

Action brought on 22 November 2006 — Italy v Commission**(Case T-335/06)**

(2006/C 326/160)

*Language of the case: Italian***Parties***Applicant:* Italian Republic (represented by: G. Aiello, Avvocato dello Stato)*Defendant:* Commission of the European Communities**Form of order sought**

- declare that the Commission has failed to act in that, after being formally called upon to act, in accordance with Article 232 EC, it unlawfully omitted to adopt exceptional measures to support the Italian market in poultrymeat, pursuant to Article 14 of Council Regulation No 2777/75, as regards the chicks that were destroyed for lack of battery brooder pens in the areas affected by avian influenza and subject to veterinary measures restricting free circulation in the period from December 1999 to September 2003;
- order the defendant to pay all fees and costs entailed by the proceedings.

Pleas in law and main arguments

The Italian Government has brought an action for failure to act before the Court of First Instance of the European Communities on account of the failure of the European Commission to adopt exceptional measures to support the Italian market in poultrymeat.

In support of its action, the Italian Government claims:

- (1) breach of the principle of non-discrimination between Community producers, laid down in the second subparagraph of Article 34(2) EC, in that, after Italy had been granted exceptional measures in support only of the market in eggs, analogous measures for the market in poultrymeat were refused, with the result that Italian poultry producers suffered discrimination as compared with Dutch poultry producers, contrary to the second subparagraph of Article 34(2) of the EC Treaty;
- (2) misuse of power and manifest error of assessment on the part of the Commission which, by refusing to adopt exceptional measures to support the market also in respect of the day-old chicks destroyed for lack of battery brooder pens, exceeded the powers conferred on it by the basic regulation on the common organisation of the market in poultrymeat

and committed an error of assessment regarding the situation of the Italian poultry market, as well as regarding the information available to it concerning the production structure;

- (3) infringement and misinterpretation of Article 14 of Regulation No 2777/75 in that the unjustified refusal of the Commission to grant exceptional measures to support the market in respect of the day-old chicks destroyed for lack of battery brooder pens was based on an incorrect interpretation of Article 14 of Regulation No 2777/75;
- (4) breach of the principles of sound administration, impartiality, fairness and transparency.

Action brought on 28 November 2006 — UniCredito Italiano v OHIM –Union Investment Privatfonds (UniCredit Wealth Management)**(Case T-337/06)**

(2006/C 326/161)

*Language in which the application was lodged: Italian***Parties***Applicant:* UniCredito Italiano SpA (Genoa, Italy) (represented by: G. Florida and R. Florida, lawyers)*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)*Other party to the proceedings before the Board of Appeal of OHIM:* Union Investment Privatfonds GmbH**Form of order sought**

- annulment of the contested decision

Pleas in law and main arguments*Applicant for a Community trade mark:* UniCredito Italiano

Community trade mark concerned: Word mark 'UniCredit Wealth Management' (registration application No 2.330.066) for goods and services in Classes 16, 35, 36, 41 and 42

Proprietor of the mark or sign cited in the opposition proceedings: Union Investment Privatfonds GmbH