

First, the applicant takes the view that the Commission should have taken account of the general industrial classification of economic activities within the European Communities (NACE) established by Regulation No 3037/90 <sup>(2)</sup> to which Article 2(2) of Directive 93/37/EEC refers. That classification distinguishes between hotels and restaurants on one hand and recreational, cultural and sporting activities on the other.

Second, the applicant takes the view that Article 2(2) of Directive 93/37/EEC concerns contracts which, by their very nature, fall within the traditional interests of the contracting authorities and that it therefore concerns facilities intended for sports, recreation and leisure open to all and not those reserved for private clients.

By its third plea, the applicant submits that the Commission has breached the duty to state reasons laid down in the second paragraph of Article 296 TFEU by failing to set out clearly and unequivocally the reasons why the renovation and extension works for 'Club Méditerranée — Les Boucaniers' concerned building work for facilities intended for sports, recreation and leisure within the meaning of Article 2(2) of Directive 93/37/EEC.

By its fourth plea in law, the applicant submits, in the alternative, that the Commission has breached the principle of proportionality by adopting a rate of correction of 100 % for the ERDF's subsidy, even though the works relating to the sports and leisure facilities are slightly below 10 % of the project.

<sup>(1)</sup> OJ 1993 L 199, p. 54.

<sup>(2)</sup> Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community

**Action brought on 15 October 2010 — SNCF v OHIM (infotrafic)**

(Case T-491/10)

(2011/C 13/54)

*Language in which the application was lodged: French*

**Parties**

*Applicant:* Société nationale des chemins de fer français (SNCF) (Paris, France) (represented by: H. Reynaud, lawyer)

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

*Other party to the proceedings before the Board of Appeal of OHIM:* Infotrafic SA (Ermont, France)

**Form of order sought**

— Alter paragraphs 16 to 23 of the decision of the Board of Appeal of OHIM of 6 August 2010 in Case R 1268/2009-2.

— Order OHIM to pay the costs.

**Pleas in law and main arguments**

*Registered Community trade mark in respect of which a declaration of invalidity has been sought:* 'infotrafic' for goods and services in Classes 9, 16, 38, 39 and 42 — Community trade mark No 1 926 815

*Proprietor of the Community trade mark:* Infotrafic SA

*Applicant for the declaration of invalidity:* The applicant

*Decision of the Cancellation Division:* Rejected the application for declaration of invalidity

*Decision of the Board of Appeal:* Dismissed the appeal

*Pleas in law:* Infringement of Articles 52 and 7(1)(b) of Regulation No 207/2009, in so far as the examination of a complex Community trade mark in which one of the elements is devoid of distinctive character or has questionable distinctive character should consider each element separately: infringement of the obligation to state reasons.

**Action brought on 28 October 2010 — Viktor Uspaskich v European Parliament**

(Case T-507/10)

(2011/C 13/55)

*Language of the case: Lithuanian*

**Parties**

*Applicant:* Viktor Uspaskich (Kėdainiai, Lithuania) (represented by Vytautas Sviderskis, lawyer, and Stanislovas Tomas, legal consultant)

*Defendant:* European Parliament

**Form of order sought**

— Annul the Decision of the European Parliament of 7 September 2010 No P7\_TA(2010)0296 on the request for waiver of the immunity of Viktor Uspaskich;

— Order the defendant to pay EUR 10 000 for the non-material damage suffered;

— Order the defendant to pay the costs of the proceedings.