

By its third plea, the applicant claims that the Commission made a manifest error of assessment in the application of the third condition of Article 86(2) EC in finding that the service of general economic interest of accessibility of banks is intended only for persons having particular difficulties with access to basic banking services. It alleges that the Commission exceeded its powers of control of the definition of a service of general economic interest and, in any event, applied an overly restrictive definition of the mission of accessibility to banking. According to the applicant, the Commission also made a manifest error of assessment in the application of the second condition of Article 86(2) EC relating to the obligation to award the contract for a service by an act of State, and also in the application of the third and fourth conditions of that article. It alleges that the Commission made an error in the calculation of the impact of the abolishment of the special rights for the public finances and that it made a manifest error of assessment in the application of the principle of proportionality in finding that there are other, less restrictive means for the freedom of establishment than the granting of special rights in order to ensure balanced financing of services of general economic interest such as accessibility of banking and financing of social housing.

By its fourth plea, the applicant claims that the Commission made a manifest error of assessment in finding that the special rights in question were incompatible with Article 49 EC.

The fifth plea relied on by the applicant alleges a failure to state reasons in the contested decision.

Appeal brought on 24 July 2007 by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) against the judgment of the Civil Service Tribunal delivered on 22 May 2007 in Case F-97/06, López Teruel v OHIM

(Case T-284/07 P)

(2007/C 211/105)

Language of the case: French

Parties

Appellant: Office for Harmonisation in the Internal Market (OHIM) (represented by I. de Medrano Caballero and E. Maurage, Agents)

Other party to the proceedings: Adelaida López Teruel (Guadalajara, Spain)

Form of order sought by the appellant

- annul the judgment of the Civil Service Tribunal of 22 May 2007 delivered in Case F-97/06;
- make an appropriate order as to costs.

Pleas in law and main arguments

By the judgment of 22 May 2007, the annulment of which is sought in this appeal, the Civil Service Tribunal (CST) annulled the decision of OHIM of 6 October 2005 refusing the application brought by Ms López Teruel for an Invalidation Committee to be convened.

In support of the appeal for annulment of that judgment, OHIM raises three pleas.

The first plea alleges infringement of statutory provisions relating to the convening of an Invalidation Committee, in that the CST equated the conditions for entitlement to an invalidity pension with the conditions for the convening of an Invalidation Committee. The appellant also disputes that there is a mandatory duty on the part of the Appointing Authority as regards convening such a committee and submits that the judgment of the CST is therefore vitiated by an error of interpretation.

The second plea alleges infringement of Article 90 of the Staff Regulations and an error of law as regards the assessment of the contested decision, in that the CST considered the decision of 6 October 2005 to be the only act adversely affecting an official and treated as a confirmatory act the decision of OHIM responding to the complaint made against that decision.

Thirdly, OHIM submits that the CST clearly distorted the facts and the evidence in holding that the Office based its decision on the results of the examination of the applicant by an independent doctor on 18 October 2005.

Order of the Court of First Instance of 9 July 2007 — Total v OHIM — Peterson (Beverly Hills Formula TOTAL PROTECTION)

(Case T-326/06) ⁽¹⁾

(2007/C 211/106)

Language of the case: English

The President of the Court of First Instance (First Chamber) has ordered that the case be removed from the register.

⁽¹⁾ OJ C 326, 30.12.2006.