

**Action brought on 25 February 2011 — Giordano v Commission****(Case T-114/11)**

(2011/C 139/43)

*Language of the case: French***Parties***Applicant:* Jean-François Giordano (Sète, France) (represented by: D.Rigeade and J. Jeanjean, lawyers)*Defendant:* European Commission**Form of order sought**

- Declaration that the enactment of Commission Regulation No 530/2008 of 12 June 2008 caused damage to Mr Jean-François Giordano;
- That the Commission pay Mr Giordano damages of EUR 542 594, plus interest at the statutory rate and on a compound basis;
- The Commission to pay the costs.

**Pleas in law and main arguments**

In support of the action, the applicant makes five please:

1. First plea, alleging infringement of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, <sup>(1)</sup> and a manifest error of assessment, in that only a serious threat to the conservation of marine resources would allow the Commission to adopt emergency measures. The applicant argues that the Commission has failed to demonstrate that, during the 2008 fishing season for bluefin tuna, there was fishing outside quotas.
2. Second plea, alleging infringement of the right under Article 15(1) of the Charter of Fundamental Rights of the European Union to engage in work and pursue an occupation, in that Regulation No 530/2008 entailed a restriction on the applicant's business
3. Third plea, alleging infringement of the principle of legal certainty, in that Regulation No 530/2008 prohibited fishing for bluefin tuna as from 16 June 2008, whereas it was authorised until 30 June 2008 in France.
4. Fourth plea, alleging infringement of the principle of the protection of legitimate expectations, the applicant having

had a legitimate expectation that he would be able to carry on his fishing business until 30 June 2008, since bluefin tuna fishing was initially authorised in France until 30 June 2008.

5. Fifth plea, alleging infringement of the right to property, in that Regulation No 530/2008 involved the compulsory cessation of the applicant's business of fishing for bluefin tuna, whereas he had a fishing permit granted by the Ministry of Agriculture and Fisheries for the period from 1 April 2008 to 30 June 2008 — that authorisation constituting an indispensable part of the applicant's economic interests. He argues:
  - that he has suffered a serious economic loss in connection with the carrying on of his business, bluefin tuna coming from fishing being 'property' within the meaning of Article 1 of the First Protocol to the European Convention on Human Rights and Fundamental Freedoms, and
  - that it constitutes a non-material debt in that the applicant had the legitimate expectation thereof.

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<sup>(1)</sup> OJ 2002 L 358, p. 59

**Action brought on 10 March 2011 — pelicantravel.com v OHIM — Pelikan (Pelikan)****(Case T-136/11)**

(2011/C 139/44)

*Language in which the application was lodged: Slovak***Parties***Applicant:* pelicantravel.com (Bratislava, Slovak Republic) (represented by: M. Chlipala, lawyer)*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)*Other party to the proceedings before the Board of Appeal:* Pelikan Vertriebsgesellschaft mbH & Co. KG (Hannover, Germany)**Form of order sought**

- Annulment of the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 9 December 2010 in Case R 1428/2009-2;