

Judgment of the Court of First Instance of 15 March 2006
— Kimman v Commission

(Case T-44/04) ⁽¹⁾

**(Officials — Appointment — Revision of the classification
in grade — Article 31(2) of the Staff Regulations)**

(2006/C 108/34)

Language of the case: French

Parties

Applicant: Eugène Kimman (Overijse, Belgium) (represented by: N. Lhoëst and E. De Schietere de Lophem, lawyers)

Defendant: Commission of the European Communities (represented by: V. Joris and A. Bouquet, acting as Agents)

Re:

Application for annulment of the Commission's decision of 20 December 2002 setting the applicant's final classification at Grade B5 and, as far as is necessary, annulment of the Commission's decision of 1 October 2003 rejecting the applicant's complaint.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders each party to bear its own costs.

⁽¹⁾ OJ C 94, 17.4.2004.

Judgment of the Court of First Instance of 15 March 2006
— Develey v OHIM

(Case T-129/04) ⁽¹⁾

**(Community trade mark — Three-dimensional mark —
Shape of a plastic bottle — Refusal of registration — Absolute ground of refusal — Lack of distinctive character — Earlier national trade mark — Paris Convention — TRIPs Agreement — Article 7(1)(b) of Regulation (EC) No 40/94)**

(2006/C 108/35)

Language of the case: German

Parties:

Applicant: Develey Holding GmbH & Co. Beteiligungs KG (Unterhaching, Germany) (represented by: R. Kunz-Hallstein and H. Kunz-Hallstein, lawyers)

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

Action

for annulment of the decision of the Second Board of Appeal of OHIM of 20 January 2004 (Case R 367/2003-2) rejecting the application for registration as a Community trade mark of a three-dimensional sign in the form of a bottle.

Operative part of the judgment

The Court:

1. Dismisses the action.
2. Orders the applicant to pay the costs.

⁽¹⁾ OJ C 168, 26.6.2004.

Judgment of the Court of First Instance of 15 March 2006
— Italian Republic v Commission

(Case T-226/04) ⁽¹⁾

**(Action for annulment — Regulation (EC) No 316/2004 —
Common organisation of the market in wine — Protection of
traditional terms — Amendment of classification of certain
additional traditional indications — Use in labelling of wine
originating in third countries — Procedural defect — Principle
of proportionality — TRIPs Agreement)**

(2006/C 108/36)

Language of the case: Italian

Parties

Applicant: Italian Republic (represented by: M. Fiorilli, avvocato dello Stato)

Defendant: Commission of the European Communities (represented by: N. Nolin and V. Di Bucci, acting as Agents)

Re:

Application for partial annulment of Commission Regulation (EC) No 316/2004 of 20 February 2004 amending Regulation (EC) No 753/2002 laying down certain rules for applying Council Regulation (EC) No 1493/1999 as regards the description, designation, presentation and protection of certain wine sector products (OJ 2004 L 55, p. 16), in so far as it amends Articles 24, 36 and 37 of Commission Regulation No 753/2002 (OJ 2002 L 118, p. 1), concerning the protection of traditional terms