2. Furthermore, the ECB infringes Article 127 TFEU. The applicants claim that the ECB's monetary mandate is aimed at price stability. By implementing the measures, the ECB is carrying out fiscal policy and is acting *ultra vires*.

3. Also the contested decisions are contrary to Protocol (No 27) on the internal market and competition [2] together with Article 51 TEU. According to the applicants, the acquisition of government securities from States in a state of financial emergency constitutes direct intervention in a market sector which is characterised by oversupply. That acquisition constitutes an artificial reduction in supply with corresponding effects on the current yield of those securities which are incompatible with the principles of undistorted competition.

4. The ECB is acting contrary to the combined provisions of Article 130 TFEU and Article 7 of the ESCB/ECB statute [3] as the President of the ECB succumbed to pressure to adopt the contested decisions.

5. The acquisition of government securities which is motivated by considerations of fiscal policy rather than monetary policy, and which does not seek to guarantee price stability, adversely affects the markets and accordingly threatens confidence in an independent monetary policy. In the applicants' opinion, it follows from the rules of the European monetary union that they have a right to demand the discontinuance of manifestly destabilising conduct which is incompatible in particular with Article 123 and Article 125 TFEU.

[1] Council Regulation (EC) No 3603/93 of 13 December 1993 specifying definitions for the application of the prohibitions referred to in Articles 104 and 104b (1) of the Treaty (OJ 1993 L 332, p. 1).
[2] OJ 2010 C 83, p. 309.
[3] Protocol (No 4) on the statute of the European System of Central Banks and of the European Central Bank (OJ 2010 C 83, p. 230).

Action brought on 20 November 2012 — Slovenia v Commission

(Case T-507/12)

(2013/C 32/30)

Language of the case: Slovenian

Parties

Applicant: Republic of Slovenia (represented by V. Klemenc, State advocate, and A. Grum, assistant State advocate)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul Commission Decision of 19 October 2012 on the measures in favour of the undertaking ELAN d.o.o., SA.26379 (C-13/2010) (ex NN 17/2010), notified to Slovenia by the Commission by letter SG-Greffe(2012) D/14375 of 20 September 2012, in which it was decided, inter alia, in Article 2 that in 2008 Slovenia had unlawfully given effect to a measure of State aid in favour of Elan, in the form of recapitalisation of that body in the sum of EUR 10 million, contrary to Article 108(3) of the Treaty on the Functioning of the European Union, wherefore Slovenia is obliged to recover from the beneficiary the aid declared illegal, and

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of its action, the applicant relies on two pleas in law.

1. First plea in law: in the contested decision the Commission misapplied Articles 107(1) TFEU and 345 TFEU and infringed substantive procedural requirements, for it assessed the facts incorrectly and gave defective and/or incorrect reasons for the decision at issue concerning the question whether a recapitalisation measure in 2008 can be attributed to the Republic of Slovenia.

It is the applicant's opinion that the Commission, contrary to Articles 107(1) TFEU and 345 TFEU, concluded that the conduct of the members of Elan on the latter's recapitalisation in 2008 could be attributed to the Republic of Slovenia. The Commission's conclusion was based on the fact that the State, as owner, appoints the supervisory council; the Commission thereby discriminates, in the applicant's view, against the twofold system of management of public undertakings.

The reasoning for the decision is deficient – that is to say, it wants relevant, adequate grounds – and incorrect, in that the Commission argues that there exist strong indications of the State's being closely involved in the decision-making process of a company with share capital (Kapitalska družba, 'KAD') and of a consultancy and management company (Družba za svetovanje in upravljanje, DSU), that is to say, its arguments rest on no more than unreliable evidence and hear-say evidence. The contested decision is quite unsupported by reasons in respect too of the other members of Elan, against whom the Commission intends to level only an allegation of 'parallel conduct'. In the applicant's opinion, the factors mentioned by the Commission in the contested decision in no way amount to evidence that would, in accordance with the case-law of the Court of Justice and the General Court, demonstrate the State authorities' involvement in the adoption of the measure recapitalising Elan in 2008.

2. Second plea in law: in the contested decision, the Commission misapplied Article 107(1) TFEU and infringed substantive procedural requirements, for it assessed the facts incorrectly and gave defective and/or incorrect reasons for the decision at issue with regard to the conclusion that the measure recapitalising Elan in 2008 had not been effected in accordance with the principle of the private investor operating in a market economy, thus affording Elan a selective advantage.

The applicant claims in its action that the measure recapitalising Elan in 2008 was effected in accordance with the principle of the prudent private investor operating in a market economy, for the members, when deciding on the recapitalisation measure, relied on the appraisal of the undertaking in which proper consideration was given to the worsening of Elan's operations in the greater part of the winter season of 2007/2008, and therefore during the first quarter of 2008 too. The worsening state of affairs in 2008 was not, however, so drastic as to affect the reliability of an assessment of the value of the undertaking. The members took their decision as long-term shareholders in an undertaking that had temporarily run into difficulties, but that was in the long term capable not merely of surviving, but also of returning to profitable operation. In its contested decision, the Commission did not satisfactorily explain why it took selective account of an estimate of the value of the undertaking, thus acting arbitrarily.

Action brought on 27 November 2012 — Ted-Invest v OHIM — Scandia Down (sensi scandia)

(Case T-516/12)

(2013/C 32/31)

Language in which the application was lodged: English

Parties

Applicant: Ted — Invest EOOD (Plovdiv, Bulgaria) (represented by: A. Ivanova, lawyer)

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

Other party to the proceedings before the Board of Appeal: Scandia Down LLC (Weehawken, United States)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 6 September 2012 in case R 2247/2011-1, for declaring the trademark as invalid for the goods in classes 20 and 24;

— Alternatively if the Court does not uphold the whole appeal, to uphold the appeal and to annul the decision of the First Board of Appeal in connection with the goods in class 20.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: The figurative mark 'sensi scandia', for goods in classes 16, 20 and 24 — Community trade mark registration No 8596975

Proprietor of the Community trade mark: The applicant

Applicant for the declaration of invalidity of the Community trade mark: The other party to the proceedings before the Board of Appeal

Grounds for the application for a declaration of invalidity: The request for a declaration of invalidity was based on the grounds laid down in Article 53(1) in conjunction with Article 8(1)(b) of Council Regulation No 207/2009, and was based on the Community trade mark registration No 8173312 of the word mark 'SCANDIA HOME', for goods and services in classes 20, 24, 25 and 35

Decision of the Cancellation Division: Declared the contested CTM invalid

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 53(1) in conjunction with Articles 8(2) and 8(1) of Council Regulation No 207/2009.

Action brought on 23 November 2012 — Alro v Commission

(Case T-517/12)

(2013/C 32/32)

Language of the case: English

Parties

Applicant: Alro SA (Slatina, Romania) (represented by: C. Quigley, QC, O. Bretz, Solicitor, and S. Verschuur, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— Annul the Commission's decision of 26 April 2012 to open, pursuant to Article 108(2) of the Treaty on the Functioning of the European Union ('TFEU') and Article 4(4) of Council's Regulation (EC) No 659/1999 [1] ('the Procedural Regulation'), a formal investigation into alleged unlawful State aid granted by Romania, through its control of Hidroelectrica S.A. ('Hidroelectrica'), to ALRO in the form of preferential tariffs for the purchase of electricity through a contract concluded in 2005 and its successive amendments;