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## Last publications of the Court of Justice of the European Union in the *Official Journal of the European Union*

(2014/C 159/01)

**Last publication**

OJ C 151, 19.5.2014

**Past publications**

OJ C 142, 12.5.2014

OJ C 135, 5.5.2014

OJ C 129, 28.4.2014

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OJ C 93, 29.3.2014

These texts are available on:

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*(Announcements)*

# COURT PROCEEDINGS

# COURT OF JUSTICE

## Judgment of the Court (Grand Chamber) of 1 April 2014 (request for a preliminary ruling from the First-tier Tribunal (Tax Chamber) — United Kingdom) — Felixstowe Dock and Railway Company Ltd and Others v The Commissioners for Her Majesty's Revenue & Customs

**(Case C-80/12)** ([1])

***(Reference for a preliminary ruling — Freedom of establishment — Corporation tax — Tax relief — Groups of companies and consortia — National legislation permitting losses to be transferred between a company belonging to a consortium and a company that is a member of a group which are connected by a 'link company' that is a member of both the group and the consortium — Residence condition for the 'link company' — Discrimination on the basis of where the corporate seat is located — Ultimate group parent company established in a third State and owning the companies which are seeking to transfer losses through companies established in third States)***

(2014/C 159/02)

*Language of the case: English*

### Referring court

First-tier Tribunal (Tax Chamber)

### Parties to the main proceedings

*Applicants:* Felixstowe Dock and Railway Company Ltd, Savers Health and Beauty Ltd, Walton Container Terminal Ltd, WPCS (UK) Finance Ltd, AS Watson Card Services (UK) Ltd, Hutchison Whampoa (Europe) Ltd, Kruidvat UK Ltd, Superdrug Stores plc

*Respondent:* The Commissioners for Her Majesty's Revenue & Customs

### Re:

Request for a preliminary ruling — First-tier Tribunal (Tax Chamber) — Interpretation of Articles 49 TFEU and 54 TFEU — Freedom of establishment — Tax legislation — Corporation tax — Tax relief — National legislation permitting the transfer of losses sustained by a company that is established in the United Kingdom and owned by a consortium to a company established in the same State and belonging to a group of companies, subject to those two companies being connected through a link company which is a member of both the group and the consortium — Link company required to be established in the United Kingdom or to carry on a trade in the United Kingdom through a permanent establishment

### Operative part of the judgment

*Articles 49 TFEU and 54 TFEU must be interpreted as precluding legislation of a Member State under which it is possible for a resident company that is a member of a group to have transferred to it losses sustained by another resident company which belongs to a consortium where a 'link company' which is a member of both the group and the consortium is also resident in that Member State, irrespective of the residence of the companies which hold, themselves or by means of intermediate companies, the capital of the link company and of the other companies concerned by the transfer of losses, whereas that legislation rules out such a possibility where the link company is established in another Member State.*

([1]) OJ C 184, 23.6.2012.

## Judgment of the Court (Second Chamber) of 3 April 2014 — European Commission v Kingdom of the Netherlands, ING Groep NV, De Nederlandsche Bank NV

**(Case C-224/12 P)** ([1])

***(Appeal — Financial sector — Serious disturbance in the economy of a Member State — State Aid to a banking group — Form — Capital injection as part of a restructuring plan — Decision — Whether the aid compatible with the common market — Conditions — Amendment to the repayment terms of the aid — Private investor test)***

(2014/C 159/03)

*Language of the case: Dutch*

**Parties**

*Appellant:* European Commission (represented by: L. Flynn, S. Noë and H. van Vliet, acting as Agents)

*Other parties to the proceedings:* Kingdom of the Netherlands (represented by: M. de Ree, C. Wissels and J. Langer, acting as Agents, and P. Glazener, advocaat), ING Groep NV (represented by: O.W. Brouwer and J. Blockx, advocaten, and M. O'Regan, Solicitor), De Nederlandsche Bank NV (represented by: S. Verschuur and H. Gornall, advocaten, and M. Petite, avocat)

**Re:**

Appeal against the judgment of the General Court (First Chamber) of 2 March 2012 in Joined Cases T-29/10 and T-33/10 *Netherlands and ING Groep* v *Commission* by which the General Court granted the applications for the partial annulment of Commission Decision 2010/608/EC of 18 November 2009 on State aid C 10/09 (ex N 138/09) implemented by the Netherlands for ING's Illiquid Assets Back Facility and Restructuring Plan (OJ 2010 L 274, p. 139)

**Operative part of the judgment**

*The Court:*

1. *Dismisses the appeal;*

2. *Orders the European Commission to pay the costs;*

3. *Orders De Nederlandsche Bank NV to bear its own costs.*

([1]) OJ C 258, 25.8.2012.

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## Judgment of the Court (Second Chamber) of 3 April 2014 (request for a preliminary ruling from the Consiglio di Stato — Italy) — Cascina Tre Pini s.s. v Ministero dell'Ambiente e della Tutela del Territorio e del Mare, Regione Lombardia, Presidenza del Consiglio dei Ministri, Consorzio Parco Lombardo della Valle del Ticino, Comune di Somma Lombardo

**(Case C-301/12)** ([1])

***(Request for a preliminary ruling — Environment — Conservation of natural habitats and of wild fauna and flora — Directive 92/43/EEC — Sites of Community importance — Review of status in the event of pollution or degradation of the environment — National legislation not providing for persons concerned to request such a review — Attribution to the competent national authorities of a discretionary power to undertake of their own motion a review procedure of that status)***

(2014/C 159/04)

*Language of the case: Italian*

**Referring court**

Consiglio di Stato

**Parties to the main proceedings**

*Applicant:* Cascina Tre Pini s.s.

*Defendants:* Ministero dell'Ambiente e della Tutela del Territorio e del Mare, Regione Lombardia, Presidenza del Consiglio dei Ministri, Consorzio Parco Lombardo della Valle del Ticino, Comune di Somma Lombardo

**Re:**

Request for a preliminary ruling — Consiglio di Stato — Interpretation of Articles 9 and 10 of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992 L 206, p. 7) — Sites of Community importance (SCI) — Review of SCI status in the event of pollution or degradation of the environment — No provision under national legislation for the persons concerned to request such a review — Discretion conferred on the competent authorities as regards initiation of the procedure for review of SCI status — No regular appraisal of the conditions for initiating a review of SCI status — No obligation to inform the persons concerned of such a procedure

**Operative part of the judgment**

1) *Articles 4(1), 9 and 11 of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, as amended by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, must be interpreted as meaning that the competent authorities of the Member States are required to propose to the European Commission the declassification of a site on the list of sites of Community importance, where those authorities have received a request from the owner of land included in that site, alleging an environmental degradation of the site, provided that that request is based on the fact that, despite compliance with the provisions of Article 6(2) to (4) of that directive, that site can definitively no longer contribute to the conservation of natural habitats and of the wild fauna and flora or the setting up of the Natura 2000 network;*

2) *Articles 4(1), 9 and 11 of Directive 92/43, as amended by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, must be interpreted as not precluding national legislation under which a power is conferred on the regional and local authorities alone to propose the adaptation of the list of the sites of Community importance, but not on the State, even to act in lieu of the regional or local authorities in the event that they fail to act, provided that that allocation of power does not prevent the proper application of the provisions of that directive.*

([1]) OJ C 258, 25.8.2012.

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**Judgment of the Court (Fourth Chamber) of 3 April 2014 (request for a preliminary ruling from the Bundesgerichtshof — Germany) — Hi Hotel HCF SARL v Uwe Spoering**

**(Case C-387/12)** ([1])

***(Judicial cooperation in civil matters — Regulation (EC) No 44/2001 — International jurisdiction in matters relating to tort, delict or quasi-delict — Act committed in one Member State consisting in participation in an act of tort or delict committed in another Member State — Determination of the place where the harmful event occurred)***

(2014/C 159/05)

*Language of the case: German*

**Referring court**

Bundesgerichtshof

**Parties to the main proceedings**

*Applicant:* Hi Hotel HCF SARL

*Defendant:* Uwe Spoering

**Re:**

Request for a preliminary ruling — Bundesgerichtshof — Interpretation of Article 5(3) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1) — International jurisdiction in respect of tort, delict or quasi-delict — Act committed in one Member State and consisting in assistance in the commission of an unlawful act in the territory of a second Member State — Determination of the place where the harmful event occurred

**Operative part of the judgment**

*Article 5(3) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that, where there are several supposed perpetrators of damage allegedly caused to rights of copyright protected in the Member State of the court seised, that provision does not allow jurisdiction to be established, on the basis of the causal event of the damage, of a court within whose jurisdiction the supposed perpetrator who is being sued did not act, but does allow the jurisdiction of that court to be established on the basis of the place where the alleged damage occurs, provided that the damage may occur within the jurisdiction of the court seised. If that is the case, the court has jurisdiction only to rule on the damage caused in the territory of the Member State to which it belongs.*

([1]) OJ C 343, 10.11.2012.

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## Judgment of the Court (Fifth Chamber) of 3 April 2014 — European Commission v Kingdom of Spain

**(Case C-428/12)** ([1])

***(Failure of a Member State to fulfil obligations — Articles 34 TFEU and 36 TFEU — Measures of equivalent effect to quantitative restrictions on imports — Complementary private goods transport — The first vehicle of the fleet of a company — Rules for obtaining the road transport authorisation — Road safety and environmental protection)***

(2014/C 159/06)

*Language of the case: Spanish*

**Parties**

*Applicant:* European Commission (represented by: I. Galindo Marin and G. Wilms, Agents)

*Defendant:* Kingdom of Spain (represented by: J. García-Valdecasas Dorrego and Centeno Huerta, Agents)

**Re:**

Failure of a Member State to fulfil obligations — Infringement of Articles 34 TFEU and 36 TFEU — Granting of authorisations for motor vehicles — National legislation requiring, in order to obtain an 'authorisation for private, own-account transport', no more than five months to have elapsed since the first registration of the first heavy goods vehicle of an undertaking's fleet

**Operative part of the judgment**

*The Court:*

1) *declares that by requiring, in Article 31 of Ministerial Decree FOM/734/2007 of 20 March 2007 implementing the Law on the Regulation of Inland Transport in respect of authorisations for the transport of goods by road for vehicles with a maximum authorised mass exceeding 3,5 tons, that, in order to obtain an authorisation for the private, own-account transport of goods, no more than five months must have elapsed since the first registration of the first vehicle of an undertaking's fleet, the Kingdom of Spain has failed to fulfil its obligations under Article 34 TFEU;*

2) *orders the Kingdom of Spain to pay the costs.*

([1]) OJ C 379, 08.12.2012.

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**Judgment of the Court (Third Chamber) of 3 April 2014 (request for a preliminary ruling from the Oberlandesgericht München — Germany) — Irmengard Weber v Mechthilde Weber**

**(Case C-438/12)** ([1])

***(Judicial cooperation in civil matters — Regulation (EC) No 44/2001 — Article 22(1) — Exclusive jurisdiction — Disputes in proceedings which have as their object rights in rem in immovable property — Nature of the right of pre-emption — Article 27(1) — Lis pendens — Concept of proceedings involving the same cause of action and between the same parties — Relationship between Articles 22(1) and 27 (1) — Article 28(1) — Related actions — Criteria for assessing whether to stay proceedings)***

(2014/C 159/07)

*Language of the case: German*

**Referring court**

Oberlandesgericht München

**Parties to the main proceedings**

*Applicant:* Irmengard Weber

*Defendant:* Mechthilde Weber

**Re:**

Request for a preliminary ruling — Oberlandesgericht München — Interpretation of Articles 22(1), 27, 28 and 35(1) of Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1) — Lis pendens — Proceedings involving the same cause of action and between the same parties brought in the courts of different Member States — Interpretation of 'the same cause of action' and 'the same parties' — Situation in which the first action was brought by a third party against both parties and the second action was brought by one of those parties against the other

**Operative part of the judgment**

1) *Article 22(1) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, must be interpreted as meaning that there falls within the category of proceedings which have as their object 'rights in rem in immovable property' within the meaning of that provision an action such as that brought in the present case before the courts of another Member State, seeking a declaration of invalidity of the exercise of a right of pre-emption attaching to that property and which produces effects with respect to all the parties;*

2) *Article 27(1) of Regulation No 44/2001 must be interpreted as meaning that, before staying its proceedings in accordance with that provision, the court second seised is required to examine whether, by reason of a failure to take into consideration the exclusive jurisdiction laid down in Article 22(1) thereof, the decision of the court first seised will be recognised in the other Member States in accordance with Article 35(1) of that regulation*

([1]) OJ C 379, 8.12.2012.

## Judgment of the Court (Second Chamber) of 3 April 2014 (request for a preliminary ruling from the Lietuvos vyriausiasis administracinis teismas — Lithuania) — '4finance' UAB v Valstybinę vartotojų teisių apsaugos tarnybą, Valstybinę mokesčių inspekciją prie Lietuvos Respublikos finansų ministerijos

**(Case C-515/12)** ([1])

***(Directive 2005/29/EC — Unfair commercial practices — Pyramid promotional scheme — Whether the consideration paid by consumers in order to receive compensation is relevant — Interpretation of the concept of 'consideration')***

(2014/C 159/08)

*Language of the case: Lithuanian*

### Referring court

Lietuvos vyriausiasis administracinis teismas

### Parties to the main proceedings

*Applicant:* '4finance' UAB

*Defendants:* Valstybinę vartotojų teisių apsaugos tarnybą, Valstybinę mokesčių inspekciją prie Lietuvos Respublikos finansų ministerijos

### Re:

Request for a preliminary ruling — Lietuvos vyriausiasis administracinis teismas — Interpretation of point 14 of Annex I to Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (OJ 2005 L 149, p. 22) — Pyramid promotional scheme enabling a consumer, after giving nominal consideration, to receive compensation that is derived primarily from the entry of other consumers rather than from the sale or consumption of products — Relevance of the amount of the consideration to classification of the scheme as a pyramid promotional scheme — Significance of the extent to which the compensation is financed by consideration from new consumers — Requirement that that compensation be financed entirely or to a large extent by the contributions of the new members

### Operative part of the judgment

*Annex I, point 14, of Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive'), must be interpreted as meaning that a pyramid promotional scheme constitutes an unfair commercial practice only where such a scheme requires the consumer to give financial consideration, regardless of its amount, for the opportunity to receive compensation that is derived primarily from the introduction of other consumers into the scheme rather than from the sale or consumption of products.*

([1]) OJ C 26, 26.1.2013.

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## Judgment of the Court (Fifth Chamber) of 3 April 2014 (requests for a preliminary ruling from the Consiglio di Stato — Italy) — CTP — Compagnia Trasporti Pubblici SpA v Regione Campania (C-516/12 to C-518/12), Provincia di Napoli (C-516/12 and C-518/12)

**(Joined Cases C-516/12 to C-518/12)** ([1])

***(Reference for a preliminary ruling — Regulation (EC) No 1191/69 — Public passenger transport services — Article 4 — Application for termination of public service obligation — Article 6 — Right to compensation in respect of the financial burdens resulting from the performance of a public service obligation)***

(2014/C 159/09)

*Language of the case: Italian*

### Referring court

Consiglio di Stato

**Parties to the main proceedings**

*Applicant:* CTP — Compagnia Trasporti Pubblici SpA

*Defendants:* Regione Campania (C-516/12 to C-518/12), Provincia di Napoli (C-516/12 and C-518/12)

**Re:**

Requests for a preliminary ruling — Consiglio di Stato — Interpretation of Article 4 of Regulation (EEC) No 1191/69 of the Council of 26 June 1969 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway (OJ 1969 L 156, p. 1) — The right of private undertakings to compensation for the financial burdens arising from a public service obligation — Transport undertaking not having submitted to the competent authorities an application for termination of a public service obligation imposing on it an economic disadvantage — Obligation not forming part of the public service missions that the Member States are required to terminate

**Operative part of the judgment**

*Articles 4 and 6 of Regulation (EEC) No 1191/69 of the Council of 26 June 1969 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway, as amended by Council Regulation (EEC) No 1893/91 of 20 June 1991 must be interpreted as meaning that, for public service obligations that came into existence before that regulation entered into force, acquisition of a right to compensation in respect of the financial burdens resulting from the performance of such an obligation is subject to the submission of an application for termination of that obligation by the undertaking concerned and to a decision to maintain the obligation or to terminate it at the end of a specified period being made by the competent authorities. By contrast, as regards public service obligations that came into existence after that date, acquisition of such a right to compensation is not subject to those conditions.*

([1]) OJ C 26, 26.1.2013.

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**Judgment of the Court (First Chamber) of 3 April 2014 — French Republic v European Commission**

**(Case C-559/12 P)** ([1])

***(Appeals — State aid — Aid in the form of an implied, unlimited guarantee in favour of La Poste as a result of its status as a publicly-owned establishment — Existence of the guarantee — Presence of State resources — Advantage — Burden and standard of proof)***

(2014/C 159/10)

*Language of the case: French*

**Parties**

*Appellant:* French Republic (represented by: G. de Bergues, D. Colas and J. Gstalter and by J. Bousin, acting as Agents)

*Other party to the proceedings:* European Commission (represented by: B. Stromsky and D. Grespan, acting as Agents)

**Re:**

Appeal brought against the judgment of the General Court (Sixth Chamber) of 20 September 2012 in Case T 154/10 France v Commission, by which the General Court dismissed the action brought by the French Republic for the annulment of Commission Decision 2010/605/EU of 26 January 2010 on State aid C 56/07 (ex E 15/05) granted by France to La Poste (OJ 2010 L 274, p. 1) — Aid allegedly implemented by France in the form of an unlimited implied guarantee in favour of La Poste resulting from its status as a publicly owned industrial and commercial establishment — Establishment outside the scope of the ordinary law on administration and compulsory liquidation of firms in difficulty — Existence of an advantage — Existence of a transfer of State resources — Burden and standard of proof — Equiparation of the conditions under which State liability is incurred with a guarantee mechanism

**Operative part of the judgment**

*The Court:*

1. *Dismisses the appeal;*

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

(1) OJ C 32, 2.2.2013.

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**Judgment of the Court (Fourth Chamber) of 3 April 2014 (requests for a preliminary ruling from the Bundesfinanzhof — Germany) — Hauptzollamt Köln v Kronos Titan GmbH (C-43/13), Hauptzollamt Krefeld v Rhein-Ruhr Beschichtungs-Service GmbH (C-44/13)**

**(Joined Cases C-43/13 and C-44/13)** (1)

***(Directive 2003/96/EC — Taxation of energy products — Products not listed in Directive 2003/96/EC — Meaning of 'equivalent heating fuel or motor fuel')***

(2014/C 159/11)

*Language of the case: German*

**Referring court**

Bundesfinanzhof

**Parties to the main proceedings**

*Appellants:* Hauptzollamt Köln (C-43/13), Hauptzollamt Krefeld (C-44/13)

*Respondents:* Kronos Titan GmbH (C-43/13), Rhein-Ruhr Beschichtungs-Service GmbH (C-44/13)

**Re:**

Request for a preliminary ruling — Bundesfinanzhof — Interpretation of Article 2(3) of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ 2003 L 283, p. 51) — Taxation of energy products other than those for which a level of taxation is specified in the directive — Meaning of equivalent heating fuel or motor fuel — Possibility of applying to a product used as heating fuel the tax rate laid down for a product which has the closest chemical composition, where that product is subject to a higher rate of taxation than that laid down for heating fuel since it may be used as motor fuel

**Operative part of the judgment**

*The condition, laid down in Article 2(3) of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity, according to which energy products other than those for which a level of taxation is specified in the directive are to be taxed according to use, at the rate for the equivalent heating fuel or motor fuel, must be construed as meaning that it must be determined, first, whether the product at issue is used as heating fuel or motor fuel, before identifying, secondly, for which of the motor fuels or the heating fuels, as the case may be, listed in the corresponding table in Annex I to that directive the product at issue is in fact a substitute in terms of use or, failing that, which of those motor fuels or those heating fuels is, by its properties and intended use, the closest to it.*

(1) OJ C 123, 27.4.2013.

## Judgment of the Court (Fourth Chamber) of 3 April 2014 — European Commission v United Kingdom of Great Britain and Northern Ireland

**(Case C-60/13)** ([1])

***(Failure of a Member State to fulfil obligations — European Union's own resources — Decision 2000/597/EC, Euratom — Article 8 — Regulation (EC, Euratom) No 1150/2000 — Articles 2, 6, 9, 10 and 11 — Refusal to make own resources available to the European Union — Erroneous Binding Tariff Information documents — Imports of fresh garlic as frozen garlic — Imputability of the error to the national customs authorities — Financial liability of the Member States)***

(2014/C 159/12)

*Language of the case: English*

**Parties**

*Applicant:* European Commission (represented by: A. Caeiros and L. Flynn, Agents)

*Defendant:* United Kingdom of Great Britain and Northern Ireland (represented by: S. Brighouse and J. Beeko, Agents, assisted by K. Beal, QC)

**Re:**

Failure of a Member State to fulfil obligations — Infringement of Article 4(3) TEU, Article 8 of Council Decision 2000/597/EC, Euratom, of 29 September 2000 on the system of the European Communities' own resources (OJ 2000 L 253, p. 42) and Articles 2, 6, 9, 10 and 11 of Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 implementing Decision 2000/597, as amended by Council Regulation (EC, Euratom) No 2028/2004 of 16 November 2004

**Operative part of the judgment**

*The Court:*

1. *Declares that, by refusing to make available the amount of GBP 20 061 462,11 corresponding to the duties payable on imports of fresh garlic covered by erroneous binding tariff information, the United Kingdom of Great Britain and Northern Ireland failed to fulfil its obligations under Article 8 of Council Decision 2000/597/EC, Euratom of 29 September 2000 on the system of the Communities' own resources and Articles 2, 6, 9, 10 and 11 of Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 implementing Decision 2000/597, as amended by Council Regulation (EC, Euratom) No 2028/2004 of 16 November 2004;*

2. *Orders the United Kingdom of Great Britain and Northern Ireland to pay the costs.*

([1]) OJ C 141, 18.5.2013.

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## Judgment of the Court (Second Chamber) of 3 April 2014 (request for a preliminary ruling from the Thüringer Oberlandesgericht — Germany) — Udo Rätzke v S+K Handels GmbH

**(Case C-319/13)** ([1])

***(Reference for a preliminary ruling — Energy — Energy labelling of televisions — Delegated Regulation (EU) No 1062/2010 — Responsibilities of dealers — Television supplied to the dealer without the label before the regulation became applicable — Dealer's obligation to label that television from the date on which the regulation became applicable and to obtain a label subsequently)***

(2014/C 159/13)

*Language of the case: German*

**Referring court**

Thüringer Oberlandesgericht

**Parties to the main proceedings**

*Applicant:* Udo Rätzke

*Defendant:* S+K Handels GmbH

**Re:**

Request for a preliminary ruling — Thüringer Oberlandesgericht — Interpretation of Article 4(a) of Commission Delegated Regulation (EU) No 1062/2010 of 28 September 2010 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of televisions (OJ 2010 L 314, p. 64) — Scope *ratione temporis* — Obligation of the dealer to ensure that each television at the point of sale bears the label, provided by the suppliers, indicating the energy efficiency class — Televisions supplied to the dealer without labels before the date on which the regulation began to apply

**Operative part of the judgment**

*Article 4(a) of Commission Delegated Regulation (EU) No 1062/2010 of 28 September 2010 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of televisions must be interpreted as meaning that the obligation for dealers to ensure that each television, at the point of sale, bears the label provided by the suppliers in accordance with Article 3(1) of that regulation applies only to televisions which have been placed on the market, that is to say, dispatched for the first time by the manufacturer with a view to their distribution in the sales chain, from 30 November 2011.*

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([1]) OJ C 260, 7.9.2013.

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## Request for a preliminary ruling from the Cour d'appel de Poitiers (France) lodged on 25 October 2013 — criminal proceedings against Jean-Paul Grimal

**(Case C-550/13)**

(2014/C 159/14)

*Language of the case: French*

**Referring court**

Cour d'appel de Poitiers

**Party to the main proceedings**

Jean-Paul Grimal

By Order of 19 March 2014, the Court (Tenth Chamber) declared the request for a preliminary ruling to be manifestly inadmissible.

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## Action brought on 10 January 2014 — European Commission v Republic of Malta

**(Case C-12/14)**

(2014/C 159/15)

*Language of the case: English*

**Parties**

*Applicant:* European Commission (represented by: K. Mifsud-Bonnici, D. Martin, Agents)

*Defendant:* Republic of Malta

**The applicant claims that the Court should:**

— declare that, by reducing Maltese old-age pensions by the amount of a United Kingdom civil servant pension under, as the case may be, The Principal Civil Service Pension Scheme, The National Health Service Pension Scheme or The Armed Forces Pension Scheme 1975 in respect of The Royal Air Force, the Republic of Malta has failed to fulfil its obligations under Article 46b of Regulation (EEC) n° 1408/71 ([1]) of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Communities, as amended and consolidated by Regulation 118/97 of 2 December 1996 ([2]) and Article 54 of Regulation (EC) n° 883/2004 ([3]) of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems;

— order the Republic of Malta to pay the costs.

**Pleas in law and main arguments**

The Commission takes the view that Malta has failed to fulfil its obligations under Regulations 1408/71 and 883/2004 by deducting civil service pensions acquired under the legislation of another Member State from Maltese statutory old-age pension. The Commission is of the opinion that the United Kingdom civil service pension schemes are based on legislation and therefore fall within the scope of the said Regulations. The latter prohibit reducing a Maltese old-age pension by the amount of a United Kingdom public service pension. No social security convention concerning United Kingdom public service pensions has been concluded between the United Kingdom and Malta and no Annex to Regulation 1408/71 and 883/2004 contains an entry in respect of Malta, so that the conditions laid down by those Regulations to allow the continued applications of social security conventions are not fulfilled.

As the United Kingdom public service pension schemes do fall within the scope of these Regulations, Articles 46b (1) of Regulation 1408/71 and 54 (1) of Regulation 883/2004 forbid the application of a rule of national law on the prevention of overlapping of benefits such as Section 56 of the Maltese Social Security Act.

([1]) OJ L 149, p. 2
([2]) OJ L 28, p. 1
([3]) OJ L 166, p. 1

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**Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 6 March 2014 — Beteiligungsgesellschaft Larentia + Minerva mbH & Co. KG v Finanzamt Nordenham**

**(Case C-108/14)**

(2014/C 159/16)

*Language of the case: German*

**Referring court**

Bundesfinanzhof

**Parties to the main proceedings**

*Applicant:* Beteiligungsgesellschaft Larentia + Minerva mbH & Co. KG

*Defendant:* Finanzamt Nordenham

**Questions referred**

1. Which calculation method is to be used to calculate a holding company's (pro rata) input tax deduction in respect of input supplies connected with the procurement of capital for the purchase of shares in subsidiary companies, if the holding company subsequently (as intended from the outset) provides various taxable services to those companies?

2. Does the provision on the consolidation of several persons into a single taxable person in the second subparagraph of Article 4(4) 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 ([1]) preclude national legislation under which (firstly) only a legal person, but not a partnership, can be integrated into the undertaking of another taxable person (a so-called '*Organträger*' (controlling company)) and which (secondly) requires that this legal person 'is integrated into the undertaking of the *Organträger*' in financial, economic and organisational terms (in the sense of a relationship of control and subordination)?

3. If the previous question is answered in the affirmative: can a taxable person rely directly on the second subparagraph of Article 4(4) 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?

([1]) OJ 1977 L 145, p. 1.

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**Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 6 March 2014 — Finanzamt Hamburg-Mitte v Marenave Schiffahrts AG**

**(Case C-109/14)**

(2014/C 159/17)

*Language of the case: German*

**Referring court**

Bundesfinanzhof

**Parties to the main proceedings**

*Applicant:* Finanzamt Hamburg-Mitte

*Defendant:* Marenave Schiffahrts AG

**Questions referred**

1. Which calculation method is to be used to calculate a holding company's (pro rata) input tax deduction in respect of input supplies connected with the procurement of capital for the purchase of shares in subsidiary companies, if the holding company subsequently (as intended from the outset) provides various taxable services to those companies?

2. Does the provision on the consolidation of several persons into a single taxable person in the second subparagraph of Article 4(4) 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 ([1]) preclude national legislation under which (firstly) only a legal person, but not a partnership, can be integrated into the undertaking of another taxable person (a so-called '*Organträger*' (controlling company)) and which (secondly) requires that this legal person 'is integrated into the undertaking of the *Organträger*' in financial, economic and organisational terms (in the sense of a relationship of control and subordination)?

3. If the previous question is answered in the affirmative: can a taxable person rely directly on the second subparagraph of Article 4(4) 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?

([1]) OJ 1977 L 145, p. 1.

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**Request for a preliminary ruling from the Amtsgericht Rüsselsheim (Germany) lodged on 12 March 2014 — Henricus Cornelis Maria Niessen and Others v Condor Flugdienst GmbH**

**(Case C-119/14)**

(2014/C 159/18)

*Language of the case: German*

**Referring court**

Amtsgericht Rüsselsheim

**Parties to the main proceedings**

*Applicants:* Henricus Cornelis Maria Niessen, Angelique Francisca Niessen-Steeghs, Melissa Alexandra Johanna Niessen, Kenneth Gerardus Henricus Niessen

*Defendant:* Condor Flugdienst GmbH

**Questions referred**

1. Are adverse actions by third parties acting on their own responsibility and to whom certain tasks that constitute part of the operation of an air carrier have been entrusted, to be deemed to be extraordinary circumstances within the meaning of Article 5(3) of Regulation No 261/2004? ([1])

2. If the answer to Question 1 is in the affirmative, does the assessment of the situation depend on who (airline, airport operator etc.) entrusted the task(s) to the third party?

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

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**Request for a preliminary ruling from the Juzgado de Primera Instancia No 5 de Cartagena (Spain) lodged on 14 March 2014 — Aktiv Kapital Portfolio Investments v Ángel Luis Egea Torregrosa**

**(Case C-122/14)**

(2014/C 159/19)

*Language of the case: Spanish*

**Referring court**

Juzgado de Primera Instancia No 5 de Cartagena

**Parties to the main proceedings**

*Applicant:* Aktiv Kapital Portfolio Investments

*Defendant:* Ángel Luis Egea Torregrosa

**Question referred**

Must Directive 93/13 ([1]) be interpreted as precluding a provision of national law like the Spanish legislation that does not allow the court to review of its own motion *in limine litis*, in the subsequent enforcement procedure, the judicial enforceable instrument — an order made by the court bringing the order-for-payment proceedings to an end in the absence of any objections — in order to ascertain whether there are unfair terms in the contract that served as a basis for the issue of that decree whose enforcement is sought, because national law considers the matter to be *res judicata* — Articles 551 and 552 of the Ley de Enjuiciamiento Civil [Code of Civil Procedure] in conjunction with Article 816(2) thereof?

([1]) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts OJ 1993 L 95, p. 29.

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**Request for a preliminary ruling from the Augstākā tiesa (Republic of Latvia) lodged on 18 March 2014 — Andrejs Surmačs v Finanšu un kapitāla tirgus komisija**

**(Case C-127/14)**

(2014/C 159/20)

*Language of the case: Latvian*

**Referring court**

Augstākā tiesa

**Parties to the main proceedings**

*Applicant:* Andrejs Surmačs

*Defendant:* Finanšu un kapitāla tirgus komisija

**Questions referred**

1. Must part 7 of Annex I to Directive 94/19/EC [1] of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes be interpreted as meaning that the list set out there of persons who must be regarded as linked to the credit institution in question, and who must be refused the right to guaranteed compensation, is exhaustive?

2. May a person who, according to the description of his position, has the power to plan, coordinate and supervise a branch of the credit institution's activity or the execution of a function, but not the credit institution's activity in its entirety, and who is not entitled to give orders or make binding decisions on behalf of other persons be regarded as a manager of a credit institution or as any other of the persons mentioned in part 7 of Annex I to the Directive? Must the nature of that branch of the credit institution's activity or of that function be taken into account?

3. Must part 7 of Annex I of the Directive be interpreted as meaning that a Member State may refuse payment of the guaranteed compensation to a person who, having regard to the rights and obligations set out in the description of his position, cannot be regarded as a director but who has *de facto* a considerable influence over the credit institution's directors or the persons personally responsible for that institution? Can merely informal influence, deriving from the authority, skills or knowledge of the person in relation to the credit institution's activity, be relevant in that context?

[1] OJ 1994 L 135, p. 1.

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**Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 18 March 2014 — Staatssecretaris van Financiën v Het Oudeland Beheer BV**

**(Case C-128/14)**

(2014/C 159/21)

*Language of the case: Dutch*

**Referring court**

Hoge Raad der Nederlanden

**Parties to the main proceedings**

*Applicant:* Staatssecretaris van Financiën

*Defendant:* Het Oudeland Beheer BV

**Questions referred**

1) Must Article 11(A)(1)(b) of the Sixth Directive [1] be interpreted as meaning that the cost price of land or other substances or materials in respect of which the taxable person has paid VAT in respect of their acquisition, in this case through the grant of a right in rem to use immovable property, is not part of the taxable amount in respect of a supply within the meaning of Article 5(7)(a) of the Sixth Directive? Is the position different if the taxable person has deducted this VAT on the basis of national law — whether or not in conflict with the Sixth Directive in that respect — upon that acquisition?

2) In a case such as the present one, in which land with a building under construction is acquired with the grant of a right in rem referred to in Article 5(3)(b) of the Sixth Directive, must Article 11(A)(1)(b) of the Sixth Directive be interpreted as meaning that the value of the ground rent, that is to say the value of the annual amounts to be paid for the duration or remainder of the duration of the right in rem, is part of the taxable amount of a supply within the meaning of Article 5(7)(a) of the Sixth Directive?

[1] Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value-added tax: uniform basis of assessment (OJ 1977 L 145, p. 1).

## Action brought on 20 March 2014 — European Commission v Kingdom of Belgium

**(Case C-130/14)**

(2014/C 159/22)

*Language of the case: French*

### Parties

*Applicant:* European Commission (represented by: W. Mölls, J.-F. Brakeland, acting as Agents)

*Defendant:* Kingdom of Belgium

### Form of order sought

— Declare that, by maintaining rules that deny non-resident taxpayers whose incomes are obtained exclusively or almost exclusively in Belgium (Walloon Region) the benefit of a tax reduction on personal income tax granted to resident taxpayers living in the Walloon Region under the Decree of 3 April 2009 establishing the Caisse d'Investissement de Wallonie and establishing a reduction in personal income tax in the case of subscription of shares or bonds of the Caisse, the Kingdom of Belgium has failed to fulfill its obligations under Article 45 of the Treaty on the functioning of the European Union and under Article 28 of the Agreement on the European Economic Area,

— order Kingdom of Belgium to pay the costs.

### Pleas in law and main arguments

By a Decree of the Walloon Region of 3 April 2009, a tax reduction for the subscription of shares or bonds issued by the Caisse d'Investissement de Wallonie is granted only to residents of the Walloon Region. The Commission considers that such a provision constitutes discrimination against non-resident taxpayers whose incomes are obtained exclusively or almost exclusively in Belgium. Consequently, it is incompatible with Article 45 TFEU and Article 28 of the Agreement on the European Economic Area, as interpreted by the Court in Schumacker ([1]) and Wielockx. ([2])

([1]) *Schumacker,* C-279/93, EU:C:1995:31.
([2]) *Wielockx,* C-80/94, EU:C:1995:271.

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## Action brought on 21 March 2014 — European Commission v Federal Republic of Germany

**(Case C-137/14)**

(2014/C 159/23)

*Language of the case: German*

### Parties

*Applicant:* European Commission (represented by: C. Hermes, G. Wilms, acting as Agents)

*Defendant:* Federal Republic of Germany

### Form of order sought

The applicant claims that the Court should declare that the Federal Republic of Germany has failed to fulfil its obligations under Article 11 of Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment ([1]) and Article 25 of Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control), ([2]) by

— regarding the provisions of Directive 2011/92 as not, in principle, conferring any subjective rights, and thereby largely excluding any recourse to legal action by individuals (Paragraph 113(1) of the Verwaltungsgerichtsordnung (Administrative Court Rules));

— limiting the annulment of decisions on the basis of procedural errors to the complete absence of a requisite environmental impact assessment or the absence of a requisite pre-assessment (Paragraph 4(1) of the Umwelt-Rechtsbehelfsgesetz (Law on environmental appeals), 'UmwRG') and to cases in which the applicant proves that the procedural error was causative as regards the result of the decision (Paragraph 46 of the Verwaltungsverfahrensgesetz (Law on administrative procedure), 'VwVfG') and the applicant's legal position is affected;

— limiting the right to bring proceedings and the scope of the courts' review to objections previously raised within the period allowed for raising objections in the administrative procedures that led to the adoption of the decision (Paragraph 2(3), UmwRG and Paragraph 73(6), VwVfG) and

— in proceedings brought after 25 June 2005 and concluded before 12 May 2011, restricting the right of environmental organisations to bring proceedings to legal provisions that confer rights on individuals (Paragraph 2(1), in conjunction with Paragraph 5(1), UmwRG);

— in proceedings brought after 25 June 2005 and concluded before 12 May 2011, restricting the scope of the courts' review of appeals by environmental organisations to legal provisions that confer rights on individuals (former Paragraph 2(1), in conjunction with Paragraph 5(1), UmwRG);

— excluding generally any administrative proceedings initiated before 25 June 2005 from the scope of application of the UmwRG (Paragraph 5(1), UmwRG).

**Pleas in law and main arguments**

In essence, the following pleas in law are raised:

The defendant has infringed the obligation of sincere cooperation both in temporal and in substantive terms. Thus, it took more than 18 months to attempt to draw the appropriate conclusions from the judgment of the Court of Justice of 12 May 2011 in Case C-115/09. ([3]) In substantive terms, the rules adopted by the defendant are inadequate and contradict both the aforementioned case-law and the judgment of the Court of Justice in *Altrip*. ([4]).

In relation to the judicial protection afforded to individuals the Federal Republic continues to restrict any review by the courts to compliance with rules conferring subjective rights within the meaning of the 'Schutznormtheorie' (protective provision theory). Further restrictions apply to the judicial protection afforded to individuals as well as that afforded to organisations. Thus the UmwRG permits annulment of decisions granting authorisation only if there is no environmental impact assessment, but not if the assessment was carried out incorrectly.

In addition, Germany provides for annulment of a procedurally unlawful environmental impact assessment decision that has been challenged by individuals only if the applicant specifically makes out a case for the proposition that that decision would have been different if there had been no procedural error, and the procedural error affects a substantive legal position to which the applicant is entitled.

Further, objections by organisations in judicial proceedings are precluded in so far as they have not already been raised during the administrative procedure. Lastly the new version of the UmwRG and the relevant German case-law fail, in key respects, to meet the requirements of Directive 2011/92, as determined in more detail by the Court of Justice in *Trianel* and *Altrip*.

Furthermore, the UmwRG excludes from its temporal scope proceedings brought before the directive came into force.

These significant restrictions are contrary overall to the objective of Directive 2011/92: to provide broad judicial protection in accordance with Article 9(2) and (3) of the Aarhus Convention.

([1]) OJ 2012 L 26, p. 1.
([2]) OJ 2010 L 334, p. 17.
([3]) *BUND*, C-115/09, EU:C:2011:289.
([4]) *Altrip*, C-72/12, EU:C:2013:712.

**Action brought on 24 March 2014 — European Commission v Republic of Bulgaria**

**(Case C-141/14)**

(2014/C 159/24)

*Language of the case: Bulgarian*

**Parties**

*Applicant:* European Commission (represented by: E. White, P. Mihaylova, C. Hermes, acting as Agents)

*Defendant:* Republic of Bulgaria

**Form of order sought**

— Declare that, by failing to integrate, in their entirety, into the special protection area 'Kaliakra' the areas that are important for the conservation of birds, the Republic of Bulgaria has failed to designate as a special protection area the most suitable territories in number and size for the conservation of biological species under Annex I to Directive 2009/147/EC ([1]) and for the protection of regularly occurring migratory species not listed in Annex I in the geographical sea and land area where Directive 2009/147/EC applies. Accordingly, the Republic of Bulgaria has failed to fulfil its obligations under Article 4(1) and (2) of Directive 2009/147/EC;

— declare that, by granting authorisation for Project 'AES Geo Enerdzhi' OOD, Project 'Uindteh' OOD, Project 'Brestiom' OOD, Project 'Disib' OOD, Project 'Eko Enerdzhi' OOD and Project 'Longman Investmant' OOD in the 'Kaliakra' area, which is important for the conservation of birds and which has not been designated as a special protection area, although it should have been so designated, the Republic of Bulgaria has failed to fulfil its obligations under Article 4(4) of Directive 2009/147/EC, as interpreted by the Court of Justice of the European Union in Cases C-96/98 and C-374/98;

— declare that, by granting authorisation for projects in the special protection area 'Kaliakra', in the site of Community importance 'Kompleks Kaliakra' and in the special area of conservation 'Belite Skali' ('Kaliakra uind pauar' AD, 'EVN Enertrag Kavarna' OOD, 'TSID — Atlas' EOOD, 'Vertikal — Petkov i s-ie' OOD, golf and spa resort 'Treyshan Klifs Golf end Spa Rezort' OOD), the Republic of Bulgaria has failed to fulfil its obligations under Article 6(2) of Directive 92/43/EEC, ([2]) as interpreted by the Court of Justice of the European Union in Cases C-117/03 and C-244/05, having failed to take appropriate steps to avoid the deterioration of natural habitats and the habitats of biological species as well as disturbance of the species for which the areas have been designated;

— declare that, owing to the failure to assess in an appropriate manner the cumulative effects of the projects authorised in the 'Kaliakra' area, which is important for the conservation of birds and which has not been designated as a special protection area ('AES Geo Enerdzhi' OOD, 'Uindteh' OOD, 'Brestiom' OOD, 'Disib' OOD, 'Eko Enerdzhi' OOD und 'Longman Investmant' OOD), the Republic of Bulgaria has failed to fulfil its obligations under Article 2(1), in conjunction with Article 4(2) and (3), of Directive 2011/92/EU ([3]) and Annex III(1)(b) thereto;

— order the Republic of Bulgaria to pay the costs.

**Pleas in law and main arguments**

The Republic of Bulgaria has not designated as a special protection area so much of the 'Kaliakra' area as is important for the conservation of birds, which constitutes an infringement of the Birds Directive.

By granting authorisation for a series of projects for economic activity in the special protection area 'Kaliakra', in the special area of conservation 'Belite Skali' and in the site of Community importance 'Kompleks Kaliakra', the Republic of Bulgaria has infringed the Birds Directive, the Habitat Directive and the Environmental Impact Assessment Directive, in that it has allowed the destruction or significant deterioration of special, unique habitats of species and the destruction of species, and has failed to take account of the cumulative effects of a large number of projects.

([1]) Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ 2010 L 20, p. 7).

([2]) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992 L 206, p. 7).

([3]) Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ 2012 L 26, p. 1).

## Action brought on 27 March 2014 — European Commission v Republic of Bulgaria

**(Case C-145/14)**

(2014/C 159/25)

*Language of the case: Bulgarian*

### Parties

*Applicant:* European Commission (represented by: S. Petrova and E. Sanfrutos Cano, acting as Agents)

*Defendant:* Republic of Bulgaria

### Form of order sought

The European Commission claims that the Court should:

— declare that by failing to take the measures necessary to ensure that the existing landfill sites in the country could not continue to operate after 16 July 2009 unless they complied with the requirements of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste ([1]), the Republic of Bulgaria has failed to fulfil its obligations under Article 14 of that directive;

— order the Republic of Bulgaria to pay the costs.

### Pleas in law and main arguments

In the answers to the reasoned opinion (the last answers date from 16 July 2013 and from 10 February 2014) the Bulgarian national authorities admitted that there are to date 100 landfill sites in operation in the Republic of Bulgaria which have not been adapted to the requirements of Article 14 of Directive 1999/31/EC.

The Commission therefore deems it necessary to bring an action before the Court of Justice of the European Union so that the Court declares that the Republic of Bulgaria has infringed that provision.

([1]) OJ 1999 L 182, p. 1.

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## Action brought on 31 March 2014 — European Commission v Republic of Latvia

**(Case C-151/14)**

(2014/C 159/26)

*Language of the case: Latvian*

### Parties

*Applicant:* European Commission (represented by: I. Rubene and H. Stølbæk)

*Defendant:* Republic of Latvia

### Form of order sought

The applicant claims that the Court should:

— hold that it is not permissible to consider that the functions of a notary, as currently regulated by the Latvian legal system, constitute an exercise of official authority of the Member State, within the meaning of the exception set out in the first paragraph of Article 51 of the Treaty on the Functioning of the European Union, and accordingly, hold that, in setting out a requirement of nationality for appointment as a notary, the Republic of Latvia's legislation discriminates on grounds of nationality prohibited by Article 49 of the Treaty.

— hold that, in making an appointment as a notary subject to a requirement of nationality, the Republic of Latvia has failed to fulfil its obligations under Article 49 of the Treaty.

— order the Republic of Latvia to pay the costs.

**Pleas in law and main arguments**

The Commission submits that the nationality requirement for access to the notarial profession is discriminatory and constitutes a disproportionate restriction on freedom of establishment. Consequently, the Republic of Latvia has failed to fulfill its obligations under Article 49 of the Treaty on the Functioning of the European Union.

The Commission submits that, by their nature, functions assigned to a notary in the Republic of Latvia's legislation are not related to the exercise of official authority and that, consequently, the requirement of nationality for access to the notarial profession cannot be justified by the exception set out in Article 51 of the Treaty on the Functioning of the European Union.

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## Appeal brought on 2 April 2014 by SKW Stahl-Metallurgie Holding AG, SKW Stahl-Metallurgie GmbH against the judgment delivered by the General Court (Third Chamber) on 23 January 2014 in Case T-384/09 SKW Stahl-Metallurgie Holding AG, SKW Stahl-Metallurgie GmbH v European Commission

**(Case C-154/14 P)**

(2014/C 159/27)

*Language of the case: German*

**Parties**

*Appellants:* SKW Stahl-Metallurgie Holding AG, SKW Stahl-Metallurgie GmbH (represented by: Dr. A. Birnstiel and Dr. S. Janka, Rechtsanwälte)

*Other parties to the proceedings:* Gigaset AG, European Commission

**Form of order sought**

1. Set aside in its entirety the judgment under appeal in so far as the appellants' claims were thereby dismissed, and grant in its entirety the form of order sought at first instance;

2. in the alternative, set aside in part the judgment under appeal;

3. in the further alternative, reduce, as the Court sees fit, the fines imposed on the appellants under Article 2(f) and (g) of the European Commission's decision on fines of 22 July 2009;

4. in the further alternative, set aside the judgment under appeal and refer the case back to the General Court;

5. in respect of points 1 to 4 above, order the respondent to pay the costs.

**Pleas in law and main arguments**

The appellants raise, in essence, four grounds of appeal:

1. The judgment of the General Court is wrong in law and should be set aside because it disregards the fact that the respondent infringed fundamental procedural rights of the appellants, such as the right to a fair hearing, in the proceedings relating to the fines. By upholding the respondent's assessment the General Court also acted in breach of the principle of proportionality and of the prohibition against the anticipatory assessment of evidence.

2. Further, the General Court disregards the fact that the respondent's decision and the fines set in various joint liability arrangements represents a misapplication of Article 101 TFEU and a breach of the respondent's obligation to state reasons pursuant to Article 296 TFEU, so that the General Court also reached a decision that is wrong in law in its application of the concept of an economic unit and as regards the scope of the legal obligation to state reasons.

3. By its judgment, and in upholding the respondent's decision, the General Court also acted in breach of the principles that penalties must be clear and that they must be appropriate to the offender and to the offence.

4. Lastly, the appellants complain that the General Court erred in law in its assessment that the appellants' supplementary submission in the proceedings was new and therefore inadmissible even though the appellants had already raised corresponding complaints in their application.

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**Appeal brought on 4 April 2014 by Pesquerias Riveirenses, S.L. and Others against the order of the General Court (Fourth Chamber) delivered on 7 February 2014 in Case T-180/13 Pesquerías Riveirenses and Others v Council**

**(Case C-164/14 P)**

(2014/C 159/28)

*Language of the case: Spanish*

**Parties**

*Appellants:* Pesquerias Riveirenses, S.L., Pesquera Campo de Marte, S.L., Pesquera Anpajo, S.L., Arrastreros del Barbanza, S. A., Martinez Pardavila e Hijos, S.L., Lijo Pesca, S.L., Frigorificos Hermanos Vidal, S.A., Pesquera Boteira, S.L., Francisco Mariño Mos y Otros, C.B., Juan Antonio Pérez Vidal y Hermano, C.B., Marina Nalda, S.L., Portillo y Otros, S.L., Vidiña Pesca, S.L., Pesca Hermo, S.L., Pescados Oubiña Perez, S.L., Manuel Pena Graña, Campo Eder, S.L., Pesquera Laga, S.L., Pesquera Jalisco, S.L., Pesquera Jopitos, S.L., Pesca-Julimar, S.L. (represented by: J. Tojeiro Sierto, abogado)

*Other party to the proceedings:* Council of the European Union

**Form of order sought**

Set aside the order of the General Court declaring the applicants' action for annulment of Council Regulation (EU) No 40/2013 of 21 January 2013 ([1]) inadmissible, and give a fresh ruling declaring the action admissible.

**Pleas in law and main arguments**

The appellants are directly concerned — breach of Article 263 TFEU

The fourth paragraph of Article 263 TFEU states that 'any natural or legal person may ... institute proceedings ... against a regulatory act which is of direct concern to them and does not entail implementing measures'. To that effect, direct concern and the lack of implementing measures are two different requirements; the question of state discretion, essential in determining whether the disputed act is of direct concern, is by contrast irrelevant when determining whether the national act may be considered an 'implementing measure' within the meaning of the fourth paragraph of Article 263 TFEU.

The applicants consider that, as owners of fishing vessels dedicated to the catch of blue whiting, they are clearly directly concerned by the regulation establishing and limiting the catch of that species. Management of blue whiting stock is carried out annually by the EU through the TAC (total allowable catch); in the applicants' opinion, the establishment of those TAC is incorrect because it does not take account of the latest scientific recommendations. Accordingly managing blue whiting as a single stock and not as two different stocks causes the total allowable catch to be less than that to which the applicants should be entitled if the stock were managed separately in the North zone and the South zone. Following the establishment of that TAC, States may not subsequently intervene in the allocation of fishing rights or in the management method used for their allocation since that method rests on the TAC initially established by the EU and therefore the only option or alternative open to the applicants to express their disagreement with the TAC and the method by which it was established or by which the fishery is managed is to bring proceedings before the European Courts.

([1]) Council Regulation (EU) No 40/2013 of 21 January 2013 fixing for 2013 the fishing opportunities available in EU waters and, to EU vessels, in certain non-EU waters for certain fish stocks and groups of fish stocks which are subject to international negotiations or agreements (OJ 2013 L 23, p. 54).

# GENERAL COURT

## Judgment of the General Court of 8 April 2014 — ABN Amro Group v Commission

**(Case T-319/11)** ([1])

***(State aid — Financial sector — Aid intended to remedy a serious disturbance in the economy of a Member State — Article 107(3)(b) TFEU — Decision declaring the aid compatible with the internal market — Conditions of authorisation of the aid — Prohibition of carrying out acquisitions — Conformity with the Commission's notices concerning aid to the financial sector in the context of the financial crisis — Proportionality — Equal treatment — Principle of sound administration — Duty to state reasons — Right of property)***

(2014/C 159/29)

*Language of the case: English*

**Parties**

*Applicant:* ABN Amro Group NV (Amsterdam, Netherlands) (represented by: W. Knibbeler and P. van den Berg, lawyers)

*Defendant:* European Commission (represented by: L. Flynn and S. Noë, acting as Agents)

**Re:**

Annulment in part of Commission Decision 2011/823/EU of 5 April 2011 on the measures C 11/09 (ex NN 53b/08, NN 2/10 and N 19/10) implemented by the Dutch State for ABN Amro Group NV (created following the merger between Fortis Bank Nederland and ABN Amro N) (OJ 2011 L 333, p. 1).

**Operative part of the judgment**

*The Court:*

1. *Dismisses the action;*

2. *Orders ABN Amro Group NV to pay the costs.*

([1]) OJ C 252, 27.8.2011.

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## Judgment of the General Court of 3 April 2014 — Debonair Trading Internacional v OHIM — Ibercosmetica (SÔ:UNIC)

**(Case T-356/12)** ([1])

***(Community trade mark — Opposition proceedings — Application for the Community word mark SÔ: UNIC — Earlier Community and national word marks SO…?, SO…? ONE, SO…? CHIC and non-registered word marks — Relative grounds for refusal — Article 8(1)(b) of Regulation (EC) No 207/2009 — Likelihood of confusion — Family of marks — Article 8(4) of Regulation No 207/2009 — Rule 15(2)(b)(iii) of Regulation (EC) No 2868/95 — Admissibility of the opposition)***

(2014/C 159/30)

*Language of the case: English*

**Parties**

*Applicant:* Debonair Trading Internacional Ld[a] (Funchal, Portugal) (represented by: T. Alkin, Barrister)

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

*Other party to the proceedings before the Board of Appeal of OHIM:* Ibercosmetica SA de CV (Mexico City, Mexico)

**Re:**

Action brought against the decision of the Fourth Board of Appeal of OHIM of 4 June 2012 (Case R 1033/2011-4), relating to opposition proceedings between Debonair Trading Internacional Ld[a] and Ibercosmetica, SA de CV

**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 4 June 2012 (Case R 1033/2011-4) in so far as the Board of Appeal rejected as inadmissible the opposition based on Article 8(4) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark with regard to the signs relied on by Debonair Trading Internacional Ld[a] so far as the United Kingdom and Ireland are concerned;*

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

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

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([1]) OJ C 311, 13.10.2012.

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**Judgment of the General Court of 4 April 2014 — Golam v OHIM — Derby Cycle Werke (FOCUS extreme)**

**(Case T-568/12)** ([1])

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

(2014/C 159/31)

*Language of the case: English*

**Parties**

*Applicant:* Sofia Golam (Athens, Greece) (represented by: N. Trovas, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: J. Crespo Carrillo, acting as Agent)

*Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court:* Derby Cycle Werke GmbH (Cloppenburg, Germany) (represented by: U. Gedert, lawyer)

**Re:**

Action brought against the decision of the Fourth Board of Appeal of OHIM of 16 October 2012 (Case R 2327/2011-4), relating to opposition proceedings between Derby Cycle Werke GmbH and Sofia Golam.

**Operative part of the judgment**

*The Court:*

1. *Dismisses the action;*

2. *Orders Sofia Golam to pay the costs.*

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([1]) OJ C 63, 2.3.2013.

## Order of the General Court of 21 March 2014 — Frucona Košice v Commission

**(Case T-11/07 RENV)** ([1])

***(State aid — Spirit and spirit-based beverages — Cancellation of a tax debt in a collective bankruptcy procedure — Decision declaring the aid incompatible with the internal market and ordering its recovery — No longer any legal interest in bringing proceedings — Decision repealing and replacing the contested decision — No need to adjudicate)***

(2014/C 159/32)

*Language of the case: English*

**Parties**

*Applicant:* Frucona Košice a.s. (Košice, Slovakia) (represented by: K. Lasok QC, J. Holmes and B. Hartnett, Barristers, and O. Geiss, lawyer)

*Defendant:* European Commission (represented by: L. Armati and K. Walkerová, Agents)

*Intervener in support of the defendant:* St. Nicolaus — trade a.s. (Bratislava, Slovakia) (represented by: N. Smaho, lawyer)

**Re:**

Application for annulment of Commission Decision 2007/254/EC of 7 June 2006 on State aid C 25/05 (ex NN 21/05) implemented by the Slovak Republic for Fruncona Košice a.s. (OJ 2007 L 112, p. 14)

**Operative part of the order**

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

2) *The European Commission shall bear its own costs and pay those incurred by Frucona Košice a.s.*

3) *St. Nicolaus — trade a.s. shall bear its own costs.*

([1]) OJ C 56, 10.3.2007.

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## Order of the General Court of 27 March 2014 — Ecologistas en Acción v Commission

**(Case T-603/11)** ([1])

***(Access to documents — Regulation (EC) No 1049/2001 — Documents relating to the carrying out of an industrial project on a site protected under Directive 92/43/EEC — Documents originating from a Member State — Opposition by the Member State — Refusal of access — Exception relating to the protection of the purpose of inspections, investigations and audits — Exception relating to the protection of court proceedings — Environmental information — Regulation (EC) No 1367/2006 — Action manifestly lacking any foundation in law)***

(2014/C 159/33)

*Language of the case: Spanish*

**Parties**

*Applicant:* Ecologistas en Acción-CODA (Madrid, Spain) (represented by: J. Doreste Hernández, lawyer)

*Defendant:* European Commission (represented by: P. Costa de Oliveira and I. Martínez del Peral, acting as Agents)

*Intervening party in support of the defendant:* Kingdom of Spain (represented initially by S. Centeno Huerta, then by M. J. García-Valdecasas Dorrego, abogados del Estado)

**Re:**

Application for annulment of the Commission's decision of 23 September 2011 refusing to grant the applicant access to certain documents concerning approval of the project to construct a port in Granadilla (Tenerife, Spain), sent by the Spanish authorities to the Commission pursuant to Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992 L 206, p. 7)

**Operative part of the order**

1. *The action is dismissed.*

2. *Ecologistas en Acción-CODA is ordered to bear its own costs and to pay those incurred by the European Commission.*

3. *The Kingdom of Spain is ordered to bear its own costs.*

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([1]) OJ C 25, 28.1.2012.

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## Order of the General Court of 12 March 2014 — PAN Europe v Commission

**(Case T-192/12)** ([1])

***(Action for annulment — Environment — Implementing Regulation (EU) No 1143/2011 approving the active substance prochloraz — Request for internal review — Refusal — Conditions to be satisfied by an organisation in order to be entitled to make a request for internal review — Action in part manifestly inadmissible and in part manifestly lacking any foundation in law)***

(2014/C 159/34)

*Language of the case: English*

**Parties**

*Applicant:* Pesticide Action Network Europe (PAN Europe) (Brussels, Belgium) (represented by: J. Rutteman, lawyer)

*Defendant:* European Commission (represented by: initially, P. Oliver and P. Ondrůšek, and, subsequently, P. Ondrůšek, J. Tomkin and L. Pignataro-Nolin, acting as Agents)

**Re:**

Application for annulment of the Commission's Decision of 9 March 2012 rejecting as inadmissible the request made by the applicant for review by the Commission of Commission Implementing Regulation (EU) No 1143/2011 of 10 November 2011 approving the active substance prochloraz, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011 and Commission Decision 2008/934/EC (OJ 2011 L 293, p. 26)

**Operative part of the order**

1. *The action is dismissed.*

2. *Pesticide Action Network Europe (PAN Europe) shall bear its own costs and pay those incurred by the European Commission.*

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([1]) OJ C 194, 30.6.2012.

## Order of the General Court of 20 March 2014 — Donnici v Parliament

**(Case T-43/13)** ([1])

***(Action for damages — Members of the European Parliament — Verification of credentials — European Parliament's decision declaring invalid a mandate as a MEP — Annulment of the decision of the Parliament by a judgment of the Court — Action in part manifestly inadmissible and in part manifestly unfounded in law)***

(2014/C 159/35)

*Language of the case: Italian*

**Parties**

*Applicant:* Beniamino Donnici (Castrolibero, Italy) (represented by: V. Vallefuoco and J. Van Gyseghem, lawyers)

*Defendant:* European Parliament (represented by: N. Lorenz and S. Seyr, Agents)

**Re:**

Action for damages seeking compensation for the damage which the applicant suffered because of the adoption of Parliament's decision of 24 May 2007 on the verification of his credentials and which was annulled by the judgment of the Court of 30 April 2009 in Joined Cases C-393/07 and C-9/08 *Italy and Donnici* v *Parliament*, ECR I-3679.

**Operative part of the order**

1. *The action is dismissed.*

2. *Mr Deniamino Donnici is ordered to pay the costs of these proceedings.*

([1]) OJ C 79, 16.3.2013.

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## Order of the General Court of 19 March 2014 — Club Hotel Loutraki and Others v Commission

**(Case T-57/13)** ([1])

***(Action for annulment — State aid — Operation of video lottery terminals — Grant of an exclusive licence by the Hellenic Republic — Decision finding no State aid — Letter addressed to the complainants — Act not open to challenge — Inadmissibility)***

(2014/C 159/36)

*Language of the case: English*

**Parties**

*Applicants:* Club Hotel Loutraki AE (Loutraki, Greece); Vivere Entertainment AE (Athens, Greece); Theros International Gaming, Inc. (Patras, Greece); Elliniko Casino Kerkyras (Athens); Casino Rodos (Rhodes, Greece); and Porto Carras AE (Alimos, Greece) (represented by: S. Pappas, lawyer)

*Defendant:* European Commission (represented by: M. Afonso and P.-J. Loewenthal, acting as Agents)

*Interveners in support of the defendant:* Hellenic Republic (represented by: E.M. Mamouna, acting as Agent) and Organismos Prognostikon Agonon Podosfairou AE (OPAP) (Athens) (represented initially by K. Fountoukakos-Kyriakakos, Solicitor, L. Van den Hende and M. Sánchez Rydelski, lawyers, and subsequently by M. Petite and A. Tomtsis, lawyers)

**Re:**

Application for annulment of the decision allegedly contained in the Commission's letter of 29 November 2012 relating to a complaint by the applicants concerning the existence of State aid allegedly granted by the Greek authorities to OPAP

**Operative part of the order**

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

2. *Club Hotel Loutraki AE, Vivere Entertainment AE, Theros International Gaming, Inc., Elliniko Casino Kerkyras, Casino Rodos and Porto Carras AE shall bear their own costs and pay those incurred by the European Commission and by Organismos Prognostikon Agonon Podosfairou AE (OPAP).*

3. *The Hellenic Republic shall bear its own costs.*

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([1]) OJ C 114, 20.4.2013.

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## Order of the General Court of 26 March 2014 — Adorisio and Others v Commission

**(Case T-321/13)** ([1])

***(Action for annulment — State aid — Aid granted to banks during the crisis — Recapitalisation of SNS Reaal and SNS Bank — Decision declaring the aid compatible with the internal market — Expropriation of holders of subordinated bonds — No legal interest in bringing proceedings — No standing to bring proceedings — Manifestly inadmissible)***

(2014/C 159/37)

*Language of the case: English*

**Parties**

*Applicants:* Stefania Adorisio (Rome, Italy) and the 363 other applicants whose names are listed in the Annex to the order (represented by: F. Sciaudone, L. Dezzani, R. Sciaudone, S. Frazzani and D. Contini, lawyers)

*Defendant:* European Commission (represented by: L. Flynn and P.-J. Loewenthal, acting as Agents)

**Re:**

Application for annulment of Commission Decision C(2013) 1053 final of 22 February 2013 relating to State aid SA.35382 (2013/N) — Kingdom of the Netherlands — Rescue SNS Reaal 2013

**Operative part of the order**

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

2. *Ms Stefania Adorisio and the 363 other applicants listed in the Annex hereto shall pay the costs.*

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([1]) OJ C 233, 10.8.2013.

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## Appeal brought on 21 February 2014 by Carlos Andres and 150 other applicants against the judgment of the Civil Service Tribunal of 11 December 2013 in Case F-15/10, Andres and Others v ECB

**(Case T-129/14 P)**

(2014/C 159/38)

*Language of the case: French*

**Parties**

*Appellants:* Carlos Andres (Frankfurt am Main, Germany) and 150 other appellants (represented by: L. Levi, lawyer)

*Other party to the proceedings:* European Central Bank (ECB)

**Form of order sought by the appellant**

— Annul the judgment of the Civil Service Tribunal of the European Union of 11 December 2013 in Case F-15/10;

— Consequently, uphold the claims of the appellants at first instance and, accordingly,

  — Annul the payslips for June 2009 in so far as those payslips constitute the initial implementation in regard to the applicants of the reform of the pension scheme decided by the Governing Council on 4 May 2009 and annul, to the same extent, all subsequent payslips and all future pension statements;

  — To the extent necessary, annul the decisions rejecting the applications for administrative review and complaints brought under the grievance procedure dated 28 August and 17 December 2009 respectively;

  — Consequently,

    — Order the defendant to pay the difference between the salary and pension resulting from the decision of the Governing Council of 4 May 2009 and that paid in application of the preceding pension scheme, that difference to be increased by interest for late payment with effect from 15 June 2009 and then on the 15th of each month until the difference has been completely made up, the rate of interest being the ECB rate, increased by three points,

    — Order the defendant to pay damages for the loss suffered by reason of the loss of purchasing power, that loss to be assessed *ex aequo et bono*, and, on a provisional basis, at 1% of the monthly salary of each applicant;

  — Order the European Central Bank to pay all the costs;

— Order the respondent to the appeal to pay all the costs of both sets of proceedings.

**Pleas in law and main arguments**

In support of the appeal, the appellants rely on eight pleas in law.

1. First plea in law, alleging infringement of Article 6.8 of Annex III to the Conditions of Employment, an infringement of the principles of legality and of legal certainty and infringement of Article 35(1)(e) of the Rules of Procedure of the Civil Service Tribunal.

2. Second plea in law, alleging infringement of the powers of the Supervisory Committee, infringement of Annex III to the Conditions of Employment and of the mandate of the Supervisory Committee, and infringement of the principle of good faith.

3. Third plea in law, alleging infringement of the right of consultation of the Staff Committee and of the Supervisory Committee, infringement of the principle of good faith, infringement of Articles 45 and 46 of the Conditions of Employment, infringement of the Memorandum of Understanding on relations between the Executive Board and the Staff Committee of the ECB, infringement of Annex III to the Conditions of Employment and of the mandate of the Supervisory Committee, and distortion of the file.

4. Fourth plea in law, alleging infringement of Article 6.3 of the pension plan, infringement of the review of the grounds of the decision of 4 May 2009, distortion of the file and infringement of the principle of sound financial management.

5. Fifth plea in law, alleging infringement of the review of the manifest error of assessment and distortion of the file.

6. Sixth plea in law, alleging infringement of the principle of proportionality, failure to state reasons, distortion of the file and infringement of the evidence.

7. Seventh plea in law, alleging failure to acknowledge the difference between a contractual employment relationship and an employment relationship covered by the Staff Regulations, infringement of the fundamental terms of the employment relationship and infringement of Directive 91/533. ([1])

8. Eighth plea in law, alleging infringement of acquired rights.

(1) Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform the employees of the conditions applicable to the contract or employment relationship directive (OJ 1991 L 288, p. 32).

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**Appeal brought on 21 February 2014 by Catherine Teughels against the judgment of the Civil Service Tribunal of 11 December 2013 in Case F-117/11 *Teughels* v *Commission***

**(Case T-131/14 P)**

(2014/C 159/39)

*Language of the case: French*

**Parties**

*Appellant:* Catherine Teughels (Eppegem, Belgium) (represented by L. Vogel, lawyer)

*Other party to the proceedings:* European Commission

**Form of order sought by the appellant**

The appellant claims that the General Court should:

— set aside entirely the judgment under appeal, delivered on 11 December 2013 by the European Union Civil Service Tribunal sitting in full court, notified by fax of 11 December 2013, whereby it dismissed the action brought by the appellant dated 8 November 2011;

— examine the substance of the action brought by the appellant before the Civil Service Tribunal, find the action to be well founded and, consequently, annul the decisions which were the subject-matter of that action;

— order the respondent to pay the costs of the proceedings, under Article 87(2) of the Rules of Procedure, including essential expenses incurred for the purposes of the proceedings, and particularly the costs of maintaining an address for service, the travel and subsistence expenses and the remuneration of the lawyers, under Article 91(b) of the Rules of Procedure.

**Grounds of appeal and main arguments**

In support of the appeal, the appellant relies on two grounds.

1. First ground based on a claimed infringement of Article 11(2) of Annex VIII to the Staff Regulations of Officials of the European Union ('the Staff Regulations') and Article 26(1) and (4) of Annex XIII to the Staff Regulations, a disregard of acquired rights and infringement of the principles of legal certainty and non-retroactivity, and a failure to state reasons. The appellant claims that:

   — the Civil Service Tribunal gave retroactive effect to the general implementing provisions adopted in 2011 relating to Articles 11 and 12 of Annex VIII to the Staff Regulations on the transfer of pension rights by deciding that, in order to determine the number of years of pensionable service corresponding, under the Community pension scheme, to the actuarial equivalent of the appellant's pension rights under the Belgian pension scheme, the appointing authority could properly apply the 2011 general implementing provisions on the ground that at the date when those provisions entered into force, the appellant was not in a situation which was 'fully constituted' under the 2004 general implementing provisions, since she had not accepted the proposed calculation which had prior to that date been communicated to her, notwithstanding that the application for transfer of pension rights had been made in November 2009, that the appellant's rights had therefore definitively crystallised on that date and that they had consequently to be determined by applying the 2004 general implementing provisions;

   — the Civil Service Tribunal did not provide any legal basis for its analysis and did not explain on what ground the Staff Regulations provisions relied on by the appellant in her application at first instance and the principles enshrined therein should be disregarded in this case.

2. Second ground based on a claimed infringement of the principles of legal certainty and *'patere legem quam ipse fecisti'*, a disregard of acquired rights, failure to state reasons and disregard of the authority and binding force stemming from any administrative measure pertaining to an individual, and more particularly the decision adopted with regard to the appellant on 29 June 2010. The appellant claims that:

   — the Civil Service Tribunal held, wrongly, that the situation of the appellant was not fully constituted under the 2004 general implementing provisions at the date when the 2011 general implementing provisions entered into force, on the ground that the appellant had not 'either accepted or refused formally' the proposed calculation communicated to her on 29 June 2010, although that proposed calculation constituted a genuine administrative decision, definitively affecting the rights of the appellant;

   — the authority could not, unilaterally, restrict the rights which followed from the proposed calculation, which was legally binding on it;

   — the Civil Service Tribunal disregarded the principle that the question whether a unilateral decision of the Commission is definitive and binding does not depend on the agreement of the person to whom it is addressed.

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## Action brought on 27 February 2014 — Chart v EEAS

**(Case T-138/14)**

(2014/C 159/40)

*Language of the case: French*

### Parties

*Applicant:* Randa Chart (Woluwé-Saint-Lambert, Belgium) (represented by: T. Bontinck and A. Guillerme, lawyers)

*Defendant:* European External Action Service (EEAS)

### Form of order sought

— Declare that EEAS is liable for the harm suffered by the applicant between October 2001 and present by reason of the unlawful conduct of the European Union Delegation in Cairo and the EEAS;

— In consequence:

   — principally, pay Ms Chart the sum of EUR 509 283,88 (five hundred and nine thousand and two hundred and eighty-three euros and eighty-eight cents) as damages in respect of the harm suffered, subject to any increase during the proceedings;

   — in the alternative, pay Ms Chart the sum of EUR 380 063,81 (three hundred and eighty thousand and sixty-three euros and eighty-one cents) as damages for the harm suffered since 30 October 2008, subject to any increase during the proceedings;

— Order the defendant to pay the costs.

### Pleas in law and main arguments

The applicant, a former member of the local staff at the European Union Delegation in Egypt, seeks compensation for a loss which she suffered as a result of unlawful conduct by the European administration consisting of its failure to issue a termination of service certificate in respect of the applicant to the social security services of the Egyptian administration after her resignation. That fact prevents the applicant from returning to work in Egypt.

As regards the defendant's unlawful conduct complained of, the applicant raises four pleas in law, alleging infringement of the principle of sound administration, infringement of the principle of reasonable time, infringement of Egyptian law and infringement of the right to privacy.

The applicant argues that the defendant's failure to act causes her serious harm and seeks compensation for both the material and non-pecuniary harm.

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**Action brought on 5 March 2014 — Anastasiou v Commission and ECB**

**(Case T-149/14)**

(2014/C 159/41)

*Language of the case: English*

**Parties**

*Applicant:* Harry Anastasiou (Larnaca, Cyprus) (represented by: C. Paschalides, Solicitor, and A. Paschalides, lawyer)

*Defendants:* European Central Bank and European Commission

**Form of order sought**

The applicant claims that the Court should:

— Order the defendants to compensate the applicant under Article 268 of the TFEU.

**Pleas in law and main arguments**

The applicant contends that the defendants caused him to be deprived of the money in his account because they induced the premature imposition of a bail-in tool on his deposit with his bank as part of the conditionality attached to financial assistance provided to Cyprus on 26 April 2013 pursuant to Article 13 of the European Stability Mechanism Treaty of 2012 as follows: a) the defendants 'manifestly and gravely disregarded the limits' on their power as EU institutions under Article 136(3) of the TFEU; b) unlawfully surrendered effective control of their functions as EU institutions; c) induced the premature passing of a bail-in tool on deposits with Bank of Cyprus and Cyprus Popular Bank which had not been passed into the EU law; d) induced restrictions on the movement of money preventing deposit holders from withdrawing and/or transferring their funds to safer institutions; and e) did so in breach of the principles of legal certainty, equality and human rights.

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**Action brought on 5 March 2014 — Pavlides v Commission and ECB**

**(Case T-150/14)**

(2014/C 159/42)

*Language of the case: English*

**Parties**

*Applicant:* Constantinos Pavlides (Nicosia, Cyprus) (represented by: C. Paschalides, Solicitor, and A. Paschalides, lawyer)

*Defendants:* European Central Bank and European Commission

**Form of order sought**

The applicant claims that the Court should:

— Order the defendants to compensate the applicant under Article 268 of the TFEU.

**Pleas in law and main arguments**

The applicant contends that the defendants caused him to be deprived of the money in his account because they induced the premature imposition of a bail-in tool on his deposit with his bank as part of the conditionality attached to financial assistance provided to Cyprus on 26 April 2013 pursuant to Article 13 of the European Stability Mechanism Treaty of 2012 as follows: a) the defendants 'manifestly and gravely disregarded the limits' on their power as EU institutions under Article 136(3) of the TFEU; b) unlawfully surrendered effective control of their functions as EU institutions; c) induced the premature passing of a bail-in tool on deposits with Bank of Cyprus and Cyprus Popular Bank which had not been passed into the EU law; d) induced restrictions on the movement of money preventing deposit holders from withdrawing and/or transferring their funds to safer institutions; and e) did so in breach of the principles of legal certainty, equality and human rights.

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## Action brought on 5 March 2014 — Vassiliou v Commission and ECB

**(Case T-151/14)**

(2014/C 159/43)

*Language of the case: English*

### Parties

*Applicant:* Costas Vassiliou (Kinshasa, Congo) (represented by: C. Paschalides, Solicitor, and A. Paschalides, lawyer)

*Defendants:* European Central Bank and European Commission

### Form of order sought

The applicant claims that the Court should:

— Order the defendants to compensate the applicant under Article 268 of the TFEU.

### Pleas in law and main arguments

The applicant contends that the defendants caused him to be deprived of the money in his account because they induced the premature imposition of a bail-in tool on his deposit with his bank as part of the conditionality attached to financial assistance provided to Cyprus on 26 April 2013 pursuant to Article 13 of the European Stability Mechanism Treaty of 2012 as follows: a) the defendants 'manifestly and gravely disregarded the limits' on their power as EU institutions under Article 136(3) of the TFEU; b) unlawfully surrendered effective control of their functions as EU institutions; c) induced the premature passing of a bail-in tool on deposits with Bank of Cyprus and Cyprus Popular Bank which had not been passed into the EU law; d) induced restrictions on the movement of money preventing deposit holders from withdrawing and/or transferring their funds to safer institutions; and e) did so in breach of the principles of legal certainty, equality and human rights.

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## Action brought on 5 March 2014 — Medilab v Commission and ECB

**(Case T-152/14)**

(2014/C 159/44)

*Language of the case: English*

### Parties

*Applicant:* Medilab Ltd (Nicosia, Cyprus) (represented by: C. Paschalides, Solicitor, and A. Paschalides, lawyer)

*Defendants:* European Central Bank and European Commission

### Form of order sought

The applicant claims that the Court should:

— Order the defendants to compensate the applicant under Article 268 of the TFEU.

### Pleas in law and main arguments

The applicant contends that the defendants caused him to be deprived of the money in his account because they induced the premature imposition of a bail-in tool on his deposit with his bank as part of the conditionality attached to financial assistance provided to Cyprus on 26 April 2013 pursuant to Article 13 of the European Stability Mechanism Treaty of 2012 as follows: a) the defendants 'manifestly and gravely disregarded the limits' on their power as EU institutions under Article 136(3) of the TFEU; b) unlawfully surrendered effective control of their functions as EU institutions; c) induced the premature passing of a bail-in tool on deposits with Bank of Cyprus and Cyprus Popular Bank which had not been passed into the EU law; d) induced restrictions on the movement of money preventing deposit holders from withdrawing and/or transferring their funds to safer institutions; and e) did so in breach of the principles of legal certainty, equality and human rights.

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**Action brought on 28 February 2014 — JingAo Solar e.a. v Council**

**(Case T-157/14)**

(2014/C 159/45)

*Language of the case: English*

**Parties**

*Applicants:* JingAo Solar Co. Ltd (Ningjin, Chine); Shanghai JA Solar Technology Co. Ltd (Shanghai, Chine); Yangzhou JA Solar Technology Co. Ltd (Yangzhou, Chine); Hefei JA Solar Technology Co. Ltd (Hefei, Chine); Shanghai JA Solar PV Technology Co. Ltd (Shanghai); and JA Solar GmbH (Munich, Germany) (represented by: A. Willems, S. De Knop and J. Charles, lawyers)

*Defendants:* Council of the European Union

**Form of order sought**

The applicants claim that the Court should:

— Declare the action admissible;

— Annul Council Implementing Regulation (EU) No 1238/2013 imposing a definitive anti-dumping duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China (OJ 2013 L 325, p. 1), as far as it applies to the applicants;

— Order the defendant to pay the costs.

**Pleas in law and main arguments**

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

1. First plea in law, alleging that by imposing anti-dumping measures on crystalline silicon photovoltaic modules and key components consigned from the People's Republic of China whereas the Notice of initiation mentioned only crystalline silicon photovoltaic modules and key components originating in the People's Republic of China, the Institutions violated Articles 5(10) and 5(11) of Council Regulation (EC) No 1225/2009 ([1]).

2. Second plea in law, alleging that by imposing anti-dumping measures on crystalline silicon photovoltaic modules and key components that were not subject to an anti-dumping investigation, the Institutions violated Articles 1 and 17 of Council Regulation (EC) No 1225/2009.

3. Third plea in law, alleging that by applying a non-market economy methodology for calculating the dumping margin of products from market economy countries, the Institutions violated Article 2 of Council Regulation (EC) No 1225/2009.

4. Fourth plea in law, alleging that by conducting one single investigation for two distinct products (*i.e.*, crystalline silicon photovoltaic modules and cells), the Institutions violated Article 1(4) of Council Regulation (EC) No 1225/2009.

5. Fifth plea in law, alleging that by failing to examine the applicants' market economy treatment requests, the Institutions violated Article 2(7)(c) of Council Regulation (EC) No 1225/2009;

6. Sixth plea in law, alleging that by failing to separately quantify the injury suffered by the Union industry caused by both the dumped imports and other known factors and, as a consequence, by imposing a duty rate in excess of what is necessary to remove the injury caused by the dumped imports to the Union industry, the Institutions violated Articles 3 and 9(4) of Council Regulation (EC) No 1225/2009.

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

## Action brought on 28 February 2014 — JingAo Solar e.a. v Council

**(Case T-158/14)**

(2014/C 159/46)

*Language of the case: English*

### Parties

*Applicants:* JingAo Solar Co. Ltd (Ningjin, Chine); Shanghai JA Solar Technology Co. Ltd (Shanghai, Chine); Yangzhou JA Solar Technology Co. Ltd (Yangzhou, Chine); Hefei JA Solar Technology Co. Ltd (Hefei, Chine); Shanghai JA Solar PV Technology Co. Ltd (Shanghai); et JA Solar GmbH (Munich, Germany) (represented by: A. Willems, S. De Knop and J. Charles, lawyers)

*Defendant:* Council of the European Union

### Form of order sought

The applicants claim that the Court should:

— Declare the action admissible;

— Annul Council Implementing Regulation (EU) No 1239/2013 imposing a definitive countervailing duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China (OJ 2013 L 325, p. 66), as far as it applies to the applicants;

— Order the defendants to pay the costs.

### Pleas in law and main arguments

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

1. First plea in law, alleging that by imposing countervailing measures on crystalline silicon photovoltaic modules and key components consigned from the People's Republic of China whereas the Notice of initiation mentioned only crystalline silicon photovoltaic modules and key components originating in the People's Republic of China, the Institutions violated Articles 10(12) and 10(13) of Council Regulation (EC) No 597/2009 ([1]).

2. Second plea in law, alleging that by imposing countervailing measures on crystalline silicon photovoltaic modules and key components that were not subject to an anti-subsidy investigation, the Institutions violated Articles 1 and 27 of Council Regulation (EC) No 597/2009.

3. Third plea in law, alleging that by conducting one single investigation for two distinct products (i.e., crystalline silicon photovoltaic modules and cells), the Institutions violated Article 2(c) of Council Regulation (EC) No 597/2009.

([1]) Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community (OJ 2009 L 188, p. 93)

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## Action brought 19 March 2014 — Marzocchi Pompe v OHIM — Settima Flow Mechanisms (ELIKA)

**(Case T-182/14)**

(2014/C 159/47)

*Language in which the application was lodged: Italian*

### Parties

*Applicant:* Marzocchi Pompe SpA (Casalecchio di Reno, Italy) (represented by: M. Bovesi, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Settima Flow Mechanisms (Grossolengo, Italy)

**Form of order sought**

The applicant claims that the Court should:

— annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 20 December 2013 (Case R 428/2013-2) and declare the mark ELIKA valid in respect of all the goods for which it was registered;

— take such other measures as the Court may deem appropriate;

— order OHIM to pay the costs of the present proceedings and of the proceedings before the Board of Appeal, including those borne by Marzocchi Pompe SpA, in accordance with Article 87(2), read in conjunction with Articles 91(b) and 132(2) of the Rules of Procedure of the General Court.

**Pleas in law and main arguments**

*Registered Community trade mark in respect of which a declaration of invalidity has been sought:* International registration extended to the European Union of the figurative mark containing the word element 'ELIKA' for goods in Class 7 — Community mark No 1 051 270

*Proprietor of the Community mark:* Marzocchi Pompe SpA

*Applicant for the declaration of invalidity of the Community trade mark:* Settima Flow Mechanisms

*Ground for the application for a declaration of invalidity:* Infringement of Article 52(1)(a) and Article 7(1)(b), (c) and (g) of Regulation No 207/2009

*Decision of the Cancellation Division:* Declared the mark invalid

*Decision of the Board of Appeal:* Dismissed the appeal

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

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**Action brought on 24 March 2014 — 100% Capri Italia v OHIM — Cantoni ITC (100% Capri)**

**(Case T-198/14)**

(2014/C 159/48)

*Language in which the application was lodged: Italian*

**Parties**

*Applicant:* 100% Capri Italia Srl (Capri, Italy) (represented by: A. Perani, G. Ghisletti and F. Braga, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* Cantoni ITC SpA (Milan, Italy)

**Form of order sought**

The applicant claims that the Court should:

— declare an infringement of Article 8(1)(b) of Regulation n. 207/2009; and, accordingly,

— annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 10 January 2014 in Case R 2122/2012-2;

— order OHIM to pay the costs of the present proceedings.

**Pleas in law and main arguments**

*Applicant for the Community trade mark:* The applicant

*Community trade mark concerned:* Figurative mark with the word elements '100% Capri' for goods in Classes 3, 18 and 25

*Proprietor of the mark or sign cited in the opposition proceedings:* Cantoni ITC SpA

*Mark or sign cited in opposition:* Figurative mark containing the word element 'CAPRI' and national word mark 'CAPRI' for goods in Classes 3, 18 and 25

*Decision of the Opposition Division:* Opposition upheld

*Decision of the Board of Appeal:* Dismissed the appeal in part

*Pleas in law*: Infringement of Article 8(1)(b) of Regulation No 207/2009

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**Action brought on 28 March 2014 — Vanbreda Risk & Benefits v Commission**

**(Case T-199/14)**

(2014/C 159/49)

*Language of the case: French*

**Parties**

*Applicant:* Vanbreda Risk & Benefits (Anvers, Belgium) (represented by: P. Teerlinck and P. de Bandt, lawyers)

*Defendant:* European Commission

**Form of order sought**

— Annul the decision of the European Commission of 30 January 2014 (Ref. Ares(2014)221245) by which the Commission decided not to accept the bid of VANBREDA RISK & BENEFITS SA for lot 1 of contract 2013/S 155-269617 (call for tenders No OIB.DR.2/PO/2013/062/591) and to award it to the company Marsh SA;

— Order production of the documents referred to in Chapter III (measures of organisation of procedure) of the present application;

— Find that the Commission has incurred non-contractual liability and order the Commission to pay the applicant the amount of EUR 1 000 000 as compensation in respect of loss of an opportunity to win the contract, for the loss of references and for the non-material damage suffered;

— In any event, order the Commission to pay the costs of the proceedings.

**Pleas in law and main arguments**

In support of the action, the applicant puts forward a single plea in law, alleging that the award of the contract by the Commission to a company that did not, in disregard of the tender specifications, enclose with its bid an Agreement/Assignment by which all of the insurers included in the consortium undertook to execute the contract jointly and severally.

This plea in law is divided into three parts alleging that the Commission:

— Infringed the principle of equality of tenderers, Articles 111(5) and 113(1) of the Financial Regulation ([1]) and Articles 146(1) and (2), 149(1), and 158(1) and (3) of the implementing regulation ([2]) and the provisions of the tender specifications by declaring the bid of Marsh to be compliant even though it did not include the Agreement/Assignment duly signed by all the insurers included in the consortium in accordance with the provisions of the specifications;

— Infringed the principle of equal treatment of tenderers and Articles 112(1) of the Financial Regulation and Article 160 of the implementing regulation by allowing Marsh to modify its bid after the final date for the submission of tenders;

— Infringed the principle of transparency, read in conjunction with Article 102(1) of the Financial Regulation, by refusing to give a definitive answer to the question submitted by the applicant in order to find out whether the Agreement/Assignment had been signed by all the insurers participating in the Marsh consortium and whether that document had been enclosed with the Marsh bid.

(1) Regulation (EU, Euratom) No 966/2012 of the European Parliament and 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).

(2) 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 (OJ 2012 L 362, p. 1).

## Order of the General Court of 24 March 2014 — High Tech v OHIM — Vitra Collections (Shape of a chair)

**(Case T-161/11)** (1)

(2014/C 159/50)

*Language of the case: English*

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

(1) OJ C 139, 7.5.2011.

# EUROPEAN UNION CIVIL SERVICE TRIBUNAL

## Judgment of the Civil Service Tribunal (2nd Chamber) of 10 April 2014 — Nieminen v Council

**(Case F-81/12)** ([1])

***(Civil service — Promotion — 2010 promotion procedure — 2011 promotion procedure — Decision not to promote the applicant — Duty to state reasons — Examination of comparative merits — Administrators assigned to linguistic functions and administrators assigned to functions other than linguistic functions — Promotion quotas — Consistency in the duration of the merits)***

(2014/C 159/51)

*Language of the case: French*

### Parties

*Applicant:* Risto Nieminen (Kraainem, Belgium) (represented by: C. Abreu Caldas, S. Orlandi, A. Coolen, J.-N. Louis and É. Marchal, lawyers, initially, then C. Abreu Caldas, S. Orlandi and J.-N. Louis, lawyers)

*Defendant:* Council of the European Union (represented by: J. Herrmann and M. Bauer, Agents)

### Re:

Application to annul the decisions not to promote the applicant to Grade AD 12 in respect of the 2010 and 2011 promotion procedures.

### Operative part of the judgment

*The Tribunal:*

1. *Dismisses the action;*

2. *Orders Mr Nieminen to bear his own costs and to pay the costs incurred by the Council of the European Union.*

([1]) OJ C 295, 29.09.2012, p. 34.

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## Judgment of the Civil Service Tribunal (2nd Chamber) of 10 April 2014 — Camacho-Fernandes v Commission

**(Case F-16/13)** ([1])

***(Civil service — Officials — Social security — Article 73 of the Staff Regulations — Occupational disease — Exposure to asbestos and to other substances — Medical committee — Refusal to recognise the occupational origin of the disease which caused the official's death — Lawfulness of the opinion of the medical committee — Principle of collegiate responsibility — Mandate — Statement of reasons — Principle of equal treatment)***

(2014/C 159/52)

*Language of the case: French*

### Parties

*Applicant:* Ivo Camacho-Fernandes (Funchal, Portugal) (represented by: N. Lhoëst, lawyer)

*Defendant:* European Commission (represented by: J. Currall and V. Joris, Agents)

### Re:

Application to annul the decision of the Joint Sickness Insurance Scheme in so far as it confirms the terms of the draft decision rejecting the application to recognise the occupational origin of the disease which caused the death of the applicant's wife, a former official.

**Operative part of the judgment**

*The Tribunal:*

1. *Dismisses the action;*

2. *Orders Mr Camacho-Fernandes to bear his own costs and to pay the costs incurred by the European Commission.*

(1) OJ C 108, 13.04.2013, p. 40.

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**Judgment of the Civil Service Tribunal (Third Chamber) of 9 April 2014 — Rouffaud v EEAS**

**(Case F-59/13)** (1)

***(Civil Service — Auxiliary member of contract staff — Reclassification of the contract — Pre-litigation procedure — Rule that the complaint must be consistent with the action — Amendment of the grounds of challenge in the case)***

(2014/C 159/53)

*Language of the case: French*

**Parties**

*Applicant:* Thierry Rouffaud (Ixelles, Belgium) (represented initially by: A. Coolen, É. Marchal, S. Orlandi and D. Abreu Caldas, and subsequently by: S. Orlandi and D. Abreu Caldas, lawyers)

*Defendant:* European External Action Service (EEAS) (represented by: S. Marquardt and M. Silva, acting as Agents)

**Re:**

Application for annulment of the decision rejecting the applicant's application to have his successive fixed-term employment contracts reclassified as a contract of indefinite duration and to have his period completed as an auxiliary member of the contract staff recognised as a period of service completed as a member of the contract staff.

**Operative part of the judgment**

*The Tribunal:*

1. *Dismisses the action;*

2. *Orders Mr Rouffard to bear his own costs and to pay the costs incurred by the European External Action Service.*

(1) OJ C 233, 10.8.2013, p. 14.

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**Order of the Civil Service Tribunal (2nd Chamber) of 9 April 2014 — Colart and Others v Parliament**

**(Case F-87/13)** (1)

***(Civil service — Staff representation — Framework agreement between the Parliament and the professional or trade union organisations of the institution — Executive Committee of a trade union — Dispute within the trade union as to the lawfulness and identity of the persons forming the Executive Committee — Rights of access to the email account put at the disposal of the trade union by the institution — Refusal of the institution to re-establish rights and/or to remove all rights of access to the email account — Legal interest in bringing proceedings — Manifest inadmissibility)***

(2014/C 159/54)

*Language of the case: French*

**Parties**

*Applicants:* Philippe Colart and Others (Bastogne, Belgium) (represented by: A. Salerno and B. Cortese, lawyers)

*Defendant:* European Parliament (represented by: O. Caisou-Rousseau and M. Ecker, Agents)

**Re:**

Application to annul the decision of the European Parliament relating to the new distribution of rights of access to the mailbox of the SAFE trade union.

**Operative part of the order**

1. *The action is dismissed as manifestly inadmissible.*
2. *Mr Colart, Mr Bras, Mr Corthout, Mr Decoutere, Mr Dony, Mr Garzone, Ms Kemmerling-Linssen, Mr Manzella and Mr Vienne are to bear their own costs and are ordered to pay the costs incurred by the European Parliament.*

([1]) OJ C 344, 23/11/2013, p. 69

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**Order of the Civil Service Tribunal of 10 April 2014 — Strack v Commission**

**(Case F-118/07)** ([1])

(2014/C 159/55)

*Language of the case: German*

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

([1]) OJ C 315, 22.12.2007, 49.

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**Order of the Civil Service Tribunal of 10 April 2014 — Strack v Commission**

**(Case F-61/09)** ([1])

(2014/C 159/56)

*Language of the case: German*

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

([1]) OJ C 193, 15.8.2009, p. 36.

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