

The applicant claims that the Court should:

1. annul the Invalidation Committee's decision of 21 April 2004 refusing the applicant's request of 19 January 2004 to be declared invalid, notified by memo of 27 April 2004,
2. annul the Invalidation Committee's decision of 22 July 2004 granting a declaration of invalidity, in so far as the effect of the declaration of invalidity is not retroactive to 21 April 2004,
3. grant the applicant compensation for material and non-material damage assessed on an equitable basis at EUR 222 568, subject to increase in the course of the proceedings,
4. order the defendant to pay the costs.

- breach of the principle of good administration and sound management and breach of the duty to have regard for the welfare of officials.

**Action brought on 28 February 2005 by Dorian Lacombe  
against the Council of the European Union**

(Case T-116/05)

(2005/C 115/61)

(Language of the case: French)

*Pleas in law and main arguments*

The applicant in this case objects to the defendant's decision to grant his declaration of invalidity for three years from 1 September 2004 without providing for retroactive effect to 21 April 2004, the date on which the Invalidation Committee took an initial adverse decision in regard to him.

In support of his claims, the applicant pleads:

- infringement of Article 7 of Annex II to the Staff Regulations and of the rules relating to the operation of the Invalidation Committee. He maintains in that regard that two of the three doctors comprising the Invalidation Committee had no knowledge either of his illness or of his state of health,
- in this case, the Committee made a manifest error of assessment regarding the nature of his illness. It is stated in that regard that the Invalidation Committee took no account whatsoever of the existence of an illness different from sleeping disorders, namely the chronic fatigue previously diagnosed,
- failure to comply with the obligation to state reasons,
- infringement of Articles 53 and 78 of the Staff Regulations and of Articles 13 to 18 of Annex VIII to those regulations,

An action against the Council of the European Union was brought before the Court of First Instance of the European Communities on 28 February 2005 by Dorian Lacombe, residing in Evry (France), represented by Sébastien Orlandi, Xavier Martin, Albert Coolen, Jean-Noël Louis and Etienne Marchal, lawyers, with an address for service in Luxembourg.

The applicant claims that the Court should:

1. order the Council to pay to the applicant an amount corresponding to the total amount of overtime worked in accordance with the statement signed for agreement by his immediate superior and by the Secretary-General of the Council, less the amount already paid,
2. order the Council to pay to the applicant's social security scheme the employer's contributions provided for by the legislation in force,
3. order the Council to pay to the applicant the unemployment benefits to which he would have been entitled if the employer's contributions had been paid in due time to his social security scheme,
4. order the defendant to pay to the applicant default interest calculated at the ECB central rate plus 2 points on all sums which should have been paid under the auxiliary staff contract between the parties.

*Pleas in law and main arguments*

The applicant was a member of the auxiliary staff at the Council from 1 December 2002 to 31 July 2003. He claims that the Council reduced from 73 to 59.5 days the amount of overtime to which he was entitled for hours worked on Saturdays, Sundays, holidays and days when the offices were closed, without informing him of the reasons. In support of this claim, the applicant pleads infringement of Article 57 of the Conditions of employment of other servants of the European Communities, infringement of Article 56 of the Staff Regulations, infringement of Staff Notice No 88/93 and breach of the duty to state reasons.

The applicant further alleges that, in breach of Article 70 of the Conditions of employment of other servants of the European Communities, the Council did not pay the contributions payable to the Caisse de Sécurité Sociale (French Social Security Fund) of which he was a member. The applicant also claims compensation for the damage which he suffered as a consequence.

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**Action brought on 7 March 2005 by Reckitt Benckiser N.V. against the Office for Harmonisation in the Internal Market (Trade Marks and Designs)**

(Case T-118/05)

(2005/C 115/62)

*(Language of the case: English)*

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 7 March 2005 by Reckitt Benckiser N.V., established in Hoofddorp (The Netherlands), represented by G.S.P. Vos, lawyer.

The applicant claims that the Court should:

- annul the contested decision of the Second Board of Appeal of OHIM;
- allow the registration of the Community trade mark application number 2 897 338;
- order OHIM to pay the costs in accordance with Article 87(2) of the Rules of Procedure of the Court of First Instance.

*Pleas in law and main arguments*

Community trade mark concerned: The three dimensional mark of a rectangular capsule with a black and white wave around a white circle for goods in classes 1 and 3 (Chemical products for industrial purposes; water softeners; bleaching preparations and other substances for laundry use and dish washing; ...) — application No 2 897 338

Decision of the examiner: Rejection of the trade mark application

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Wrongful application of Article 7(1)(c) of Council Regulation No 40/94, Violation of Article 7(1)(b) and infringement of the duty to state sufficient reasons

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**Action brought on 7 March 2005 by Reckitt Benckiser N.V. against the Office for Harmonisation in the Internal Market (Trade Marks and Designs)**

(Case T-119/05)

(2005/C 115/63)

*(Language of the case: English)*

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 7 March 2005 by Reckitt Benckiser N.V., established in Hoofddorp (The Netherlands) represented by G.S.P. Vos, lawyer.

The applicant claims that the Court should:

- annul the decision adopted on 17 December 2004 by the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) in case R 43/2004-2