

- annul memorandum No 00325 of 16.1.2007 of the European Commission, Directorate General for Regional Policy — Programmes and projects in Cyprus, Greece, Hungary, Italy, Malta and the Netherlands — concerning payments by the Commission which differ from the amount requested. Ref. Programma POR Campania 2000-2006 (No CCI 1999 IT 161 PO 007);
- annul memorandum No 00425 of 18.1.2007 of the European Commission, Directorate General for Regional Policy — Programmes and projects in Cyprus, Greece, Hungary, Italy, Malta and the Netherlands — concerning payments by the Commission which differ from the amount requested. Ref. Programma DOCUP Toscana Ob. 2 (No CCI 1999 IT 162 DO 001);
- annul memorandum No 00427 of 18.1.2007 of the European Commission, Directorate General for Regional Policy — Programmes and projects in Cyprus, Greece, Hungary, Italy, Malta and the Netherlands — concerning payments by the Commission which differ from the amount requested. Ref. Programma POR Puglia (No CCI 1999 IT 161 PO 009);
- annul all related and prior acts and, consequently, order the Commission of the European Communities to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those relied on in Case T-345/04 *Italy v Commission* ⁽¹⁾.

⁽¹⁾ OJ C 262, 23.10.04, p. 55.

Appeal brought on 28 February 2007 by the Commission of the European Communities against the judgment of the Civil Service Tribunal delivered on 13 December 2006 in Case F-17/05 *de Brito Sequeira Carvalho v Commission*

(Case T-62/07 P)

(2007/C 95/100)

Language of the case: French

Parties

Appellant: Commission of the European Communities (represented by: D. Martin, Agent, and C. Falmagne, lawyer)

Other party to the proceedings: José Antonio de Brito Sequeira Carvalho

Form of order sought by the appellant

- Set aside the judgment of the Civil Service Tribunal of 13 December 2006 in Case F-17/05;
- dismiss the action brought by Mr Sequeira;

- order each of the parties to bear its own costs relating to these proceedings and the proceedings before the Civil Service Tribunal.

Pleas in law and main arguments

By its judgment of 13 December 2006 in Case F-17/05 *de Brito Sequeira Carvalho v Commission*, the Civil Service Tribunal (CST) upheld in part the action brought by the applicant at first instance and annulled the Commission decision of 13 July 2004 prohibiting the applicant's access to its buildings and the decisions automatically extending his sick leave.

The Commission bases the appeal, first, on the fact that the Tribunal adjudicated *ultra petita* by annulling the Commission decision of 13 July 2004 prohibiting the applicant's access to its buildings and, second, on the fact that the judgment under appeal infringed Community law. The Commission claims that the Tribunal distorted the facts of the case, that it erred in law in interpreting the obligation to state the reasons on which a decision is based and that it infringed the fifth subparagraph of Article 59(1) of the Staff Regulations. The Commission further maintains that by the interpretation in the judgment of Article 59(5) of the Staff Regulations, the Tribunal distorted the arbitration procedure provided for in that provision.

Action brought on 1 march 2007 — *Mülhens v OHIM* — *Exportaciones Aceiteras Fedeoliva* (tosca de FEDEOLIVA)

(Case T-63/07)

(2007/C 95/101)

Language in which the application was lodged: English

Parties

Applicant: Mülhens GmbH & Co. KG (Köln, Germany) (represented by: D. Eickemeier, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: Exportaciones Aceiteras Fedeoliva, A. I. E. (Jaen, Spain)

Form of order sought

- Annul the decision of the Second Board of Appeal of the defendant dated 18 December 2006 in Case R 761/2006-2;
- reject the application of the Community trade mark No 3 467 651.

Pleas in law and main arguments

Applicant for the Community trade mark: Exportaciones Aceiteras Fedeoliva, A. I. E.