on the market ([1]) (hereinafter 'the second review regulation' of 'SRR') and repealing Commission Regulation (EC) No 2032/2003 ([2]), on the grounds that the contested provisions:

(i) maintain the letter and/or the content of provisions originally introduced by Regulation (EC) No 2032/2003 and previously challenged by the applicants (Cases T-75/04 to T-79/04) into the ongoing review of substances in a way which adversely affects their rights and legitimate expectations under Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market (hereinafter 'the BDP') ([3]);

(ii) are contradictory in themselves and at odds with the BPD, and

(iii) violate provisions of the EC Treaty and a series of high-ranking principles of EC law such as the principle of undistorted competition, legal certainty and legitimate expectations, proportionality, equal treatment and non-discrimination, as well as the right to property and freedom to pursue a trade.

Moreover, the applicants claim that as participants in the second review regulation, they are entitled to benefit from procedural guarantees and data protection rights (*i.e.* exclusive use) for the data in their notifications and complete dossiers in all Member States in accordance with Article 12 of the BPD. However, according to the applicants, Article 4 of the SRR, by not requiring Member States to cancel biocidal product registrations corresponding to the applicants' notified active substance/product type combinations held by competing companies which do not participate in the review and have no access to the data submitted by the applicants for the purposes of the review, *de jure* and *de facto* violates the exclusive use right granted to the applicants by Article 12 of the BPD. In addition, the applicants submit that the defendant misused the powers entrusted upon it by the basic BPD, by deliberately implementing the BPD in a way which goes beyond the text of it and upsets the applicants' rights and expectations. Further, it is submitted that the contested measure violates EC Treaty provisions on fair competition by allowing companies which do not participate in the review and do not bear investment costs to remain on the market and regain a competitive advantage over the applicants.

The applicants finally raise a plea of illegality against Article 6(2) of the FRR and Articles 9(a), 10(3), 11 and 16(1) of the BPD.

([1]) OJ 2007 L 325, p. 3.
([2]) Commission Regulation (EC) No 2032/2003 of 4 November 2003 on the second phase of the 10-year work programme referred to in Article 16(2) of Directive 98/8/EC of the European Parliament and of the Council concerning the placing of biocidal products on the market, and amending Regulation (EC) No 1896/2000 (OJ 2003 L 307, p. 1).
([3]) OJ 1998 L 123, p. 1.

Action brought on 31 March 2008 — Sahlstedt and Others v Commission

(Case T-129/08)

(2008/C 128/75)

Language of the case: Finnish

Parties

Applicants: Markku Sahlstedt (Karkkila, Finland), Juha Kankkunen (Laukaa, Finland), Mikko Tanner (Vihti, Finland), Toini Tanner (Helsinki, Finland), Liisa Tanner (Helsinki, Finland), Eeva Jokinen (Helsinki, Finland), Aili Oksanen (Helsinki, Finland), Olli Tanner (Lohja, Finland), Leena Tanner (Helsinki, Finland), Aila Puttonen (Ristiina, Finland), Risto Tanner (Espoo, Finland), Tom Järvinen (Espoo, Finland), Runo K. Kurko (Espoo, Finland), Maa- ja metsätaloustuottajain keskusliitto MTK ry (Helsinki, Finland), Maataloustuottajain Keskusliiton Säätiö (Helsinki, Finland) (represented by: K. Marttinen, lawyer)

Defendant: Commission of the European Communities

Form of order sought

— annul the decision which is the subject of this action in so far as it concerns all the SCI sites in the Republic of Finland mentioned in that decision;

— alternatively, should the Court not consider the foregoing possible, annul the decision in so far as it concerns the specific SCI sites set out section 6.2.2.7 of the application;

— requests for information and measures of inquiry:

If the dispute is not decided solely on the basis of the evidence submitted in this application in favour of the applicants, in accordance with the above principal heads of claim, the Court of First Instance of the European Communities should:

1. order the Commission of the European Communities to provide the applicants, in CD-Rom format, with the proposals submitted to it by Finland, including all the areas included in the contested decision together with all information referred to in recital (7) in the preamble to the contested decision,

2. order the Commission of the European Communities to provide to the applicants, in CD-Rom format, scientific data concerning habitats and other information in its possession relating to all the areas of the Republic of Finland referred to in recital (8) in the preamble to the contested decision, together with, in paper format, the maps and the information referred to in recital (9) in the preamble thereto,

3. order the Commission of the European Communities to provide the applicants, in CD-Rom format, with all the documents relating to the sites in the Republic of Finland drawn up during the cooperation mentioned in recital (10) in the preamble to the contested decision, or made available to the Commission at that time, together with paper copies of the maps, and

4. order the Commission of the European Communities to provide the applicants with the opinion of the Habitats Committee mentioned in recital (15) in the preamble to the contested decision.

— order the Commission to pay the applicants' costs in full, together with statutory interest.

Pleas in law and main arguments

The applicants submit that the decision [1] is contrary to Community law, in particular Articles 3 and 4 of the Habitats Directive and Annex III thereto, referred to in Article 4. The grounds alleging non-conformity of the decision with Community law are set out in four principal pleas:

(a) The Habitats Directive does not permit earlier decisions relating to the list of sites of Community importance ('SCI sites') to be annulled by way of new decisions in the manner and on the grounds set out. The procedural rules in the Habitats Directive are also binding on the Commission. Any other interpretation would lead to legal uncertainty in relation to national implementing measures and the legal protection of landowners.

(b) According to Article 3 of the Habitats Directive, the Natura 2000 network is a coherent European network of protected areas which is intended to guarantee a favourable conservation status as defined in the directive. The coherence of the network is guaranteed and the favourable conservation status achieved by the fact that Article 4 of and Annex III to the directive, relating to the choice of sites, are detailed technical substantive law rules which are binding on both the Member States and the Commission. Areas cannot be selected as SCI sites without following those two stages. Given the favourable conservation status which was designated as a coherent objective, sites in each Member State must be selected in accordance with uniform criteria corresponding to Article 4 of and Annex III to the Habitats Directive.

(c) Stage 1 in Annex III (the Member State stage) and Stage 2 thereof (the Commission stage) form a whole consisting of acts accompanied by legal effects. The decision relating to sites of Community importance in Stage 2 of the procedure is not in accordance with the Habitats Directive if the proposal in Stage 1 does not satisfy the conditions laid down by the directive.

(d) When the Republic of Finland was preparing its proposal relating to the boreal region as an SCI site, neither Article 4 of the Habitats Directive nor the provisions relating to Stage 1 in Annex III to the directive were observed. As the Republic of Finland's proposal was accepted in its entirety, and as regards all the sites, by decision of the Commission, the Commission decision relating to the SCI sites is also contrary to the directive on that ground alone.

[1] Commission Decision 2008/24/EC of 12 November 2007 adopting, pursuant to Council Directive 92/43/EEC, a first updated list of sites of Community importance for the Boreal biogeographical region (OJ 2008 L 12, p. 118).

Action brought on 4 April 2008 — Aurelia Finance v OHIM (AURELIA)

(Case T-136/08)

(2008/C 128/76)

Language in which the application was lodged: English

Parties

Applicant: Aurelia Finance SA (Geneva, Switzerland) (represented by M. Elmslie, Solicitor)

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

Form of order sought

— Annul the Decision of the First Board of Appeal of 9 January 2008 in case R 1214/2007-1;

— Remit the applicant's application for *restitutio in integrum* to OHIM for reconsideration; and

— order OHIM to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: A word mark consisting of the word AURELIA for various services in class 36 — application No 274 936

Decision of the OHIM: Refusal of the application for *restitutio in integrum*

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Infringement of Article 78 of Council Regulation No 40/94 as the standard of due care required in connection with administrative renewals is lower than that for a party to proceedings before OHIM.

Order of the Court of First Instance of 14 April 2008 — Elektrociepłownia (Zielona Góra) v Commission

(Case T-142/06) [1]

(2008/C 128/77)

Language of the case: English

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

[1] OJ C 178, 29.7.2006.