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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Order of the Court (Tenth Chamber) of 10 April 2014 (request for a preliminary ruling from the Tribunal Central Administraivo Norte — Portugal) — Joaquim Fernando Macedo Maia and Others v Fundo de Garantia Salarial, IP

(Case C-511/12) ([1])

(Article 99 of the Rules of Procedure of the Court of Justice — Request for a preliminary ruling — Directive 80/987/EEC — Directive 2002/74/EC — Protection of employees in the event of the insolvency of their employer — Guarantee institutions — Limitation on the payment obligation of the guarantee institution — Salary claims falling due more than six months before the commencement of legal proceedings seeking a declaration of the employer's insolvency)

(2014/C 261/02)

Language of the case: Portuguese

Referring court

Tribunal Central Administraivo Norte

Parties to the main proceedings

Applicants: Joaquim Fernando Macedo Maia, António Pereira Teixeira, António Joaquim Moreira David, Joaquim Albino Moreira David

Defendant: Fundo de Garantia Salarial, IP

Operative part of the order

Council Directive 80/987/EEC of 20 October 1980 relating to the protection of employees in the event of the insolvency of their employer, as amended by Directive 2002/74/EC of the European Parliament and the Council of 23 September 2002, must be interpreted as not precluding national legislation which does not guarantee salary claims falling due more than six months preceding the initiation of insolvency proceedings against the employer, even though the employees brought, before the beginning of that period, legal proceedings against their employer with a view to obtaining a judicial determination of the amount outstanding and an enforcement order to recover those sums.

([1]) OJ C 26, 26.1.2013.

Order of the Court (Sixth Chamber) of 8 May 2014 — Greinwald GmbH v Nicolas Wessang, Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-608/12 P) ([1])

(Appeal — Article 181 of the Rules of Procedure of the Court — Article 169(2) of those rules — Content required in the application initiating an appeal)

(2014/C 261/03)

Language of the case: German

Parties

Appellant: Greinwald GmbH (represented by: C. Onken, lawyer)

Other parties to the proceedings: Nicolas Wessang (represented by: A. Grolée, lawyer), Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, acting as Agent)

Operative part of the order

1. *The main appeal and the cross-appeal are dismissed.*

2. *Greinwald GmbH is ordered to pay the costs of the main appeal.*

3. *Nicolas Wessang is ordered to pay the costs of the cross-appeal.*

([1]) OJ C 63, 2.3.2013.

Order of the Court of 4 April 2014 (request for a preliminary ruling from the Schleswig-Holsteinisches Oberlandesgericht (Germany)) — Flughafen Lübeck GmbH v Air Berlin plc & Co. Luftverkehrs KG

(Case C-27/13) ([1])

(Article 99 of the Rules of Procedure — State aid — Articles 107 TFEU and 108 TFEU — Advantages granted by a public undertaking operating an airport to a low-cost airline — Decision to open the formal investigation procedure — Obligation of the courts of the Member States to follow the Commission's assessment in that decision as regards the existence of aid)

(2014/C 261/04)

Language of the case: German

Referring court

Schleswig-Holstein Oberlandesgericht

Parties to the main proceedings

Applicant: Flughafen Lübeck GmbH

Defendant: Air Berlin plc & Co. Luftverkehrs KG

Operative part of the order

1. *Where, by application of Article 108(3) TFEU, the European Commission has opened the formal investigation procedure provided for in Article 108(2) TFEU with regard to a non-notified measure currently being implemented, a national court, hearing an application for the cessation of the implementation of that measure and the recovery of the sums already paid, is required to adopt all the measures necessary to draw the appropriate conclusions from any breach of the obligation to suspend the implementation of that measure.*

   To that end, the national court may decide either to suspend the implementation of the measure at issue and order the recovery of the sums already paid or to order interim measures in order to safeguard, firstly, the interests of the parties concerned and, secondly, the effectiveness of the Commission's decision to open the formal investigation procedure.

2. *A national court cannot, in a situation such as that at issue in the main proceedings, stay the proceedings until the closure of the formal investigation procedure.*

(1) OJ C 171, 15.6.2013.

Order of the Court of 30 April 2014 (request for a preliminary ruling from the Tribunale di Napoli (Italy)) — Luigi D'Aniello and Others v Poste Italiane SpA

(Case C-89/13) (1)

(Article 99 of the Rules of Procedure of the Court — Reference for a preliminary ruling — Social policy — Directive 1999/70/EC — Principle of non-discrimination — National legislation providing for a compensation scheme in cases of the unlawful setting of an expiry date for an employment contract different from that in cases where an employment contract of unlimited duration is unlawfully terminated — Economic consequences — Comparability of the claims)

(2014/C 261/05)

Language of the case: Italian

Referring court

Tribunale di Napoli

Parties to the main proceedings

Applicants: Luigi D'Aniello, Ester Di Vaio, Anna Di Benedetto, Antonella Camelio, Angela Leva, Alessia Romano, Emilia Aloia, Cira Oligo, Ottavio Russo, Guiseppe D'Ambra, Stefano Caputo, Ilaria Pappagallo, Maurizio De Rosa, Gianluca Liguori, Dario Puzone, Vincenzo De Luca, Guido Gorbari, Raffaella D'Ambrosio

Defendant: Poste Italiane SpA

Operative part of the order

Subject to the possibility available to the Member States by virtue of clause 8 of the framework agreement on fixed-term work, concluded on 18 March 1999, which is annexed to Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, clause 4(1) of that framework agreement must be interpreted as meaning that it does not require identical treatment of the economic consequences granted in cases of the unlawful setting of an expiry date for an employment contract and those paid in cases of the unlawful termination of an employment contract of unlimited duration.

(1) OJ C 156, 1.6.2013.

Order of the Court (Eighth Chamber) of 3 April 2014 (request for a preliminary ruling from the Okresný súd Bardejov — Slovakia) — Pohotovosť s. r. o. v Ján Soroka

(Case C-153/13) ([1])

(Reference for a preliminary ruling — Directive 93/13/EEC — Scope ratione temporis — Events preceding the accession of the Slovak Republic to the European Union — Clear lack of jurisdiction of the Court)

(2014/C 261/06)

Language of the case: Slovak

Referring court

Okresný súd Bardejov

Parties to the main proceedings

Applicant: Pohotovosť s. r. o.

Defendant: Ján Soroka

Intervener: Združenie na ochranu občana spotrebiteľa HOOS

Operative part of the order

The Court of Justice of the European Union manifestly lacks jurisdiction to answer the questions referred by the Okresný súd Bardejov (Slovakia) by decision of 15 February 2013.

([1]) OJ C 178, 22.6.2013.

Order of the Court (Seventh Chamber) of 12 June 2014 — Bimbo SA v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case C-285/13 P) ([1])

(Appeal — Article 181 of the Rules of Procedure of the Court of Justice — Community trade mark — Regulation (EC) No 40/94 — Article 8 — Application for Community figurative mark Caffè KIMBO — Opposition proceedings — Earlier national word mark BIMBO — Well-known mark — Partial rejection of the opposition — Appeal manifestly inadmissible)

(2014/C 261/07)

Language of the case: English

Parties

Appellant: Bimbo SA (represented by: N. Fernández Fernández-Pacheco, abogado)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (represented by: A. Folliard-Monguiral, acting as Agent), Café do Brasil SpA (represented by: M. Mostardini and F. Mellucci, avvocati)

Operative part of the order

1) *The appeal is dismissed.*

2) *Bimbo SA shall pay the costs.*

([1]) OJ C 252, 31.8.2013.

Order of the Court (Eighth Chamber) of 22 May 2014 — Bilbaína de Alquitranes, SA and Others v European Chemicals Agency (ECHA)

(Case C-287/13 P) ([1])

(Appeal — Article 181 of the Rules of Procedure of the Court of Justice — Regulation (EC) No 1907/2006 (REACH) — Article 59 and Annex XIII — Identification of pitch, coal tar, high temperature as a substance of very high concern, to be made subject to the authorisation procedure — Equal treatment)

(2014/C 261/08)

Language of the case: English

Parties

Appellants: Bilbaína de Alquitranes, SA, Cindu Chemicals BV, Deza, a.s., Industrial Química del Nalón, SA, Koppers Denmark A/S, Koppers UK Ltd, Rütgers Germany GmbH, Rütgers Belgium NV, Rütgers Poland Sp. z o.o. (represented by: K. Van Maldegem, lawyer)

Other party to the proceedings: European Chemicals Agency (ECHA) (represented by: M. Heikkilä, W. Broere and T. Zbihlej, Agents, and by J. Stuyck and A.-M. Vandromme, advocaten)

Operative part of the order

The Court (Eighth Chamber) hereby:

1. *Dismisses the appeal;*

2. *Orders Bilbaína de Alquitranes SA, Cindu Chemicals BV, Deza a.s., Industrial Química del Nalón SA, Koppers Denmark A/S, Koppers UK Ltd, Rütgers Germany GmbH, Rütgers Belgium NV and Rütgers Poland sp. z o.o. to pay the costs.*

([1]) OJ C 252, 31.8.2013.

Order of the Court (Ninth Chamber) of 8 May 2014 (request for a preliminary ruling from the Unabhängiger Verwaltungssenat Wien — Austria) — Ferdinand Stefan v Bundesministerium für Land- und Forstwirtschaft, Umwelt und Wasserwirtschaft

(Case C-329/13) ([1])

(Article 99 of the Rules of Procedure — Directive 2003/4/EC — Validity — Public access to environmental information — Exception to the obligation to disclose environmental information where the disclosure compromises the ability of any person to receive a fair trial — Optional nature of that exception for Member States — Article 6 TEU — Second paragraph of Article 47 of the Charter)

(2014/C 261/09)

Language of the case: German

Referring court

Unabhängiger Verwaltungssenat Wien

Parties to the main proceedings

Applicant: Ferdinand Stefan

Defendant: Bundesministerium für Land- und Forstwirtschaft, Umwelt und Wasserwirtschaft

Operative part of the order

Consideration of the questions raised has disclosed no factor of such a kind as to affect the validity of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC.

([1]) OJ C 274, 21.9.2013.

Order of the Court (Eighth Chamber) of 5 June 2014 (request for a preliminary ruling from the Augstākās tiesas (formerly Augstākās tiesas Senāts) — Latvia) — Antonio Gramsci Shipping Corp. and Others v Aivars Lembergs

(Case C-350/13) ([1])

(Request for a preliminary ruling — Judicial cooperation in civil matters — Regulation (EC) No 44/2001 — Recognition and enforcement of provisional and protective measures — Annulment of the initial decision — Maintenance of the request for a preliminary ruling — No need to adjudicate)

(2014/C 261/10)

Language of the case: Latvian

Referring court

Augstākās tiesas (formerly Augstākās tiesas Senāts)

Parties to the main proceedings

Applicants: Antonio Gramsci Shipping Corp., Apollo Holdings Corp., Arctic Seal Shipping Co. Ltd, Atlantic Leader Shipping Co. Ltd, Cape Wind Trading Co. Ltd, Clipstone Navigation SA, Dawnlight Shipping Co. Ltd, Dzons Rids Shipping Co., Faroship Navigation Co. Ltd, Gaida Shipping Co., Gevostar Shipping Co. Ltd, Hose Marti Shipping Co., Imanta Shipping Co. Ltd, Kemeri Navigation Co., Klements Gotvalds Shipping Co., Latgale Shipping Co. Ltd, Limetree Shipping Co. Ltd, Majori Shipping Co. Ltd, Noella Marītime Co. Ltd, Razna Shipping Co., Sagewood Trading Inc., Samburga Shipping Co. Ltd, Saturn Trading Co., Taganroga Shipping Co., Talava Shipping Co. Ltd, Tangent Shipping Co. Ltd, Viktorio Shipping Co., Wilcox Holding Ltd, Zemgale Shipping Co. Ltd, Zoja Shipping Co. Ltd

Defendant: Aivars Lembergs

Operative part of the order

There is no need to give a ruling on the request for a preliminary ruling made by the Augstākās tiesas Senāts (Latvia) by decision of 12 June 2013.

([1]) OJ C 252, 31.8.2013.

Order of the Court (Sixth Chamber) of 10 April 2014 — Metropolis Inmobiliarias y Restauraciones SL v Office for Harmonisation in the Internal Market (Trade Marks and Designs), MIP Metro Group Intellectual Property GmbH & Co. KG

(Case C-374/13 P) ([1])

(Appeal — Community trade mark — Regulation (EC) No 40/94 — Application for registration of the word mark METROINVEST — Opposition by the proprietor of the national figurative mark and applicant for the Community figurative mark comprising the word element 'METRO', in the colours blue and yellow — Refusal of registration)

(2014/C 261/11)

Language of the case: English

Parties

Appellant: Metropolis Inmobiliarias y Restauraciones SL (represented by: J. Carbonell Callicó, abogado)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: J. Crespo Carrillo, acting as Agent), MIP Metro Group Intellectual Property GmbH & Co. (represented by: J.-C. Plate, Rechtsanwalt)

Operative part of the order

1) *The appeal is dismissed.*

2) *Metropolis Inmobiliarias y Restauraciones SL is ordered to pay the costs.*

([1]) OJ C 252, 31.8.2013.

Order of the Court (Sixth Chamber) of 8 May 2014 — Office for Harmonisation in the Internal Market (Trade Marks and Designs) v Sanco, SA

(Case C-411/13 P) ([1])

(Appeal — Community trade mark — Figurative mark representing a chicken — Opposition of the proprietor of a national figurative mark representing a chicken — Partial rejection of the opposition)

(2014/C 261/12)

Language of the case: Spanish

Parties

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

Other party to the proceedings: Sanco, SA (represented by: A. Segura Roda, abogado)

Operative part of the order

1. *The appeal is dismissed.*

2. *Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) is ordered to pay the costs.*

([1]) OJ C 260, 7.9.2013.

Order of the Court (Sixth Chamber) of 10 April 2014 — Franz Wilhelm Langguth Erben GmbH & Co. KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-412/13 P) ([1])

(Appeal — Community trade mark — Regulation (EC) No 207/2009 — Articles 34(1), 75 and 77(1) — Earlier national and international figurative marks MEDINET — Claiming seniority — Refusal)

(2014/C 261/13)

Language of the case: German

Parties

Appellant: Franz Wilhelm Langguth Erben GmbH & Co. KG (represented by: R. Kunze and G. Würtenberger, Rechtsanwälte)

Other party to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, Agent)

Operative part of the order

1. *The appeal is dismissed.*

2. *Franz Wilhelm Langguth Erben GmbH & Co. KG shall pay the costs.*

([1]) OJ C 298, 12.10.2013.

Order of the Court (Seventh Chamber) of 20 May 2014 — Reber Holding GmbH & Co. KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-414/13 P) ([1])

(Appeal — Community trade mark — Regulation (EC) No 40/94 — Word mark Wolfgang Amadeus Mozart PREMIUM — Opposition brought by the proprietor of earlier national figurative marks W. Amadeus Mozart)

(2014/C 261/14)

Language of the case: German

Parties

Appellant: Reber Holding GmbH & Co. KG (represented by: M. Geitz, Rechtsanwalt)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: D. Walicka, acting as Agent), Anna Klusmeier (represented by: G. Schmitt-Gaedke, Rechtanswalt)

Operative part of the order

1. *The appeal is dismissed.*

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

([1]) OJ C 298, 12.10.2013.

Order of the Court (Sixth Chamber) of 12 June 2014 — Delphi Technologies, Inc. v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case C-448/13 P) ([1])

(Appeals — Community trade mark — Regulation (EC) No 207/2009 — Article 7(1)(b) — Word mark INNOVATION FOR THE REAL WORLD — Advertising slogan — Refusal of registration — No distinctive character)

(2014/C 261/15)

Language of the case: English

Parties

Appellant: Delphi Technologies, Inc. (represented by: C. Albrecht and J. Heumann, Rechtsanwälte)

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

Operative part of the order

1) *The appeal is dismissed.*

2) *Delphi Technologies, Inc. shall pay the costs.*

(1) OJ C 313, 26.10.2013.

Order of the Court (Ninth Chamber) of 5 June 2014 (request for a preliminary ruling from the Naczelny Sąd Administracyjny — Poland) — Gmina Międzyzdroje v Minister Finansów

(Case C-500/13) (1)

(Request for a preliminary ruling — VAT — Directive 2006/112/EC — Deduction of input tax — Capital goods — Immovable property — Adjustment of deductions — National legislation providing for an adjustment period of 10 years)

(2014/C 261/16)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Applicant: Gmina Międzyzdroje

Defendant: Minister Finansów

Operative part of the order

Articles 167, 187 and 189 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax together with the principle of neutrality of value added tax must be interpreted as not precluding provisions of national law, such as those at issue in the main proceedings, which, in a case where there is a change in the purpose of immovable property acquired as capital goods from an initial use in activities not conferring entitlement to deduct input tax to a subsequent use in activities which do confer such entitlement, provide for an adjustment period of 10 years starting from the time at which the goods are first used and, therefore, do not permit a one-off adjustment during a single tax year.

(1) OJ C 367, 14.12.2013.

Order of the Court (Seventh Chamber) of 30 April 2014 (request for a preliminary ruling from the Giudice di pace di Matera — Italy) — Intelcom Service Ltd v Vincenzo Mario Marvulli

(Case C-600/13) (1)

(Request for a preliminary ruling — Articles 34 TFEU, 35 TFEU, 37 TFEU, 56 TFEU and 60 TFEU — Directive 2006/123/EC — National legislation granting notaries the exclusive right to draft and authenticate deeds relating to the sale of immovable property — Manifest inadmissibility)

(2014/C 261/17)

Language of the case: Italian

Referring court

Giudice di pace di Matera

Parties to the main proceedings

Applicant: Intelcom Service Ltd

Defendant: Vincenzo Mario Marvulli

Operative part of the order

The request for a preliminary ruling presented by the Giudice di pace di Matera (Italy) by decision of 22 April 2013 is manifestly inadmissible.

(1) OJ C 52, 22.2.2014.

Order of the Court (Eighth Chamber) of 19 June 2014 (request for a preliminary ruling from the Tribunal do Trabalho da Covilhã — Portugal) — Pharmacontinente-Saúde e Higiene SA and Others v Autoridade Para As Condições do Trabalho (ACT)

(Case C-683/13) (1)

Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Processing of personal data — Directive 95/46/EC — Article 2 — Concept of 'personal data' — Articles 6 and 7 — Principles relating to data quality and criteria for making data processing legitimate — Article 17 — Security of processing — Working time — Record of working time — Access by the national authority responsible for monitoring working conditions — Employer's obligation to make available the record of working time so as to allow its immediate consultation

(2014/C 261/18)

Language of the case: Portuguese

Referring court

Tribunal do Trabalho da Covilhã (Labour Court, Covilhã)

Parties to the main proceedings

Applicants: Pharmacontinente-Saúde e Higiene SA, Domingos Sequeira de Almeida, Luis Mesquita Soares Moutinho, Rui Teixeira Soares de Almeida, André de Carvalho e Sousa

Defendant: Autoridade Para As Condições do Trabalho (ACT)

Operative part of the order

1. *Article 2(a) of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data is to be interpreted as meaning that a record of working time, such as that at issue in the main proceedings, which indicates, in relation to each worker, the times when working hours begin and end, as well as the corresponding breaks and intervals, is covered by the concept of 'personal data' as referred to in that provision.*

2. *Article 6(1)(b) and (c) and Article 7(c) and (e) of Directive 95/46 must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which requires an employer to make the record of working time available to the national authority responsible for monitoring working conditions so as to allow its immediate consultation, provided that this obligation is necessary for the purposes of the performance by that authority of its task of monitoring the application of the legislation relating to working conditions, in particular as regards working time.*

3. *It is for the referring court to determine whether the employer's obligation to provide the national authority responsible for monitoring working conditions access to the record of working time so as to allow its immediate consultation may be considered necessary for the purposes of the performance by that authority of its monitoring task, by contributing to the more effective application of the legislation relating to working conditions, in particular as regards working time, and, if so, whether the penalties imposed with a view to ensuring the effective application of the requirements laid down by Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003, concerning certain aspects of the organisation of working time, are consistent with the principle of proportionality.*

([1]) OJ C 52, 22.2.2014.

Request for a preliminary ruling from the Curtea de Apel Bacău (Romania) lodged on 15 January 2014 — Municipiul Piatra Neamț v Ministerul Dezvoltării Regionale şi Administrației Publice

(Case C-13/14)

(2014/C 261/19)

Language of the case: Romanian

Referring court

Curtea de Apel Bacău

Parties to the main proceedings

Applicant: Municipiul Piatra Neamț

Defendant: Ministerul Dezvoltării Regionale şi Administrației Publice

By Order of 12 June 2014, the Court (Eighth Chamber) has declared that the request for a preliminary ruling is manifestly inadmissible.

Action brought on 7 April 2014 — European Commission v Hellenic Republic

(Case C-167/14)

(2014/C 261/20)

Language of the case: Greek

Parties

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

Defendant: Hellenic Republic

Form of order sought

The applicant claims that the Court should:

— Declare that the Hellenic Republic, by failing to take all the measures necessary to comply with the judgment of the Court of 25 October 2007 in Case C-440/06 *Commission* v *Greece,* failed to fulfil its obligations under Article 260(1) TFEU;

— Order the Hellenic Republic to pay to the Commission a proposed financial penalty of EUR 47 462,40for each day of delay in complying with the judgment delivered in Case C-440/06, from the date of delivery of judgment in the present case until the date of compliance with the judgment in Case C-440/06;

— Order the Hellenic Republic to pay to the Commission a fixed daily sum of EUR 5 191,20per day from the date of delivery of the judgment in Case C-440/06 until the date of delivery of the judgment in this case or the date of compliance with the judgment in Case C-440/06, whichever is the earlier;

— order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

As regards the method for calculation of penalties the Commission refers to:

A- The importance of the provisions of the legislation which were infringed such as Articles 3 and 4 of Council Directive 91/271/EEC ([1]) of 21 May 1991 concerning urban waste water treatment in respect of the collection, treatment and discharge of urban waste water and the treatment and discharge of sludge from certain industrial sectors and the specified objectives of protecting the environment from the adverse effects of discharge of such waters.

The Commission maintains that the discharge of untreated waste (that is, waste that has undergone no treatment, because of a lack of comprehensive systems and/or of treatment plants) into surface waters leads to pollution which is characterised by an oxygen imbalance while the flow of nutrient substances (particularly nitrogen and phosphorus compounds) significantly affects the quality of those waters and their related ecosystems (putting at risk, for example, fish populations).

Further, as regards urban waste water which undergoes inadequate treatment (treatment processes which do not implement secondary treatment or which implement non-compliant secondary treatment), the implementation of primary treatment alone is insufficient to prevent any risk of pollution and deterioration in the quality of water and related ecosystems. Moreover the excessive discharge of nutrients (which consist of nitrogen and phosphorus compounds) into surface waters is a basic cause of increased eutrophication (accelerated growth of algae and forms of plant life), which increases the risk of imbalance as regards water oxygen, increased extinction of fish populations and other aquatic organisms, and increased harm suffered by related terrestrial ecosystems. That is precisely why Article 4 of Directive 91/271/EEC provides that urban waste water which is produced by agglomerations of more than 15 000 p. e. [population equivalent] cannot be discharged, unless it has been subject to secondary or equivalent treatment.

The Commission maintains that the collection and treatment of all waste water which is produced by Greek agglomerations of more than 15 000 p.e. is of vital importance both for the preservation and improvement of the quality of surface waters, aquatic ecosystems and terrestrial ecosystems which are directly dependent on the waters in question and to securing the full and correct implementation of other European Union directives.

However, despite the efforts made and measures taken by the Greek authorities in recent years, it is clear that, to date, six agglomerations of more than 15 000 p.e. of the total of 23 which are covered by the judgment of 25 October 2007 (including five in the region of eastern Attica, which is one of the most densely populated in Greece) do not comply with Articles 3 and 4 of Directive 91/271/EEC. The equivalent population residing in those six agglomerations is 124 000 (16 000 in Lefkimmi, 25 000 in Nea Makri, 17 000 in Markopoulo, 20 000 in Koropi, 18 000 in Rafina and 28 000 in Artemida).

B- the consequences of the infringement in respect of general and particular interests which are caused by the failure fully to comply with the judgment of the Court in Case C-440/06, which creates significant risks of environmental pollution and has effects on human health. As described by the Commission, the failure fully to comply with the judgment of the Court in Case C-440/06 leads to the eutrophication of surface waters which could put at risk, inter alia, good ecological and chemical status and the conservation of aquatic and terrestrial ecosystems. Consequently, the Commission considers that the failure fully to comply with the judgment is likely to affect the implementation of other European Union directives, including Directive 2000/60/EC ([2]) of the European Parliament and the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, Directive 2006/7/EC ([3]) concerning the management of bathing water quality and Council Directive 92/43/EC ([4]) of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.

Further, the Commission maintains that the failure fully to comply with the judgment of the Court affects the ability of citizens to enjoy the benefits of surface waters which are sufficiently clean to permit the practice of recreational activities (fishing, swimming, sailing, walking etc.). The failure fully to comply with the judgment is also likely to affect both the quality of the water which is available for human consumption and human health itself.

(1) OJ 1991 L 135, pp. 40-52.
(2) OJ 2000 L 327, pp. 1-73.
(3) OJ 2007 L 64, pp. 37-51.
(4) OJ 1992 L 206, pp. 7-50.

Request for a preliminary ruling from the Landesgericht Korneuburg (Austria) lodged on 12 May 2014 — Eleonore Prüller-Frey v Norbert Brodnig, Axa Versicherung AG

(Case C-240/14)

(2014/C 261/21)

Language of the case: German

Referring court

Landesgericht Korneuburg

Parties to the main proceedings

Applicant: Eleonore Prüller-Frey

Defendants: Norbert Brodnig, Axa Versicherung AG

Questions referred

1. Are Article 2(1)(a) and (c) of Council Regulation (EC) No 2027/97 of 9 October 1997 on air carrier liability in the event of accidents (1), Article 3(c) and (g) of Regulation (EC) No 785/2004 of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators (2), and Article 1(1) of the Convention for the Unification of Certain Rules for International Carriage by Air (3), signed in Montreal on 28 May 1999, to be interpreted as meaning that claims for damages by an injured party:

   — who was a passenger in an aircraft which had the same take-off and landing place in a Member State,

   — who was carried by the pilot free of charge,

   — the purpose of the flight being, in connection with a real-property transaction planned with the pilot, to view the property from the air, and

   — who was physically injured when the aircraft crashed,

   must be adjudged exclusively in accordance with Article 17 of the Convention for the Unification of Certain Rules for International Carriage by Air, signed in Montreal on 28 May 1999, and that national law is not applicable?

   If the reply to Question 1 is in the affirmative:

2. Are Article 33 of the Convention for the Unification of Certain Rules for International Carriage by Air, signed in Montreal on 28 May 1999, and Article 67 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 (4) to be interpreted as meaning that jurisdiction to hear and rule on the claims for damages referred to in Question 1 must be determined exclusively in accordance with Article 33 of the Convention for the Unification of Certain Rules for International Carriage by Air, signed in Montreal on 28 May 1999?

   If the reply to Question 1 is in the affirmative:

3. Are Article 29 of the Convention for the Unification of Certain Rules for International Carriage by Air, signed in Montreal on 28 May 1999, and Article 18 of Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations ([5]) to be interpreted as precluding national provisions which provide for a direct action by the injured party referred to in Question 1 against the civil-liability insurer of the person responsible for the injury?

If the reply to Question 1 is in the negative:

4. Are Article 7(1)(f) of Second Council Directive 88/357/EEC of 22 June 1988 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 73/239/EEC ([6]), and Article 18 of Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations to be interpreted as meaning that the conditions governing the direct action brought by the injured party referred to in Question 1 against the civil-liability insurer of the person responsible for the injury are to be adjudged in accordance with the law of a third State if:

— the *lex loci delicti* provides for a direct action in its legislation on insurance contracts,

— the parties to the insurance contract make a choice of law in favour of the legal system of a third State,

— according to which the law of the State in which the insurer has its seat is to be applied, and

— the legal system of that State also provides for a direct action in its legislation on insurance contracts?

([1]) OJ L 285, p. 1.
([2]) OJ L 138, p. 1.
([3]) OJ 2001 L 194, p. 39.
([4]) OJ 2001 L 12, p. 1.
([5]) OJ L 199, p. 40.
([6]) OJ L 172, p. 1.

Request for a preliminary ruling from the Korkein hallinto-oikeus (Finland) lodged on 30 May 2014 — Kansaneläkelaitos, Suomen Palvelutaksit ry, Oulun Taksipalvelut Oy

(Case C-269/14)

(2014/C 261/22)

Language of the case: Finnish

Referring court

Korkein hallinto-oikeus

Parties to the main proceedings

Appellants: Kansaneläkelaitos, Suomen Palvelutaksit ry, Oulun Taksipalvelut Oy

Other parties: Suomen Taksiliitto ry, Turun Seudun Invataksit ry, Hämeen Taksi Oy, Itä-Suomen Maakunnallinen Taksi Oy, Kainuun Taksivälitys Oy, Keski-Suomen Taksi Oy, Lounais-Suomen Taxidata Oy, Pohjois-Suomen Taksi Oy

Questions referred

1) Must the case-law of the Court of Justice concerning a service concession be understood as meaning that it does not extend to a complex arrangement which includes the payment of reimbursements within the authority's organisational responsibility in the form of a direct reimbursement scheme and at the same time a system of booking journeys which is not within the authority's responsibility?

2) What significance should be attached to the indirect consequence of the scheme that the purpose of the booking system is to reduce the transport costs payable from public funds by the Kansaneläkelaitos?

Request for a preliminary ruling from the Cour de cassation (France) lodged on 11 June 2014 — Directeur général des douanes et droits indirects, Directeur régional des douanes et droits indirects d'Auvergne v Brasserie Bouquet SA

(Case C-285/14)

(2014/C 261/23)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Appellants: Directeur général des douanes et droits indirects, Directeur régional des douanes et droits indirects d'Auvergne

Respondent: Brasserie Bouquet SA

Question referred

Must Article 4(2) of Council Directive 92/83/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages ([1]) be interpreted as meaning that the term 'operate under licence' refers exclusively to operation under a licence to exploit a patent or trade mark, or can that provision be interpreted as meaning that the term 'operate under licence' refers to operation in accordance with a production process belonging to a third party and authorised by that party?

([1]) OJ L 316, p. 21.

Request for a preliminary ruling from the Conseil d'État (France) lodged on 12 June 2014 — Brit Air SA v Ministère des finances et des comptes publics

(Case C-289/14)

(2014/C 261/24)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Brit Air SA

Defendant: Ministère des finances et des comptes publics

Questions referred

1) Must Articles 2(1) and 10(2) of Council Directive 77/388/EEC of 17 May 1977 ([1]) be interpreted as meaning that a lump sum calculated as a percentage of the annual turnover received from routes operated as a franchise and paid onwards by an airline company which issued on behalf of another company tickets which are no longer valid constitutes non-taxable compensation paid to the latter, for the harm suffered as a result of the activation in vain by the latter of its means of transport or a sum corresponding to the proceeds from tickets issued and expired?

2) In the event that that sum is deemed to correspond to the price of tickets issued and expired, must those provisions be interpreted as meaning that the issue of the ticket may be treated as the effective performance of the transport service and that the sums retained by an airline company where the holder of an air ticket has not used his ticket, which is no longer valid, are subject to value added tax?

3) In that case, must the tax received be paid onwards to the Treasury by Air France or Brit Air on receipt of payment of the price, even though the travel may not have taken place as a result of the customer's acts?

([1]) Sixth Council Directive of 17 May 1977 on the harmonization 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).

Order of the President of the Court of 7 May 2014 — European Commission v Republic of Slovenia, interveners: Kingdom of Belgium and Kingdom of the Netherlands

(Case C-8/13) ([1])

(2014/C 261/25)

Language of the case: Slovenian

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

([1]) OJ C 63, 2.3.2013.

Order of the President of the Court of 7 May 2014 — European Commission v Republic of Slovenia, interveners: Kingdom of Belgium and Kingdom of the Netherlands

(Case C-9/13) ([1])

(2014/C 261/26)

Language of the case: Slovenian

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

([1]) OJ C 63, 2.3.2013.

Order of the President of the Court of 27 May 2014 (request for a preliminary ruling from the Datenschutzbehörde (formerly Datenschutzkommission) — Austria) — H v E

(Case C-46/13) ([1])

(2014/C 261/27)

Language of the case: German

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

([1]) OJ C 147, 25.5.2013.

Order of the President of the Third Chamber of the Court of 7 May 2014 (request for a preliminary ruling from the Amtsgericht Wedding — Germany) — Rechtsanwaltskanzlei CMS Hasche Sigle, Partnerschaftsgesellschaft v Xceed Holding Ltd.

(Case C-121/13) ([1])

(2014/C 261/28)

Language of the case: German

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

([1]) OJ C 164, 8.6.2013.

Order of the President of the Third Chamber of the Court of 13 May 2014 (request for a preliminary ruling from the College van Beroep voor het Bedrijfsleven — Netherlands) — Wagenborg Passagiersdiensten BV, Eigen Veerdienst Terschelling BV, MPS Stortemelk BV, MPS Willem Barentsz BV, Ms Spathoek NV, GAF Lakeman trading as Rederij Waddentransport v Minister van Infrastructuur en Milieu, in the presence of: Wagenborg Passagiersdiensten BV, Terschellinger Stoombootmaatschappij BV

(Case C-207/13) ([1])

(2014/C 261/29)

Language of the case: Dutch

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

([1]) OJ C 189, 29.6.2013.

Order of the President of the Court of 3 April 2014 — Henkel AG & Co. KGaA, Henkel France v European Commission

(Case C-284/13 P) ([1])

(2014/C 261/30)

Language of the case: English

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

([1]) OJ C 215, 27.7.2013.

Order of the President of the Sixth Chamber of the Court of 21 May 2014 — Fabryka Łożysk Tocznych-Kraśnik S.A. v Office for Harmonisation in the Internal Market (Trade Marks and Designs), Impexmetal S.A.

(Case C-292/13 P) ([1])

(2014/C 261/31)

Language of the case: Polish

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

([1]) OJ C 215, 27.7.2013.

Order of the President of the Court of 22 May 2014 — Fabryka Łożysk Tocznych-Kraśnik S.A. v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM), Impexmetal S.A.

(Case C-415/13 P) ([1])

(2014/C 261/32)

Language of the case: Polish

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

([1]) OJ C 274, 21.9.2013.

Order of the President of the Court of 7 May 2014 (request for a preliminary ruling from the Bundesgerichtshof — Germany) — Andreas Grund acting as administrator in the insolvency proceedings concerning the assets of SR-Tronic GmbH, Jürgen Reiser, Dirk Seidler v Nintendo Co. Ltd, Nintendo of America Inc.

(Case C-458/13) ([1])

(2014/C 261/33)

Language of the case: German

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

([1]) OJ C 344, 23.11.2013.

Order of the President of the Court of 21 May 2014 (requests for preliminary rulings from the Bundesgerichtshof — Germany) — Walter Jubin (C-475/13), Heidemarie Retzlaff (C-476/13) v easyJet Airline Co. Ltd

(Joined Cases C-475/13 and C-476/13) ([1])

(2014/C 261/34)

Language of the case: German

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

([1]) OJ C 359, 7.12.2013.

Order of the President of the Court of 4 April 2014 — European Commission v Republic of Estonia

(Case C-493/13) ([1])

(2014/C 261/35)

Language of the case: Estonian

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

([1]) OJ C 344, 23.11.2013.

Order of the President of the Court of 4 May 2014 (request for a preliminary ruling from the Krajský súd v Prešove — Slovakia) — CD Consulting s. r. o. v Marián Vasko

(Case C-558/13) ([1])

(2014/C 261/36)

Language of the case: Slovak

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

([1]) OJ C 45, 15.2.2014.

Order of the President of the Court of 14 May 2014 (request for a preliminary ruling from the Bundesgerichtshof — Germany) — Annegret Weitkämper-Krug v NRW Bank — Anstalt des öffentlichen Rechts

(Case C-571/13) ([1])

(2014/C 261/37)

Language of the case: German

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

([1]) OJ C 24, 25.1.2014.

Order of the President of the Court of 30 April 2014 (request for a preliminary ruling from the Sąd Okręgowy w Gliwicach — Poland) — proceedings brought by: Adarco Invest sp. z o.o. w Petrosani w Rumunii Oddział w Polsce w Tarnowskich Górach

(Case C-629/13) ([1])

(2014/C 261/38)

Language of the case: Polish

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

([1]) OJ C 71, 8.3.2014.

Order of the President of the Court of 13 May 2014 (request for a preliminary ruling from the Landgericht Hannover — Germany) — Wilhelm Spitzner, Maria-Luise Spitzner v TUIfly GmbH

(Case C-658/13) ([1])

(2014/C 261/39)

Language of the case: German

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

([1]) OJ C 85, 22.3.2014.

Order of the President of the Court of 7 May 2014 (request for a preliminary ruling from the Oberlandesgericht Düsseldorf — Germany) — Astellas Pharma Inc. v Polpharma SA Pharmaceutical Works

(Case C-661/13) ([1])

(2014/C 261/40)

Language of the case: German

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

([1]) OJ C 129, 28.4.2014.

Order of the President of the Court of 16 May 2014 (request for a preliminary ruling from the Landgericht Frankfurt am Main — Germany) — Condor Flugdienst GmbH v Andreas Plakolm

(Case C-680/13) ([1])

(2014/C 261/41)

Language of the case: German

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

([1]) OJ C 85, 22.3.2014.

Order of the President of the Court of 6 May 2014 (request for a preliminary ruling from the Amtsgericht Rüsselsheim — Germany) — Jürgen Kaiser v Condor Flugdienst GmbH

(Case C-46/14) ([1])

(2014/C 261/42)

Language of the case: German

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

([1]) OJ C 142, 12.5.2014.

GENERAL COURT

Judgment of the General Court of 26 June 2014 — Quimitécnica.com and de Mello v European Commission

(Case T-564/10) ([1])

(Competition — Agreements, decisions and concerted practices — European market in animal feed phosphates — Fines — Payment in instalments — Commission decision requiring a bank guarantee to be set up — Obligation to state reasons — Proportionality)

(2014/C 261/43)

Language of the case: Portuguese

Parties

Applicants: Quimitécnica.com — Comércio e Indústria Química, SA (Lordelo, Portugal); and José de Mello — Sociedade Gestora de Participações Sociais, SA (Lisbon, Portugal) (represented by: J. Calheiros and A. de Albuquerque, lawyers)

Defendant: European Commission (represented by: B. Mongin, V. Bottka and F. Ronkes Agerbeek, Agents, assisted by M. Marques Mendes, lawyer)

Re:

Application for the annulment in part of the decision allegedly set out in the letter from the Commission's accounting officer of 8 October 2010 concerning payment of the fine imposed on the applicants under Commission Decision C (2010) 5004 final of 20 July 2010 relating to a proceeding pursuant to Article 101 TFEU and Article 53 of the EEA Agreement (Case COMP/38.886 — Animal feed phosphates), in so far as that letter requires the applicants to provide a bank guarantee from a bank that has received a long-term 'AA' credit rating in order for the application to pay in instalments to be granted.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Quimitécnica.com — Comércio e Indústria Química, SA and José de Mello — Sociedade Gestora de Participações Sociais, SA to bear their own costs and to pay those of the European Commission.*

([1]) OJ C 55, 19.2.2011.

Judgment of the General Court of 26 June 2014 — Basic v OHIM — Repsol YPF (basic)

(Case T-372/11) ([1])

(Community trade mark — Opposition proceedings — Application for the Community figurative mark basic — Earlier Community figurative mark BASIC — Relative ground for refusal — Similarity of the services — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2014/C 261/44)

Language of the case: English

Parties

Applicant: Basic AG Lebensmittelhandel (Munich, Germany) (represented by: D. Altenburg and H. Bickel, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Repsol YPF, SA (Madrid, Spain) (represented by: J.-B. Devaureix, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 31 March 2011 (Case R 1440/2010-1), concerning opposition proceedings between Repsol YPF SA and Basic AG Lebensmittelhandel.

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders Basic AG Lebensmittelhandel to pay the costs.*

([1]) OJ C 269, 10.9.2011.

Judgment of the General Court of 26 June 2014 — Fundação Calouste Gulbenkian v OHIM — Gulbenkian (GULBENKIAN)

(Case T-541/11) ([1])

(Community trade mark — Opposition proceedings — Application for the Community word mark GULBENKIAN — Earlier well-known national mark, company name and national logos Fundação Calouste Gulbenkian — Relative grounds for refusal — Evidence of the existence of the earlier rights — Article 8(1)(b), (4) and (5) of Regulation (EC) No 207/2009 — Article 90(a) of the Rules of Procedure)

(2014/C 261/45)

Language of the case: English

Parties

Applicant: Fundação Calouste Gulbenkian (Lisbon, Portugal) (represented by: G. Marín Raigal, P. López Ronda and G. Macias Bonilla, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Micael Gulbenkian (Oeiras, Portugal) (represented by: J. Pimenta and A. Sebastião, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 15 July 2011 (Case R 1436/2010-2) relating to opposition proceedings between Fundação Calouste Gulbenkian and Mr Micael Gulbenkian.

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders Fundação Calouste Gulbenkian to pay the costs;*

3) *Orders Mr Micael Gulbenkian to refund to the Court of Justice of the European Union the sum of EUR 1 807,48 in accordance with Article 90(a) of the Rules of Procedure of the General Court.*

([1]) OJ C 362, 10.12.2011.

Action brought on 29 April 2014 — Borde and Carbonium v Commission

(Case T-314/14)

(2014/C 261/46)

Language of the case: English

Parties

Applicants: Alexandre Borde (Paris, France) and Carbonium (Paris) (represented by: A. Herzberg, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul respondent's decisions dated 19 and 20 February 2014 to terminate applicant No 1's assignment in relation to the global GCCA and the Intra-ACP GCCA evaluation programmes;

— order respondent 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 infringement of essential procedural requirements, including the applicants' right to be heard and the obligation to give reasons for decisions.

2. Second plea in law, alleging infringement of the Treaty on European Union, the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms, the defendant having violated the applicants' rights to be treated in a fair, equitable and non-arbitrary manner and the applicants' right to protection of their reputation.

3. Third plea in law, alleging that the attacked decisions constitute a misuse of the defendant's powers.

Action brought on 7 May 2014 — Klement/OHIM — Bullerjan (Form of an oven)

(Case T-317/14)

(2014/C 261/47)

Language in which the application was lodged: English

Parties

Applicant: Toni Klement (Dippoldiswalde, Germany) (represented by: J. Weiser, lawyer)

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

Other party to the proceedings before the Board of Appeal: Bullerjan GmbH (Isernhagen-Kirchhorst, Germany)

Form of order sought

The applicant claims that the Court should:

— Alter the decision of the First Board of Appeal of 27 February 2014 in Case R 1656/2013-1 so that the appeal brought by the applicant is upheld and Community trade mark 4 087 731 is revoked in its entirety;

— Alternatively, annul the contested decision;

— Order OHIM and, as the case may be, the Community trade mark proprietor/possible intervener to pay the costs for these proceedings and of the proceedings before OHIM.

Pleas in law and main arguments

Registered Community trade mark in respect of which an application for revocation has been made: Three-dimensional mark representing an oven, for goods in Class 11 — Community trade mark registration No 4 087 731

Proprietor of the Community trade mark: Bullerjan GmbH

Party applying for revocation of the Community trade mark: The applicant

Decision of the Cancellation Division: Rejected the application for revocation

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 51(1)(a) of Regulation No 207/2009 in conjunction with Article 15 of Regulation No 207/2009

Action brought on 7 May 2014 — Bankia/OHIM — Banco ActivoBank (Portugal) (Bankia)

(Case T-323/14)

(2014/C 261/48)

Language in which the application was lodged: English

Parties

Applicant: Bankia, SA (Valencia, Spain) (represented by: F. De Barba, lawyer)

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

Other party to the proceedings before the Board of Appeal: Banco ActivoBank (Portugal), SA (Lisboa, Portugal)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Second Chamber of the Board of Appeal of 14 February 2014 in cases R 649/2013-2 and R 744/2013-2, so that the Community trade mark application n° 10 125 284 'BANKIA' be granted for all the goods and services;

— Condemn the opponent and/or the OHIM to pay the costs incurred by the applicant/appellant in connection with this appeal.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The figurative mark containing the word element 'Bankia' for goods and services in Classes 9, 16, 35, 36, 38, 41 and 45 — Community trade mark application nº 10 125 284

Proprietor of the mark or sign cited in the opposition proceedings: Banco ActivoBank (Portugal), SA

Mark or sign cited in opposition: The national word mark 'BANKY' for services in Class 36

Decision of the Opposition Division: The opposition was partially upheld

Decision of the Board of Appeal: The appeal of BANKIA S.A. was dismissed and the appeal of Banco ActivoBank (Portugal), SA partially upheld, rejecting the contested trade mark for a wider range of services

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

Action brought on 14 May 2014 — Roca Sanitario v OHIM — Villeroy & Boch (Taps)

(Case T-334/14)

(2014/C 261/49)

Language in which the application was lodged: Spanish

Parties

Applicant: Roca Sanitario, SA (Barcelona, Spain) (represented by: R. Guerras Mazón, lawyer)

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

Other party to the proceedings before the Board of Appeal: Villeroy & Boch AG (Mettlach, Germany)

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Third Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 21 February 2014, in Case R 812/2012-3;

— make an order for costs against OHIM and, as the case may be, the intervener if the latter enters an appearance and contests the action.

Pleas in law and main arguments

Registered Community design in respect of which a declaration of invalidity has been sought: Design of a tap — Community design registration number No 1 264 568-0004

Proprietor of the Community design: Applicant

Party requesting the declaration of invalidity of the Community design: Villeroy & Boch AG

Grounds for the application for a declaration of invalidity: Lack of novelty and of individual character compared with its own design for a tap (No 00 584 560-0004)

Decision of the Cancellation Division: Application for a declaration of invalidity upheld

Decision of the Board of Appeal: Appeal dismissed

Pleas in law: Breach of Article 6 of Regulation No 6/2002 in conjunction with Article 25(1)(b) of the same regulation.

Action brought on 15 May 2014 — Société des produits Nestlé/OHIM (NOURISHING PERSONAL HEALTH)

(Case T-336/14)

(2014/C 261/50)

Language of the case: English

Parties

Applicant: Société des produits Nestlé SA (Vevey, Switzerland) (represented by: A. Jaeger-Lenz, A. Lambrecht and S. Cobet-Nüse, lawyers)

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

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 12 March 2014 in case R 149/2013-4;

— Order the OHIM to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: International registration of the word mark 'NOURISHING PERSONAL HEALTH' for goods and services in Classes 5, 10, 41, 42 and 44 — Community trade mark application n° 01 102 735

Decision of the Examiner: The application was rejected

Decision of the Board of Appeal: The appeal was rejected

Pleas in law:

— Infringement of Article 76(1) of Regulation No 207/2009;

— Infringement of Article 75 of Regulation No 207/2009;

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

Action brought on 15 May 2014 — Klyuyev v Council

(Case T-340/14)

(2014/C 261/51)

Language of the case: English

Parties

Applicant: Andriy Klyuyev (Donetsk, Ukraine) (represented by: R. Gherson, Solicitor)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul, insofar as it applies to the applicant:

  — Council Decision 2014/119/CFSP of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine; and

  — Council Regulation (EU) No 208/2014 of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine.

— order the Council to pay the costs of the proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that Article 29 TEU was not a proper legal basis for the contested decision because the complaint made against the applicant did not identify him as an individual having undermined the rule of law or human rights in Ukraine within the meaning of Articles 21(2) and 23 TEU. The applicant submits that as the contested decision was invalid, the Council could not rely on Article 215(2) TFEU to enact the contested regulation. At the time the restrictive measures were imposed, there was, according to the applicant, no charge or claim against him that his activities threatened to undermine the rule of law or violated any human rights in Ukraine.

2. Second plea in law, alleging that the Council violated the applicant's rights of defence and the right to effective judicial protection as the basis on which the applicant is listed amounts to a public proclamation of guilt prior to any judicial determination of the issue and as the applicant has not been given any particular information in relation to the reasons indicated in the contested measures for his inclusion on the list of persons, entities and bodies subject to the restrictive measures despite his request to the Council for information.

3. Third plea in law, alleging that the Council failed to give the applicant sufficient reasons for his listing. The applicant alleges that no details have been provided as to the nature of the conduct of the applicant that led to his listing. The applicant further alleges that no details have been provided as to the entity responsible for the criminal proceedings to which the applicant is allegedly subject, nor as to the date on which the proceedings were opened against the applicant.

4. Fourth plea in law, alleging that the Council infringed, in an unjustified and disproportionate manner, the applicant's fundamental rights to property and reputation as the restrictive measures were not provided for by law and were imposed without proper safeguards enabling the applicant to put his case effectively to the Council.

5. Fifth plea in law, alleging that the Council relied on materially inaccurate facts and committed a manifest error of assessment. The applicant submits that according to the information available to him no criminal proceedings or investigations are being conducted against him in relation to the embezzlement of Ukrainian State funds or their illegal transfer out of Ukraine.

6. Sixth plea in law, alleging that the Council failed to ensure the relevance and validity of the evidence underlying the listing of the applicant as it failed to consider whether the current Acting General Prosecutor of Ukraine had authority under the Constitution of Ukraine to commence investigations against the applicant and failed to take into consideration that an investigation against the applicant in Austria was closed because of insufficient evidence to support the allegations against the applicant of embezzlement of state funds.

Action brought on 15 May 2014 — Klyuyev v Council

(Case T-341/14)

(2014/C 261/52)

Language of the case: English

Parties

Applicant: Sergiy Klyuyev (Donetsk, Ukraine) (represented by: R. Gherson, Solicitor)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul, insofar as it applies to the applicant:

  — Council Decision 2014/119/CFSP of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine; and

  — Council Regulation (EU) No 208/2014 of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine.

— order the Council to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on seven pleas in law of which six are essentially identical or similar to those relied on in Case T-340/14, *Klyuyev* v *Council*.

Furthermore, the applicant relies on a plea in law alleging that the Council failed to fulfil the criterion for including the applicant on the list of persons, entities and bodies subject to the restrictive measures, namely that the person has been *identified as responsible* for the misappropriation of Ukrainian State funds or human rights violations in Ukraine, as the only reason given for the listing of the applicant is that he is said to be subject to *investigation* in Ukraine for involvement in crimes in connection with the embezzlement of Ukrainian State funds and their illegal transfer outside Ukraine.

Action brought on 19 May 2014 — Cipriani/OHIM — Hotel Cipriani (CIPRIANI)

(Case T-343/14)

(2014/C 261/53)

Language in which the application was lodged: English

Parties

Applicant: Arrigo Cipriani (Venice, Italy) (represented by: A. Vanzetti, S. Bergia, and G. Sironi, lawyers)

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

Other party to the proceedings before the Board of Appeal: Hotel Cipriani (Venice, Italy)

Form of order sought

The applicant claims that the Court should:

— Cancel the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 14 March 2014 in Case R 224/2012-4 and declare the nullity, pursuant to Article 52(1)(b) and Article 53(2)(a) of Regulation No 207/2009 in connection with Article 8.3 of the Italian Code of Industrial Property, of the trademark 'Cipriani' No 115824 held by Hotel Cipriani for all goods and services for which the trademark is registered or;

— Subordinately, for all goods or services other than 'hotels and hotel reservation' services or;

— Subordinately in relation to services of 'restaurants, cafeterias, public eating places, bars, catering, delivery of drinks and beverages for immediate consumption' or;

— Remit the proceedings to the OHIM so that it may issue that declaration of nullity;

— Order that Mr Arrigo Cipriani's costs for these proceedings be entirely reimbursed.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: The word mark 'CIPRIANI' for goods and services in Classes 16, 35 and 42 — Community trade mark No 115 824

Proprietor of the Community trade mark: Hotel Cipriani

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

Grounds for the application for a declaration of invalidity: The trade mark had been registered in bad faith and infringed the right to a renowned personal name 'CIPRIANI'

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

Decision of the Board of Appeal: The appeal was dismissed

Pleas in law:

— Violation of Article 53(2)(a) of Regulation No 207/2009 in relation to article 8.3 of the Italian Code of Industrial Property;

— Violation of Article 52(1)(b) of Regulation No 207/2009.

Action brought on 20 May 2014 — Construlink/OHIM — Wit-Software (GATEWIT)

(Case T-351/14)

(2014/C 261/54)

Language in which the application was lodged: English

Parties

Applicant: Construlink — Tecnologias de Informação, SA (Lisboa, Portugal) (represented by: M. Lopes Rocha, lawyer)

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

Other party to the proceedings before the Board of Appeal: Wit-Software, Consultoria e Software para a Internet Móvel, SA (Coimbra, Portugal)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 6 March 2014 in Case R 1059/2013-1;

— Consider the trade mark application No 10 128 262 GATEWIT fully sustained;

— Order the OHMI and the Opponent to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: Word mark 'GATEWIT' for services in Class 42 — Community trade mark application No 10 128 262

Proprietor of the mark or sign cited in the opposition proceedings: Wit-Software, Consultoria e Software para a Internet Móvel, SA

Mark or sign cited in opposition: The figurative mark containing the word elements 'wit software' for goods and services in Classes 9, 38 and 42 as well as the national registration of the company name 'Wit-Software, Consultoria e Software para a Internet Móvel, SA'

Decision of the Opposition Division: The opposition was rejected

Decision of the Board of Appeal: The decision of the Opposition Division was annulled and the trade mark applied for rejected

Pleas in law:

— Violation of Article 8(1)(b) of Regulation No 207/2009;

— Violation of Article 8(4) of Regulation No 207/2009.

Action brought on 27 May 2014 — REWE-Zentral/OHIM — Vicente Gandia Pla (MY PLANET)

(Case T-362/14)

(2014/C 261/55)

Language in which the application was lodged: English

Parties

Applicant: REWE-Zentral AG (Köln, Germany) (represented by: M. Kinkeldey, S. Brandstätter and A. Wagner, lawyers)

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

Other party to the proceedings before the Board of Appeal: Vicente Gandia Pla, SA (Chiva, Spain)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 6 March 2014 in Case R 201/2013-1;

— Condemn the defendant to the costs of the proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The figurative mark containing the word elements 'MY PLANET' for goods in classes 25, 32 and 33 — Community trade mark application No 8 566 515

Proprietor of the mark or sign cited in the opposition proceedings: Vicente Gandia Pla, SA

Mark or sign cited in opposition: The word mark 'EL MIRACLE PLANET' for goods in classes 25, 32 and 33

Decision of the Opposition Division: The Opposition was allowed

Decision of the Board of Appeal: The appeal was dismissed

Pleas in law: Infringement of Articles 8(1)(b) and 41(1) of Regulation No 207/2009

Action brought on 23 May 2014 — Penny-Markt v OHIM — Boquoi Handels (B! O)

(Case T-364/14)

(2014/C 261/56)

Language in which the application was lodged: German

Parties

Applicant: Penny-Markt GmbH (Cologne, Germany) (represented by: M. Kinkeldey, S. Brandstätter and A. Wagner, lawyers)

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

Other party to the proceedings before the Board of Appeal: Boquoi Handels OHG (Straelen, Germany)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 21 March 2014 in Case R 1201/2013-4;

— Order the defendant to pay the costs.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: the figurative mark including the word element 'B! O' for goods in Classes 29, 30, 31 and 32 — Community trade mark No 10 038 008

Proprietor of the Community trade mark: the applicant

Applicant for the declaration of invalidity of the Community trade mark: Boquoi Handels OHG

Grounds for the application for a declaration of invalidity: the national and Community trade mark 'bo' for goods and services in Classes 5, 16, 21, 29, 31, 32, 33 and 35

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

Decision of the Board of Appeal: the decision of the Cancellation Division was annulled and the Community trade mark was declared invalid

Pleas in law: Infringement of Articles 8(1)(b) and 53(1)(a) of Regulation No 207/2009

Action brought on 28 May 2014 — August Storck v OHIM — Chiquita Brands (Fruitfuls)

(Case T-367/14)

(2014/C 261/57)

Language in which the application was lodged: English

Parties

Applicant: August Storck KG (Berlin, Germany) (represented by: I. Rohr, A.-C. Richter, P. Goldenbaum and T. Melchert, lawyers)

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

Other party to the proceedings before the Board of Appeal: Chiquita Brands LLC (Charlotte, United States)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 27 March 2014 in Case R 1580/2013-5;

— Order the defendant to pay its own costs and those of the applicant, and, should Chiquita Brands LLC intervene in the proceedings, order Chiquita Brands LLC to pay its own costs.

Pleas in law and main arguments

Registered Community trade mark in respect of which an application for revocation has been made: The word mark 'Fruitfuls' for goods in Class 30 — Community trade mark registration No 5 014 519

Proprietor of the Community trade mark: The applicant

Party applying for revocation of the Community trade mark: Chiquita Brands LLC

Decision of the Cancellation Division: The trade mark was revoked

Decision of the Board of Appeal: The appeal was dismissed

Pleas in law: Infringement of Article 51(1)(a) of Regulation No 207/2009.

Action brought on 23 May 2014 — Petropars and Others v Council

(Case T-370/14)

(2014/C 261/58)

Language of the case: English

Parties

Applicants: Petropars Ltd (Teheran, Iran); Petropars International FZE (Dubai, United Arab Emirates); and Petropars UK Ltd (London, United Kingdom) (represented by: S. Zaiwalla, P. Reddy and Z. Burbeza, Solicitors, and R. Blakeley, Barrister)

Defendant: Council of the European Union

Form of order sought

The applicants claim that the Court should:

— annul the March 2014 Decision;

— annul the March 2014 Notice insofar as it applies to the applicants; and

— order the Council to pay the applicants' costs of this application.

Pleas in law and main arguments

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

1. First plea in law, alleging that the criteria for listing set out in Article 23(2)(d) of Regulation No 267/2012 ([1]) or Article 20(1)(c) of Decision 2010/413 ([2]) are not satisfied and that the Council committed a manifest error of assessment in determining that the criteria were met and remain met because the applicants are not owned or controlled by the National Iranian Oil Company (NIOC).

2. Second plea in law, alleging that the criteria for listing are not met because the Council has not proved that NIOC financially supports the Iranian government.

3. Third plea in law, alleging that the maintenance of the designation of the applicants is in any event in violation of their fundamental rights and freedoms, including their right to trade and to carry out their businesses and to peaceful enjoyment of their possessions and/or is in violation of the principle of proportionality. The applicants further allege that the continued listing represents a breach of the precautionary principle and of the principles of environmental protection and the protection of human health and safety, as it is likely to cause significant damage to the health and safety of ordinary Iranian workers and the environment.

4. Fourth plea in law, alleging that the Council breached the applicants' rights of defence by failing to conduct a full and adequate review of the applicants' designation and properly to consider the observations presented to it.

([1]) Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (OJ 2012 L 88, p. 1).

([2]) Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ 2010 L 195, p. 39).

Action brought on 26 May 2014 — NICO v Council

(Case T-371/14)

(2014/C 261/59)

Language of the case: English

Parties

Applicant: Naftiran Intertrade Co. (NICO) Sàrl (Pully, Switzerland) (represented by: J. Grayston, Solicitor, P. Gjørtler, G. Pandey and D. Rovetta, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul the Council decision contained in the letter of 14 March 2014, addressed to the lawyers of the applicant, concerning review of the list of designated persons and entities in Annex II to Council Decision 2010/413/CFSP concerning restrictive measures against Iran, as amended by Council Decision 2012/635/CFSP of 15 October 2012, and in Annex IX to Regulation (EU) No 267/2012 concerning restrictive measures against Iran, as implemented by Council Implementing Regulation (EU) No 945/2012 of 15 October 2012, in so far as the contested decision constitutes a refusal to remove the applicant from the list of persons and entities made subject to the restrictive measures;

— join the present proceedings with the case T-6/13 in accordance with Article 50(1) of the Rules of Procedure;

— order the Council to bear the costs of the present proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on two pleas in law, alleging that the statement of grounds was insufficient and that the Council committed a manifest error of assessment.

The applicant argues that it is a not a subsidiary of Naftiran Intertrade Company (NICO) Limited, as this company no longer exists in Jersey, and in any case the Council has not substantiated that even if the applicant were a subsidiary of Naftiran Intertrade Company (NICO) Limited, this would entail an economic benefit for the Iranian State that would be contrary to the objective pursued by the contested measures.

Action brought on 26 May 2014 — HK Intertrade v Council

(Case T-372/14)

(2014/C 261/60)

Language of the case: English

Parties

Applicant: HK Intertrade Co. Ltd (Wanchai, Hong-Kong) (represented by: J. Grayston, Solicitor, P. Gjørtler, G. Pandey, D. Rovetta, D. Sellers and N. Pilkington, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul the Council decision contained in the letter of 14 March 2014, addressed to the lawyers of the applicant, concerning review of the list of designated persons and entities in Annex II to Council Decision 2010/413/CFSP concerning restrictive measures against Iran, as amended by Council Decision 2012/829/CFSP of 21 December 2012, and in Annex IX to Regulation (EU) No 267/2012 concerning restrictive measures against Iran, as implemented by Council Implementing Regulation (EU) No 1264/2012 of 21 December 2012, in so far as the contested decision constitutes a refusal to remove the applicant from the list of persons and entities made subject to the restrictive measures;

— join the present proceedings with the case T-159/13 in accordance with Article 50(1) of the Rules of Procedure;

— order the Council to bear the costs of the present proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on two pleas in law, alleging that the statement of grounds was insufficient and that the Council committed a manifest error of assessment.

The applicant argues that although it is a subsidiary of the listed company National Iranian Oil Company (NIOC), the Council has not substantiated that this entails any economic benefit for the Iranian State that would be contrary to the objective pursued by the contested measures. The applicant further submits that the Council has in fact never designated the applicant and that this error cannot be remedied by means of a corrigendum as the Council did.

Action brought on 26 May 2014 — Petro Suisse Intertrade v Council

(Case T-373/14)

(2014/C 261/61)

Language of the case: English

Parties

Applicant: Petro Suisse Intertrade Co. SA (Pully, Switzerland) (represented by: J. Grayston, Solicitor, P. Gjørtler, G. Pandey, D. Rovetta, D. Sellers and N. Pilkington, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul the Council decision contained in the letter of 14 March 2014, addressed to the lawyers of the applicant, concerning review of the list of designated persons and entities in Annex II to Council Decision 2010/413/CFSP concerning restrictive measures against Iran, as amended by Council Decision 2012/829/CFSP of 21 December 2012, and in Annex IX to Regulation (EU) No 267/2012 concerning restrictive measures against Iran, as implemented by Council Implementing Regulation (EU) No 1264/2012 of 21 December 2012, in so far as the contested decision constitutes a refusal to remove the applicant from the list of persons and entities made subject to the restrictive measures;

— join the present proceedings with the case T-156/13 in accordance with Article 50(1) of the Rules of Procedure;

— order the Council to bear the costs of the present proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on two pleas in law, alleging that the statement of grounds was insufficient and that the Council committed a manifest error of assessment.

The applicant argues that although it is a subsidiary of the listed company National Iranian Oil Company (NIOC), the Council has not substantiated that this entails any economic benefit for the Iranian State that would be contrary to the objective pursued by the contested measures.

Action brought on 30 May 2014 — Pshonka v Council

(Case T-380/14)

(2014/C 261/62)

Language of the case: English

Parties

Applicant: Artem Viktorovych Pshonka (Moscow, Russia) (represented by: C. Constantina and J.-M. Reymond, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— partially annul, on the basis of Article 263 of the Treaty on the Functioning of the European Union (TFEU), Council Decision 2014/119/CFSP of 5 March 2014 and Council Regulation No 208/2014 of 5 March 2014, insofar as they concern the applicant and, more specifically, order:

  — to remove the applicant's name from Annex I of the Council Regulation No 208/2014 of 5 March 2014;

  — to remove the applicant's name from Annex I of the Council Decision 2014/119/CFSP of 5 March 2014;

— partially annul, on the basis of Article 263 TFEU, Council Decision 2014/119/CFSP of 5 March 2014 and Council Regulation No 208/2014 of 5 March 2014, insofar as they do not conform to the Joint Proposal;

— order the Council to bear the costs of this suit and award costs to the applicant.

Pleas in law and main arguments

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

1. First plea in law, alleging lack of competence of the Council and infringement of the natural judge's competences as:

   — the adoption of the contested regulation violated the procedure laid down in Article 215(2) TFEU since the regulation expanded the scope of the restrictive measures compared to the joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the Commission, which the regulation was based on;

   — the listing of the applicant lead to pillorying an individual who had not benefited from a due process and who had not been condemned by a competent court of law.

2. Second plea in law, alleging obvious errors in the appreciation of the facts. The applicant submits that no investigation was initiated against him in connection with the embezzlement of Ukrainian State funds and/or their illegal transfer outside Ukraine before or at the moment of the adoption of the contested measures. Moreover, the applicant alleges that even if the alleged investigation did exist, it would not have any factual or legal basis and would be exclusively politically motivated. Finally, the applicant claims that the reasons given by the Council for listing the applicant do not meet the conditions set by the contested measures and are not supported by any evidence.

3. Third plea in law, alleging violations of the applicant's fundamental rights. The applicant submits that:

   — the Council failed to provide the applicant with the individual and specific factual and legal reasons in violation of Article 296 TFUE;

   — the applicant was not given the right to make his views known to the Council;

   — the contested measures identify the applicant as being responsible for the misappropriation of Ukrainian State funds in the absence of any judgment and any proof thereof, which constitutes a violation of the applicant's right to be presumed innocent until proven guilty;

   — the applicant was not informed of any evidence adduced against him, thus making him unable to contest it before the Court, which constitutes a violation of his right to an effective legal remedy;

   — the appellant is directly deprived of his property rights;

   — the contested sanctions are disproportionate compared to the circumstances of the case and the available evidence, and

   — the way in which applicant is portrayed in the contested measures seriously harms his reputation.

Action brought on 30 May 2014 — Pshonka v Council

(Case T-381/14)

(2014/C 261/63)

Language of the case: English

Parties

Applicant: Viktor Pavlovych Pshonka (Moscow, Russia) (represented by: C. Constantina and J.-M. Reymond, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— partially annul, on the basis of Article 263 of the Treaty on the Functioning of the European Union (TFEU), Council Decision 2014/119/CFSP of 5 March 2014 and Council Regulation No 208/2014 of 5 March 2014, insofar as they concern the applicant and, more specifically, order:

   — to remove the applicant's name from Annex I of the Council Regulation N. 208/2014 of 5 March 2014;

   — to remove the applicant's name from Annex I of the Council Decision 2014/119/CFSP of 5 March 2014;

— partially annul, on the basis of Article 263 TFEU, Council Decision 2014/119/CFSP of 5 March 2014 and Council Regulation No 208/2014 of 5 March 2014, insofar as they do not conform to the Joint Proposal;

— order the Council to bear the costs of this suit and award costs to the applicant.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law which are essentially identical or similar to those relied on in Case T-380/14, *Pshonka* v *Council*.

Action brought on 2 June 2014 — salesforce.com v OHIM (MARKETINGCLOUD)

(Case T-387/14)

(2014/C 261/64)

Language of the case: English

Parties

Applicant: salesforce.com, Inc. (San Francisco, United States) (represented by: A. Nordemann, lawyer)

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

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 6 March 2014 given in Case R 1852/2013-1;

— Order the defendant to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: The word mark 'MARKETINGCLOUD' for goods and services in Classes 9, 41 and 45 — Community trade mark application No 10 979 359

Decision of the Examiner: Found the trade mark not eligible for registration

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 7(1)(b) and (c) CTMR.

Action brought on 4 June 2014 — Premo v OHIM — Prema Semiconductor (PREMO)

(Case T-400/14)

(2014/C 261/65)

Language in which the application was lodged: English

Parties

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

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

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

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 1 April 2014 in Case R 1000/2013-5;

— Subsidiarily, annul the contested decision to the extent that it upheld the opposition regarding 'inductors', 'transformers' and 'noise filters';

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

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The international registration designating the European Union for the figurative mark containing the word element 'PREMO', for goods in Class 9 — International registration designating the European Union No 973 341

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

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

Decision of the Opposition Division: The opposition was partially upheld

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

Pleas in law:

— Infringement of Rule 22(6) of Commission Regulation No. 2868/95 and the rights of defence of the applicant;

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

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

Action brought on 6 June 2014 — FCC Aqualia v OHIM — Sociedad General de Aguas de Barcelona (AQUALOGY)

(Case T-402/14)

(2014/C 261/66)

Language in which the application was lodged: Spanish

Parties

Applicant: FCC Aqualia, SA (Madrid, Spain) (represented by: J. de Oliveira Vaz Miranda de Sousa and N. González-Alberto Rodríguez, lawyers)

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

Other party to the proceedings before the Board of Appeal: Sociedad General de Aguas de Barcelona, SA (Barcelona, Spain)

Form of order sought

The applicant claims that the Court should:

— annul in part the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 13 March 2014 in Case R 1209/2013-1, and refuse registration of Community trade mark No 10 122 976 'AQUALOGY' for services in Classes 35, 37, 39, 40 and 42 on the basis of the relative ground for refusal set out in Article 8(1)(b) of Regulation No 207/2009;

— in the alternative, should the above form of order not be granted in its entirety, annul in part the contested decision on the basis of Article 8(5) of Regulation No 207/2009, in so far as that decision confirmed the rejection of the opposition against Community trade mark No 10 122 976 'AQUALOGY' for services in Classes 35, 37, 39, 40 and 42, and refer the matter back to the Board of Appeal for the appeal to be examined once more in its entirety so far as the ground for refusal set out in the abovementioned article is concerned;

— order OHIM to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: Sociedad General de Aguas de Barcelona, SA

Community trade mark concerned: Figurative mark including the word element 'AQUALOGY' for goods and services in Classes 1, 4, 5, 6, 7, 9, 11, 12, 17, 19, 27, 32, 33, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45 — Community trade mark application No 10 122 976

Proprietor of the mark or sign cited in the opposition proceedings: Applicant

Mark or sign cited in opposition: Word mark 'AQUALIA' and national figurative mark including the word element 'AQUALIA' for goods and services in Classes 7, 9, 32, 35, 36, 37, 39, 40 and 42

Decision of the Opposition Division: Opposition rejected

Decision of the Board of Appeal: Appeal dismissed

Pleas in law: Infringement of Article 8(1)(b) and Article 8(5) of Regulation No 207/2009

Action brought on 31 May 2014 — Yavorskaya v Council and Others

(Case T-405/14)

(2014/C 261/67)

Language of the case: French

Parties

Applicant: Elena Yavorskaya (Moscow, Russia) (represented by: D. Grisay, C. Hartman and Y.G. Georgiades, lawyers)

Defendants: Council of the European Union, European Commission, European Central Bank (ECB) and Eurogroup, represented by the Council of the European Union

Form of order sought

— Declare the present action, based on non-contractual liability under Article 340 of the Treaty on the Functioning of the European Union, admissible;

— Declare the action well founded on the ground that the measures imposed by the different institutions of the European Union on the Republic of Cyprus as regards the attachment of bank accounts constitute a sufficiently serious infringement of the fundamental principles of EU law, conferring rights on individuals, which constitutes a breach of Article 340 TFEU;

— Hold that the actions of the European Union constitute serious and clear misconduct which has had the consequence that the applicant has suffered harm estimated, without prejudice, at the sum of EUR 3 299 855,45, subject to reduction or increase during the proceedings, in particular having regard to interest and costs which, if appropriate, are due;

— Order the European Union to pay the sums set out above;

— Order the European Union, in addition, to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law, alleging non-contractual liability of the European Union and, more exactly, an infringement of the right of property and the principle of non-discrimination.

The measures imposed by the European Union on the Republic of Cyprus led to the applicant's accounts with the Laïki Bank being blocked, without any fair compensation having been paid to her in advance.

The European Union thus manifestly and unreasonably infringed the applicant's right of property and the principle of non-discrimination, since only deposits of less than EUR 100 000 made with the Laïki Bank were safeguarded under the European measures imposed on the Cypriot authorities.

Action brought on 17 June 2014 — Pirelli & C. v Commission

(Case T-455/14)

(2014/C 261/68)

Language of the case: Italian

Parties

Applicant: Pirelli & C. SpA (Milan, Italy) (represented by: M. Siragusa, F. Moretti, G. Rizza and P. Ferrari, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

primarily

— annul the Decision in so far as it concerns the applicant, specifically Articles 1(5)(d), 2(g) and 4 thereof, but only as regards the inclusion of the applicant in the list of persons to whom that decision is addressed;

in the alternative

— allow *beneficium ordinis seu excussionis* [(that is, make an order to the effect that any creditors must pursue the principal debtor, in the present case Prysmian S.p.A. ('Prysmian'), before pursuing any other debtors, including the applicant)];

in the event that a ruling is made in Prysmian's favour in the separate proceedings brought by that company in the form of an action for annulment of the Decision

— annul the Decision or amend Article 2(g) thereof, reducing the fine imposed jointly and severally on Prysmian and the applicant;

in any event

— order the European Commission to pay the costs.

Pleas in law and main arguments

The present action has been brought against European Commission Decision C(2014) 2139 final of 2 April 2014 relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement (Case AT.39610 — *Power cables*) [('the Decision')].

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

1. First plea in law, alleging a breach of the duty to state reasons

   By its first plea, Pirelli claims that the reasons in support of the argument that the *Parental Liability Presumption* ('PLP') does not apply to the Pirelli-Prysmian relationship were not discussed or even referred to in the Decision. The Decision is therefore vitiated by a complete failure to state reasons and should be annulled.

2. Second plea in law, alleging breach of general principles and infringement of fundamental rights by applying the presumption of decisive influence

   By its second plea, the applicant claims that the Decision has infringed its fundamental rights as protected by Articles 48 and 49 of [the Charter of Fundamental Rights of the European Union ('the Charter')] and Articles 6(2) and 7(1) of [the European Convention for the Protection of Human Rights and Fundamental Freedoms ('the Convention')]. Furthermore, imputing liability to the applicant constitutes an infringement of the right to property (Article 1 of the Additional Protocol to the Convention, Article 14 of the Convention, and Articles 17 and 21 of the Charter) and is therefore inconsistent with the principle of neutrality laid down in Article 345 TFEU. Lastly, the applicant claims that the Commission has clearly infringed its rights of the defence, enshrined in Article 6 of the Convention and Article 48(2) of the Charter, since, owing to its not having access to any evidence which could be used to refute the allegations made against Prysmian, the applicant was unable to defend itself in respect of the unlawful conduct at issue.

3. Third plea in law, alleging that the [PLP] does not apply, since the conditions for its application are not satisfied, and alleging infringement of Article 101 TFEU

   By its third plea, the applicant claims that, in the present case, the Commission wrongly applied the PLP — in breach of Article 101 TFEU — and did not give due consideration to the particular features of the Pirelli-Prysmian control relationship.

4. Fourth plea in law, alleging breach of the principle of proportionality

   By its fourth plea, the applicant claims that applying the PLP in the present case infringes the principle of proportionality as enshrined in Article 5(4) TEU, since the PLP is not designed to achieve any of the aims in respect of which the Commission is attempting to use it. There was therefore no reason for extending to the applicant the liability imputed to Prysmian.

5. Fifth plea in law, alleging breach of the principles of proportionality and equal treatment by wrongly applying the principle of joint and several liability to the applicant and Prysmian in connection with the obligation to pay the fine imposed by the Commission or, in the alternative, by failing to make a suitable adjustment to that principle

   By its fifth plea, the applicant claims that imposing liability on the applicant jointly and severally with Prysmian not only does not achieve the objectives which the Commission seeks to pursue with regard to penalties but even directly conflicts with those objectives. In the alternative, in order to take account of the separate liability imputable to Prysmian and the applicant, the Commission should at least have allowed *beneficium ordinis seu excussionis*. Lastly, by failing suitably to reflect the difference between the applicant's position and Prysmian's position, the Commission infringed the principles of proportionality and equal treatment. The court hearing the case must therefore exercise its unlimited jurisdiction to annul the part of the Decision concerning the fine or, in the alternative, reformulate that part and allow *beneficium ordinis seu excussionis*.

6. Sixth plea in law, alleging that the Decision is unlawful because the part concerning Prysmian infringes Article 101 TFEU and Articles 2 and 23 of Regulation (EC) No 1/2003

   By its sixth plea, the applicant argues in support of its own right to obtain an annulment (in part or in full) of the Decision or a reduction of the fine to reflect the remedies obtained by Prysmian in its action against the Decision. The arguments put forward in that action, with the exception of those unfavourable to the applicant, are reproduced in the present action.

Action brought on 16 June 2014 — TAO/AFI and SFIE v Parliament and Council

(Case T-456/14)

(2014/C 261/69)

Language of the case: French

Parties

Applicants: Association des Fonctionnaires Indépendants pour la Défense de la Fonction Publique Européenne/Association of Independent Officials for the Defence of the European Civil Service (TAO/AFI) (Brussels, Belgium) and Syndicat des Fonctionnaires Internationaux et Européens/Union of International and European Civil Servants (SFIE) (Brussels, Belgium) (represented by: M. Casado García-Hirschfeld, lawyer)

Defendants: Council of the European Union and European Parliament

Form of order sought

The applicants claim that the Court should:

— Declare the present action for annulment before it admissible;

— Annul the contested Regulations with all the attendant consequences in law;

— Order the defendants to pay the costs in their entirety.

Pleas in law and main arguments

In support of the action, the applicants rely on a single plea in law alleging infringement of the prerogatives which they have as trade unions and professional associations, namely the right to consultation and the right of negotiation.

The applicants were not consulted either at the stage of preparation of the proposals or during the stage of the negotiations in respect of the disputed Regulations.

Appeal brought on 18 June 2014 by Thierry Rouffaud against the judgment of the Civil Service Tribunal of 9 April 2014 in Case F-59/13, *Rouffaud* v *EEAS*

(Case T-457/14 P)

(2014/C 261/70)

Language of the case: French

Parties

Appellant: Thierry Rouffaud (Brussels, Belgium) (represented by M. de Abreu Caldas, D. de Abreu Caldas and J.-N. Louis, lawyers)

Other party to the proceedings: European External Action Service (EEAS)

Form of order sought by the appellant

— Set aside the judgment of the European Union Civil Service Tribunal (Third Chamber) of 9 April 2014 in Case F-59/13 *Rouffaud* v *European External Action Service*;

— Order the EEAS to pay the costs.

Pleas in law and main arguments

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

1. First ground of appeal, alleging infringement of the rights of the defence, in so far as the Civil Service Tribunal (CST) failed to draw the attention of the parties to the question of the admissibility of the application until just before the final act of long proceedings, making it impossible for the applicant to prepare adequate arguments.

2. Second ground of appeal, alleging an error of law as regards the application of the rule on consistency, in so far as the subject-matter and the cause are perfectly identical as between the claim and the action for annulment.

3. Third ground of appeal, alleging a distortion of the evidence and of the facts, in so far as the CST included in its judgment only a limited part of the applicant's pleadings, which does not reflect the true situation after the closure of the written procedure.

Appeal brought on 20 June 2014 by Risto Nieminen against the judgment of the Civil Service Tribunal of 10 April 2014 in Case F-81/12, *Nieminen* v *Council*

(Case T-464/14 P)

(2014/C 261/71)

Language of the case: French

Parties

Appellant: Risto Nieminen (Kraainem, Belgium) (represented by M. de Abreu Caldas, D. de Abreu Caldas and J.-N. Louis, lawyers)

Other party to the proceedings: Council of the European Union

Form of order sought by the appellant

The appellant claims that the Court should:

— set aside the judgment of the Civil Service Tribunal of the European Union (Second Chamber) of 10 April 2014 in Case F-81/12 (*Risto Nieminen* v *Council*);

— order the Council to pay the costs of both sets of proceedings

Pleas in law and main arguments

The appellant relies on two grounds of appeal.

1. First ground of appeal: infringement of the rights of the defence, in so far as the Civil Service Tribunal found that the appellant had failed to adduce sufficient evidence to show that there had been a manifest error of assessment, even though it was aware that the appellant was not really in a position to do so and despite its refusal to compel the defendant at first instance to produce all the documents relevant for the purposes of determining whether that plea was well founded.

2. Second ground of appeal: distortion of the evidence and the facts.

Action brought on 24 June 2014 — Kingdom of Spain v Commission

(Case T-466/14)

(2014/C 261/72)

Language of the case: Spanish

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— Partially annul the Commission's decision of 14 April 2014, in that it held that the remission of import duties in accordance with Article 236 in conjunction with Article 220(2)(b) of the Community Customs Code [Regulation (EEC) No 2913/92] was justified and that the remission of another amount of import duty was not justified in a particular case (file REM 02/2013) as regards the refusal to remit import duties which is considered, wrongly, not to be justified, and

— Order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the right to good administration in relation to Article 872a of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ 1993 L 253, p. 1).

   — The Applicant submits that in the context of a procedure such as that of remission, in which the Commission may request all the additional information it considers appropriate and must give reasons for adopting a unfavourable decision, a decision that includes reasons for the refusal other than those included in its previous communication is contrary to Article 41 of the Charter of Fundamental Rights of the European Union.

2. Second plea in law, alleging infringement of Article 220(2)(b) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1).

   — According to the Applicant the conditions laid down in settled case-law and forming the basis of numerous previous Commission decisions allowing remissions in the tuna sector in the past have been satisfied. In particular, the legislation is complex, the exporter did not give an incorrect version, the interpretation of the provisions on the basis of correction information is different, the Commission is in part responsible and the competent authorities persisted in their error and never applied the provisions correctly.

Action brought on 25 June 2014 — Ibercaja Banco and Others v Commission

(Case T-471/14)

(2014/C 261/73)

Language of the case: Spanish

Parties

Applicants: Ibercaja Banco, SA (Zaragoza, Spain); Banco Grupo Cajatres SA (Zaragoza); and Naviera Bósforo, AIE (Las Palmas de Gran Canaria, Spain) (represented by: J.L. Buendía Sierra, E. Abad Valdenebro, R. Calvo Salinero and A. Lamadrid de Pablo, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the General Court should:

— annul the contested decision in so far as it categorises the measures which, according to that decision, together constitute the 'Spanish Tax Lease System' as new State aid that is incompatible with the internal market;

— in the alternative, annul Articles 1 and 4 of the contested decision, which identify the investors in the Economic Interest Groupings (EIGs) as the beneficiaries of the alleged aid and as the sole addressees of the order for recovery;

— in the alternative, annul Article 4 of the contested decision, in so far as it orders recovery of the alleged aid;

— annul Article 4 of the contested decision, in so far as it makes a determination as to the lawfulness of private contracts between the investors and other entities; and

— order the Commission to pay the costs of these proceedings.

Pleas in law and main arguments

The pleas in law and main arguments are those raised in Case T-700/13 *Bankia* v *Commission*.

Action brought on 25 June 2014 — Joyería Tous v Commission

(Case T-472/14)

(2014/C 261/74)

Language of the case: Spanish

Parties

Applicant: Joyería Tous, SA (Lleida, Spain) (represented by: J.L. Buendía Sierra, E. Abad Valdenebro, R. Calvo Salinero and A. Lamadrid de Pablo, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul the contested decision in so far as it categorises the measures which, according to that decision, together constitute the 'Spanish Tax Lease System' as new State aid that is incompatible with the internal market;

— in the alternative, annul Articles 1 and 4 of the contested decision, which identify the investors in the Economic Interest Groupings (EIGs) as the beneficiaries of the alleged aid and as the sole addressees of the order for recovery;

— in the alternative, annul Article 4 of the contested decision, in so far as it orders recovery of the alleged aid;

— annul Article 4 of the contested decision, in so far as it makes a determination as to the lawfulness of private contracts between the investors and other entities; and

— order the Commission to pay the costs of these proceedings.

Pleas in law and main arguments

The pleas in law and main arguments are those raised in Case T-700/13 *Bankia* v *Commission*.

Action brought on 25 June 2014 — Corporación Alimentaria Guissona and Naviera Muriola v Commission

(Case T-473/14)

(2014/C 261/75)

Language of the case: Spanish

Parties

Applicants: Corporación Alimentaria Guissona, SA (Lleida, Spain); and Naviera Muriola, AIE (Madrid, Spain) (represented by: J.L. Buendía Sierra, E. Abad Valdenebro, R. Calvo Salinero and A. Lamadrid de Pablo, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the General Court should:

— annul the contested decision in so far as it categorises the measures which, according to that decision, together constitute the 'Spanish Tax Lease System' as new State aid that is incompatible with the internal market;

— in the alternative, annul Articles 1 and 4 of the contested decision, which identify the investors in the Economic Interest Groupings (EIGs) as the beneficiaries of the alleged aid and as the sole addressees of the order for recovery;

— in the alternative, annul Article 4 of the contested decision, in so far as it orders recovery of the alleged aid;

— annul Article 4 of the contested decision, in so far as it makes a determination as to the lawfulness of private contracts between the investors and other entities; and

— order the Commission to pay the costs of these proceedings.

Pleas in law and main arguments

The pleas in law and main arguments are those raised in Case T-700/13 *Bankia* v *Commission*.

Action brought on 25 June 2014 — Cesáreo Martín-Sanz and Others v Commission

(Case T-474/14)

(2014/C 261/76)

Language of the case: Spanish

Parties

Applicants: Cesáreo Martín-Sanz, SA Transportes (Madrid, Spain); Transportes y Servicios de Minería, SA (Madrid); Inauto, Industrias del Automóvil, SA (Madrid); Premium Quality Investments, SL (Madrid); and Naviera Ispaster, AIE (Madrid) (represented by: J.L. Buendía Sierra, E. Abad Valdenebro, R. Calvo Salinero and A. Lamadrid de Pablo, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the General Court should:

— annul the contested decision in so far as it categorises the measures which, according to that decision, together constitute the 'Spanish Tax Lease System' as new State aid that is incompatible with the internal market;

— in the alternative, annul Articles 1 and 4 of the contested decision, which identify the investors in the Economic Interest Groupings (EIGs) as the beneficiaries of the alleged aid and as the sole addressees of the order for recovery;

— in the alternative, annul Article 4 of the contested decision, in so far as it orders recovery of the alleged aid;

— annul Article 4 of the contested decision, in so far as it makes a determination as to the lawfulness of private contracts between the investors and other entities; and

— order the Commission to pay the costs of these proceedings.

Pleas in law and main arguments

The pleas in law and main arguments are those raised in Case T-700/13 *Bankia* v *Commission*.

Action brought on 26 June 2014 — Poal Investments XXI and Others v Commission

(Case T-476/14)

(2014/C 261/77)

Language of the case: Spanish

Parties

Applicants: Poal Investments XXI, SL (Madrid, Spain); Poal Investments XXII, SL (Madrid); Naviera Cabo Vilaboa C-1658, AIE (Madrid); and Naviera Cabo Domaio C-1659, AIE (Madrid) (represented by: J.L. Buendía Sierra, E. Abad Valdenebro, R. Calvo Salinero, and A. Lamadrid de Pablo, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the General Court should:

— annul the contested decision in so far as it categorises the measures which, according to that decision, together constitute the 'Spanish Tax Lease System' as new State aid that is incompatible with the internal market;

— in the alternative, annul Articles 1 and 4 of the contested decision, which identify the investors in the Economic Interest Groupings (EIGs) as the beneficiaries of the alleged aid and as the sole addressees of the order for recovery;

— in the alternative, annul Article 4 of the contested decision, in so far as it orders recovery of the alleged aid;

— annul Article 4 of the contested decision, in so far as it makes a determination as to the lawfulness of private contracts between the investors and other entities; and

— order the Commission to pay the costs of these proceedings.

Pleas in law and main arguments

The pleas in law and main arguments are those raised in Case T-700/13 *Bankia* v *Commission*.

Action brought on 26 June 2014 — Caamaño Sistemas Metálicos and Others v Commission

(Case T-477/14)

(2014/C 261/78)

Language of the case: Spanish

Parties

Applicants: Caamaño Sistemas Metálicos, SL (Coruña, Spain); Blumaq, SA (Castellón, Spain); Grupo Ibérica de Congelados, SA (Vigo, Spain); and Inversiones Rentaragon, SA (Zaragoza, Spain) (represented by: J.L. Buendía Sierra, E. Abad Valdenebro, R. Calvo Salinero, and A. Lamadrid de Pablo, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the General Court should:

— annul the contested decision in so far as it categorises the measures which, according to that decision, together constitute the 'Spanish Tax Lease System' as new State aid that is incompatible with the internal market;

— in the alternative, annul Articles 1 and 4 of the contested decision, which identify the investors in the Economic Interest Groupings (EIGs) as the beneficiaries of the alleged aid and as the sole addressees of the order for recovery;

— in the alternative, annul Article 4 of the contested decision, in so far as it orders recovery of the alleged aid;

— annul Article 4 of the contested decision, in so far as it makes a determination as to the lawfulness of private contracts between the investors and other entities; and

— order the Commission to pay the costs of these proceedings.

Pleas in law and main arguments

The pleas in law and main arguments are those raised in Case T-700/13 *Bankia* v *Commission*.

Action brought on 26 June 2014 — Industrias Espadafor and Others v Commission

(Case T-478/14)

(2014/C 261/79)

Language of the case: Spanish

Parties

Applicants: Industrias Espadafor, SA (Granada, Spain); Tutichip, SAU (Barcelona, Spain); Locales, Actividades y Exclusivas Comerciales, SA (Vigo, Spain); RNB, SL (La Pobla de Vallbona, Spain); and Inversiones Antaviana, SA (Valencia, Spain) (represented by: J.L. Buendía Sierra, E. Abad Valdenebro, R. Calvo Salinero, and A. Lamadrid de Pablo, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the General Court should:

— annul the contested decision in so far as it categorises the measures which, according to that decision, together constitute the 'Spanish Tax Lease System' as new State aid that is incompatible with the internal market;

— in the alternative, annul Articles 1 and 4 of the contested decision, which identify the investors in the Economic Interest Groupings (EIGs) as the beneficiaries of the alleged aid and as the sole addressees of the order for recovery;

— in the alternative, annul Article 4 of the contested decision, in so far as it orders recovery of the alleged aid;

— annul Article 4 of the contested decision, in so far as it makes a determination as to the lawfulness of private contracts between the investors and other entities; and

— order the Commission to pay the costs of these proceedings.

Pleas in law and main arguments

The pleas in law and main arguments are those raised in Case T-700/13 *Bankia* v *Commission*.

Action brought on 26 June 2014 — Banco de Caja España de Inversiones, Salamanca y Soria v Commission

(Case T-482/14)

(2014/C 261/80)

Language of the case: Spanish

Parties

Applicant: Banco de Caja España de Inversiones, Salamanca y Soria, SA (Madrid, Spain) (represented by: J.L. Buendía Sierra, E. Abad Valdenebro, R. Calvo Salinero and A. Lamadrid de Pablo, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul the contested decision in so far as it categorises the measures which, according to that decision, together constitute the 'Spanish Tax Lease System' as new State aid that is incompatible with the internal market;

— in the alternative, annul Articles 1 and 4 of the contested decision, which identify the investors in the Economic Interest Groupings (EIGs) as the beneficiaries of the alleged aid and as the sole addressees of the order for recovery;

— in the alternative, annul Article 4 of the contested decision, in so far as it orders recovery of the alleged aid;

— annul Article 4 of the contested decision, in so far as it makes a determination as to the lawfulness of private contracts between the investors and other entities; and

— order the Commission to pay the costs of these proceedings.

Pleas in law and main arguments

The pleas in law and main arguments are those raised in Case T-700/13 *Bankia* v *Commission*.

Action brought on 26 June 2014 — Banco de Albacete v Commission

(Case T-483/14)

(2014/C 261/81)

Language of the case: Spanish

Parties

Applicant: Banco de Albacete, SA (Madrid, Spain) (represented by: J.L. Buendía Sierra, E. Abad Valdenebro, R. Calvo Salinero, A. Lamadrid de Pablo and A. Biondi, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the General Court should:

— annul the contested decision in so far as it categorises the measures which, according to that decision, together constitute the 'Spanish Tax Lease System' as new State aid that is incompatible with the internal market;

— in the alternative, annul Articles 1 and 4 of the contested decision, which identify the investors in the Economic Interest Groupings (EIGs) as the beneficiaries of the alleged aid and as the sole addressees of the order for recovery;

— in the alternative, annul Article 4 of the contested decision, in so far as it orders recovery of the alleged aid;

— annul Article 4 of the contested decision, in so far as it makes a determination as to the lawfulness of private contracts between the investors and other entities; and

— order the Commission to pay the costs of these proceedings.

Pleas in law and main arguments

The pleas in law and main arguments are those raised in Case T-700/13 *Bankia* v *Commission*.

Action brought on 26 June 2014 — Monthisa Residencial v Commission

(Case T-484/14)

(2014/C 261/82)

Language of the case: Spanish

Parties

Applicant: Monthisa Residencial, SA (Madrid, Spain) (represented by: F. de Artíñano Rodríguez de Torres and J. Martínez Muro, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the contested decision in so far as it categorises the measures which, according to that decision, together constitute the 'Spanish Tax Lease System' as new State aid that is incompatible with the internal market;

— in the alternative, annul Articles 1 and 4 of the contested decision, which identify the investors in the Economic Interest Groupings (EIGs) as beneficiaries of the alleged aid and as the sole addressees of the order for recovery;

— in the alternative, annul Article 4 of the contested decision in so far as it orders recovery of the alleged aid in breach of general principles of EU law;

— order the Commission to pay the costs of these proceedings.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those put forward in Case T-700/13 *Bankia* v *Commission*.

In particular, it is alleged that Article 107(1) TFEU and the general principle of EU law relating to the protection of legitimate expectations have been infringed.

Action brought on 26 June 2014 — Bon Net v OHIM — Aldi (Bon Appétit!)

(Case T-485/14)

(2014/C 261/83)

Language in which the application was lodged: English

Parties

Applicant: Bon Net OOD (Sofia, Bulgaria) (represented by: A. Ivanova, lawyer)

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

Other party to the proceedings before the Board of Appeal: Aldi GmbH & Co. KG (Mülheim/Ruhr, Germany)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 14 April 2014 given in Case R 1199/2013-2.

Pleas in law and main arguments

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

Community trade mark concerned: The figurative mark in colours red, white and blue containing the verbal elements 'Bon Appétit!' for goods in Class 29 — Community trade mark application No 8 693 764

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

Mark or sign cited in opposition: National trade mark registrations

Decision of the Opposition Division: Rejected the opposition in its entirety

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 8(1)(b) CTMR.

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