

The applicant claims that the Court should:

- Annul Article 2 of Council Regulation (EC) No 2580/2001 <sup>(1)</sup> as well as Article 1 of Council Decision 2004/306/EC <sup>(2)</sup> insofar as they apply, or purport to apply, to the applicant;
- Annul all Council decisions made on foot of Regulation 2580/2001 having like effect to Decision 2004/306 insofar as they apply, or purport to apply, to the applicant;
- If necessary, annul Article 2 of 2001/931/CFSP <sup>(3)</sup>, Article 1 of Council Common Position 2004/500/CFSP <sup>(4)</sup> as well as all Council Common Positions adopted on the foot of Common Position 2001/931, in all cases insofar as they apply, or purport to apply, to the applicant;
- In the alternative, declare that the above measures are void, insofar as they apply, or purport to apply, to the applicant;
- Order the Council to pay the costs.

*Pleas in law and main arguments:*

Council Common Position 2001/931/CSFP was adopted with the stated purpose of implementing Resolution 1373 (2001) of the Security Council of the United Nations, calling on all signatory states to prevent the financing of terrorist acts by, inter alia, freezing the funds and resources of all persons who may be involved in such acts. Regulation 2580/2001 was adopted in order to implement this common position. Article 2 makes provision for the freezing of assets belonging to persons involved in terrorist activity, to be established by the Council in accordance with paragraph 3 of Article 2. Council Decision 2004/306 provides such a list and includes the name of the applicant, an Algerian national. As a result, the applicant's assets in Ireland, where he resides having been granted refugee status, were frozen.

In support of his application to annul the contested measures the applicant submits that the Council was not competent, under Articles 60, 301 and 308 of the EC Treaty, to adopt Article 2 of Regulation 2580/2001 and Article 1 of Decision 2004/306 and that both the Council and the Commission misused their powers under those articles. The applicant further contends that the list of names appearing in Decision 2004/306 was not established in accordance with the provisions laid down in Article 1 paragraph 4 of Common Position 2001/931. The applicant also claims that the Council had no power under Articles 15 and 34 EU to adopt Common Positions 2001/931 and 2004/500 which, according to the applicant, violate these articles and the EC Treaty in general.

The applicant also submits that the contested measures violate fundamental principles of Community law, in particular subsidiarity, proportionality and respect for fundamental human rights. He further submits that the Council and the Commission have failed to state adequate reasons as to why the measures

considered necessary could not be determined by each individual Member State.

<sup>(1)</sup> Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism O J L 344, 28.12.2001, p. 70.

<sup>(2)</sup> Council Decision of 2 April 2004 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2003/902/EC, OJ L 99, 3.4.2004, p. 28.

<sup>(3)</sup> Council Common Position of 27 December 2001 on the application of specific measures to combat terrorism, OJ L 344, 28.12.2001, p. 93.

<sup>(4)</sup> Council Common Position 2004/500/CFSP of 17 May 2004 updating Common Position 2001/931/CFSP on the application of specific measures to combat terrorism and repealing Common Position 2004/309/CFSP.

### Action brought on 9 August 2004 by Jörg-Michael Fetzer against the European Parliament

(Case T-330/04)

(2004/C 284/39)

(Language of the case: German)

An action against the European Parliament was brought before the Court of First Instance of the European Communities on 9 August 2004 by Jörg-Michael Fetzer of Tübingen (Germany), represented by Matthias Bauer, lawyer.

The applicant claims that the Court should:

- declare that the defendant infringed the rights of the applicant in connection with Competition PE/96/A (Administrators);
- admit the applicant to the second stage of a competition comparable with Competition PE/96/A;
- in the alternative, order the defendant to pay appropriate compensation, equivalent to at least one month's net salary.

*Pleas in law and main arguments:*

In July 2002, the applicant applied for Competition PE/96/A of the European Parliament. He stated in the application form that he was handicapped, in that his vision is reduced to two per cent of normal. According to the applicant, he was not allowed to write the test with a computer, being told that the examination conditions made no provision for compensating handicapped participants, and he was not given the extension of time which he requested.

The applicant argues that during the examination, owing to the difficulties arising from his handicap, it was nowhere near possible for him to read through all the questions in the allotted time and select the right answers. He argues that he belonged to the 180 best candidates and would therefore have been admitted to the next stage of the competition, if he had been given the requested compensation for his incapacity. He therefore seeks a declaration that he compensation he applied for was wrongly denied to him.

**Action brought on 11 August 2004 by Stephen Stork against the Commission of the European Communities**

(Case T-331/04)

(2004/C 284/40)

(Language of the case: German)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 11 August 2004 by Stephen Stork, Chaumont-Gistoux (Belgium), represented by Bernd Arians, lawyer.

The applicant claims that the Court should:

- annul the Commission's decision of 5 May 2004 on the applicant's complaint and the Commission's decision of 10 December 2003 classing the applicant in Grade A7;
- require the Commission to adopt a new decision on the applicant's grade, including a full statement of reasons;
- order the Commission to pay the costs.

*Pleas in law and main arguments:*

The applicant contests the Commission's decision to class him in Grade A7, Step 3. He alleges errors of assessment in the application of Article 31(2) of the Staff Regulations.

The applicant submits that the contested decision fails to take account of facts relating to the quality of the applicant's professional experience which are of fundamental relevance to classification and that there was a failure to recognise the relevance of those facts in recruiting the applicant to his first post and to take proper account of the defendant's recruitment needs.

Moreover, the applicant alleges a failure to exercise discretion, infringement of the principles of protection of legitimate expectations and of equal treatment, procedural errors and failure to give a proper statement of reasons.

**Action brought on 6 August 2004 by SEBIRAN, S.L. against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)**

(Case T-332/04)

(2004/C 284/41)

(Language of the case: Spanish)

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) was brought before the Court of First Instance of the European Communities on 6 August 2004 by SEBIRAN, S.L., represented by José Antonio Calderón Chavero, lawyer.

The applicant claims that the Court should:

- Annul the decision of the OHIM Second Board of Appeal of 15 June 2004 in Case R-550/2003-2;
- Confirm decision 1472/2003 in opposition proceedings B348708 dismissing the opposition brought by the opponent in its entirety and allow the application for the contested mark for all the classes claimed;
- Order OHIM and the other parties to pay the costs of these proceedings in the event of the proceedings being defended and those parties' claims being rejected.

*Pleas in law and main arguments:*

Applicant for Community trade mark:	The applicant
Community trade mark sought:	Figurative mark 'COTO D'ARCIS' — Application No 1 558 113 for products in Classes 32 and 33 (alcoholic and non-alcoholic drinks and preparations for making beverages) and services in Class 39 (transport; packaging and storage of goods)
Proprietor of mark or sign cited in the opposition proceedings:	El Coto de Rioja S.A.
Mark or sign cited in opposition.	Community word marks 'COTO DE IMAZ' (No 339 333) and 'EL COTO' (No 339 408) for products in Classes 29, 32 and 33, international mark No 442 377 and Spanish marks No 877 219, No 907 966, No 907 967, No 907 985, No 907 989, No 907 993, No 907 994, No 907 995, No 983 888, No 1 290 986, No 1 614 514, No 1 758 975 and No 2 172 691).