

The applicant claims that the Court should:

- declare void and annul the decision adopted on 17 July 2002 by the Third Board of Appeal of the Office for Harmonisation in the Internal Market, concerning appeal No R 0036/2002-3 relating to registration of the Community trade mark 'Lindenhof' (application No 629741);
- order the defendant to pay the applicant's costs.

Action brought on 30 September 2002 by ACEA S.p.A. against the Commission of the European Communities

(Case T-297/02)

(2002/C 289/67)

(Language of the case: Italian)

Pleas in law and main arguments

Applicant for the Community trade mark:	REWE-Zentral AG
The Community trade mark applied for:	the word mark 'Lindenhof', <i>inter alia</i> for goods in Class 32 (mineral waters and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices) — application No 629741
Proprietor of the trade-mark right opposed in the opposition proceedings:	the applicant in these proceedings
Trade-mark right opposed:	the German pictorial mark 'LINDERHOF' for goods in Class 33 (champagne-like wines)
Decision of the Opposition Division:	partial rejection of the opposition
Decision of the Board of Appeal:	rejection of the applicant's appeal
Grounds of claim:	<ul style="list-style-type: none"> — likelihood of confusion within the meaning of Article 8(1)(b) of Regulation (EC) No 40/94⁽¹⁾; — the competing marks are extremely similar; — the goods of the trade-mark applicant are not sufficiently dissimilar to those of the applicant in these proceedings.

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 30 September 2002 by ACEA S.p.A., represented by Andrea Giardina, Luca G. Radicati di Brozolo and Vincenzo Puca, avvocati.

The applicant claims that the Court should:

- annul the Commission's decision of 5 June 2002 (State Aid No C.27/99) in so far as it declares unlawful and incompatible with the common market the three-year exemption from tax on profits granted by Italy to local public service undertakings the majority of the shares in which are publicly owned within the meaning of Article 3(70) of Law No 549/1995, and loans granted on preferential terms pursuant to Article 9a of Decree-Law No 488/1986, and in so far as it requires Italy to recover the aid in question from the recipients thereof, including the applicant (Articles 2 and 3 of the decision);
- order the Commission to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those advanced in Case T-292/02 *Confederazione Nazionale dei Servizi v Commission*.

In particular, the applicant pleads that the measures at issue cannot constitute State aid, inasmuch as the companies benefitting from the system in question do not operate within a framework of competition. Furthermore, even if the measures at issue were to be regarded as State aid and were not classified as existing aid, they should be regarded as compatible aid within the meaning of Article 87(3)(c) EC.

⁽¹⁾ Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1).

In addition, the contested act infringes the principles of the protection of legitimate expectations and of proportionality, in so far as the Italian State has been ordered by the defendant to recover the alleged aid.

Action brought on 1 October 2002 by Anna Romero Romeu against the Commission of the European Communities

(Case T-298/02)

(2002/C 289/68)

(Language of the case: Spanish)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 1 October 2002 by Anna Romero Romeu, residing in Brussels, represented by Ramón García-Gallardo Gil-Fournier and Javier Guillem-Carrau, lawyers.

The applicant claims that the Court should:

- annul the decision of the appointing authority of 10 June 2002 in so far as it does not recognise the applicant's entitlement to the expatriate allowance and, consequently, her entitlement to the other associated allowances in accordance with the decision in Lozano;
- order the defendant to pay all the costs.

Pleas in law and main arguments

By the present action, the applicant, an official of the defendant institution, is contesting the appointing authority's decision refusing to recognise her entitlement to the expatriation allowance (Article 4 of Annex VII to the Staff Regulations); in the applicant's view, that allowance is due to her inasmuch as her habitual residence and centre of interests during the relevant period under the Staff Regulations was Barcelona and not Brussels.

In support of her claims, the applicant pleads:

- commission of a manifest error of assessment of the facts, inasmuch as, first, the contested decision did not treat the work done for the representative office of a Spanish Autonomous Community in Brussels as 'work done for another State' and, second, it failed to take account of the applicant's personal situation as regards lasting links with the country of employment;

- infringement of the principle of non-discrimination, inasmuch as the case involves a difference in treatment between personal situations which are substantially the same, since no account has been taken, for the purposes of calculating the reference period, of the periods of work completed, prior to their engagement, by certain officials employed in Brussels in offices of German *Länder* or of United Kingdom federations.

The applicant also pleads failure to comply with the obligation to provide a statement of reasons.

Action brought on 30 September 2002 by Carles Dedeu i Fontcuberta against the Commission of the European Communities

(Case T-299/02)

(2002/C 289/69)

(Language of the case: Spanish)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 30 September 2002 by Carles Dedeu i Fontcuberta, residing in Brussels (Belgium), represented by R. García-Gallardo Gil-Fournier and J. Guillem-Carrau, lawyers.

The applicant claims that the Court should:

- annul the decision of 23 September 2002, implicit in the Commission's silence, rejecting complaint 275/02, and refusing to acknowledge his right to the expatriation allowance and, therefore, other associated benefits, in accordance with the judgment in Lozano;
- order the Commission to pay the full costs.

Pleas in law and main arguments

The pleas in law and main arguments have already been put forward in Case T-298/02 Ana Herrero Romeu v Commission.