

Pleas in law: Infringement of Article 7(1)(b),(c) and (e) of Council Regulation 207/2009, as the Board of Appeal wrongly assessed the absolute grounds for refusal presented by the applicant; Infringement of Article 75 of Council Regulation No 207/2009 as the Board of Appeal failed to state reasons why it denied the ground for revocation under Article 7(1)(c) of the said regulation; Infringement of Article 76(1) of Council Regulation No 207/2009 as the Board of Appeal failed to identify fully the features of the trade mark subject of the application for a declaration of invalidity and failed to take into account certain features of such trade mark.

Appeal brought on 11 November 2009 by Eckehard Rosenbaum against the judgment of the Civil Service Tribunal delivered on 10 September 2009 in Case F-9/08 Rosenbaum v Commission

(Case T-452/02 P)

(2010/C 11/65)

Language of the case: German

Parties

Appellant: Eckehard Rosenbaum (Bonn, Germany) (represented by H.-J. Rüber, lawyer)

Other parties to the proceedings: Commission of the European Communities and Council of the European Union

Form of order sought by the appellant

- set aside the judgment delivered on 10 September 2009 by the Civil Service Tribunal in the case of *Rosenbaum v Commission*;
- set aside the Commission's grading decision of 13 February 2007;
- require the Commission to grade the appellant in a manner which is non-discriminatory and consistent with his professional experience, and to take all further necessary measures resulting from the judgment;
- order the Commission to pay all costs relating to the dispute.

Pleas in law and main arguments

The appeal has been brought against the judgment of the Civil Service Tribunal of 10 September 2009 in Case F-9/08

Rosenbaum v Commission, by which the action brought by the present appellant was dismissed.

In support of his appeal, the appellant first of all submits that the Civil Service Tribunal conducted an incomplete examination of the first plea in law. The Civil Service Tribunal, the appellant continues, also erred in law in rejecting the other three pleas as these, in contrast to the view taken by the Tribunal, were appropriate for the purpose of setting aside the contested measure. In conclusion, the appellant expresses the view that the lack of higher-quality selection procedures has a bearing on the issue of the legality of the contested decision and that the rejection of the evidence adduced in this connection is for that reason unlawful.

Action brought on 13 November 2009 — Westfälisch-Lippischer Sparkassen- und Giroverband v Commission

(Case T-457/09)

(2010/C 11/66)

Language of the case: German

Parties

Applicant: Westfälisch-Lippischer Sparkassen- und Giroverband (Münster, Germany) (represented by: A. Rosenfeld and I. Liebach, lawyers)

Defendant: European Commission

Form of order sought

- Annul Commission Decision C(2009) 3900 final corr. of 12 May 2009 on the State aid C 43/2008 (ex N 390/2008) implemented by Germany for the restructuring of WestLB AG;
- order the Commission to pay the costs of the proceedings.

Pleas in law and main arguments

The applicant has brought an action for the annulment of Commission Decision C(2009) 3900 final corr. of 12 May 2009 on the State aid C 43/2008 (ex N 390/2008) implemented by Germany for the restructuring of WestLB AG. In that decision, the Commission took the position that, subject to a number of conditions, the notified aid in the form of a guarantee of EUR 5 billion is compatible with the common market.