

paper, on advertising material and in the form of badges by a non-profit-making association in the context of its activity of seeking to preserve military traditions and collecting and distributing donations — Classification of that use as ‘genuine use’ capable of preserving the rights attached to the mark?

### Operative part of the judgment

*Article 12(1) of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks is to be construed as meaning that a trade mark is put to genuine use where a non-profit-making association uses the trade mark, in its relations with the public, in announcements of forthcoming events, on business papers and on advertising material and where the association’s members wear badges featuring that trade mark when collecting and distributing donations.*

(<sup>1</sup>) OJ C 283, 24.11.2007.

**Judgment of the Court (Second Chamber) of 22 December 2008 — Isabel Clara Centeno Mediavilla, Delphine Fumey, Eva Gerhards, Iona M. S. Hamilton, Raymond Hill, Jean Huby, Patrick Klein, Domenico Lombardi, Thomas Millar, Miltiadis Moraitis, Ansa Norman Palmer, Nicola Robinson, François-Xavier Rouxel, Marta Silva Mendes, Peter van den Hul, Fritz Von Nordheim Nielsen, Michaël Zouridakis v Commission of the European Communities, Council of the European Union**

(Case C-443/07 P) (<sup>1</sup>)

*(Appeal — Staff Regulations of officials — Plea of illegality of Article 12(3) of Annex XIII on the classification of officials recruited after 1 May 2004 — Consulting of the Staff Regulations Committee — No infringement of acquired rights or of the principle of equal treatment)*

(2009/C 44/29)

Language of the case: French

### Parties

*Appellants:* Isabel Clara Centeno Mediavilla, Delphine Fumey, Eva Gerhards, Iona M. S. Hamilton, Raymond Hill, Jean Huby, Patrick Klein, Domenico Lombardi, Thomas Millar, Miltiadis Moraitis, Ansa Norman Palmer, Nicola Robinson, François-Xavier Rouxel, Marta Silva Mendes, Peter van den Hul, Fritz Von Nordheim Nielsen, Michaël Zouridakis (represented by: G. Vandersanden and L. Levi, avocats)

*Other parties to the proceedings:* Commission of the European Communities, (represented by: J. Currall and H. Krämer, acting as Agents), Council of the European Union (represented by: M. Arpio Santacruz and M. Bauer, acting as Agents)

### Re:

Appeal brought against the judgment of the Court of First Instance (Fourth Chamber, Extended Composition) of 11 July 2007 in Case T-58/05 *Centeno Mediavilla and Others v Commission*, by which the Court of First Instance dismissed the actions of the appellants seeking annulment of the decisions appointing them probationary officials, in so far as they fix their grade classification in accordance with the transitional provisions in Article 12(3) of Annex XIII to the Staff Regulations of officials of the European Communities, as amended by Regulation (EC, Euratom) No 723/2004 of 22 March 2004 (OJ 2004 L 124, p. 1) — Implications of the entry into force of the new Staff Regulations for the situation of persons on a list of suitable candidates or a reserve list before the date of entry into force of those regulations, namely 1 May 2004, but recruited after that date — Principles of legal certainty, protection of legitimate expectations and equal treatment — Scope of the duty to give reasons

### Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders Ms Centeno Mediavilla, Ms Fumey, Ms Gerhards, Ms Hamilton, Mr Hill, Mr Huby, Mr Klein, Mr Lombardi, Mr Millar, Mr Moraitis, Ms Palmer, Ms Robinson, Mr Rouxel, Ms Silva Mendes, Mr van den Hul, Mr Von Nordheim Nielsen and Mr Zouridakis to pay the costs of the appeal;
3. Orders the Council of the European Union to bear its own costs.

(<sup>1</sup>) OJ C 22, 26.1.2008.

**Judgment of the Court (Second Chamber) of 11 December 2008 — Commission of the European Communities v Kingdom of Spain**

(Case C-480/07) (<sup>1</sup>)

*(Failure of a Member State to fulfil its obligations — Directive 2000/59/EC — Port reception facilities for ship-generated waste and cargo residues — Failure to have developed, implemented or approved waste reception and handling plans for all ports)*

(2009/C 44/30)

Language of the case: Spanish

### Parties

*Applicant:* Commission of the European Communities (represented by: K. Simonsson and R. Vidal Puig, acting as Agents)

*Defendant:* Kingdom of Spain (represented by: B. Plaza Cruz, acting as Agent)