Diamonds (noon)

(Case T-637/14) ([1])

(2015/C 205/58)

Language of the case: English

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

([1]) OJ C 361, 13.10.2014.

Order of the General Court of 27 April 2015 — Bensarsa v Commission and EDPS

(Case T-791/14) ([1])

(2015/C 205/59)

Language of the case: French

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

([1]) OJ C 34, 2.2.2015.

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