

Pleas in law and main arguments

Applicant for a Community trade mark: Applicant

Community trade mark concerned: Figurative mark with the word element 'LEO' for goods in Classes 32 and 33 — Community trade mark application No 10 613 511

Proprietor of the mark or sign cited in the opposition proceedings: Maria Leonor Pires Freitas Campos

Mark or sign cited in opposition: Word mark 'LEO D'HONOR' for goods in Class 33

Decision of the Opposition Division: Opposition upheld

Decision of the Board of Appeal: Appeal dismissed

Pleas in law: Infringement of Article 8(1)(b) of Regulation No 207/2009

Action brought on 30 June 2014 — Mayer v EFSA

(Case T-493/14)

(2014/C 329/27)

Language of the case: German

Parties

Applicant: Ingrid Alice Mayer (Ellwangen, Germany) (represented by: T. Mayer, lawyer)

Defendant: European Food Safety Authority

Form of order sought

The applicant claims that the Court should:

- extend her secondment up to 30 June 2015;
- declare unlawful the termination of her secondment agreement, more precisely the EFSA decision 'Termination of the secondment' of 16 April 2014;
- order the defendant not to allow the 'observer' position of the seconded national expert on the staff committee to be re-selected;
- declare unlawful the six-month suspension of her staff-committee activity;
- order that she be granted access to all e-mails which were exchanged between the EFSA director and a private-law organisation active in the food sector;
- in the alternative, order that that access to documents be granted to a third party, to be determined by the General Court, in order to examine a possible conflict of interests;
- order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

The applicant relies on the following submissions in support of her action.

The applicant submits that she has a legal entitlement to an extension of her secondment as national expert as a result of the general principle of equality, the Charter of Fundamental Rights, the prohibition of arbitrary action and Article 2 TEU.

The applicant complains in this regard that the non-extension of the secondment is based on an erroneous selection decision, or even on no selection decision at all.

The applicant also claims that her suspension from the staff committee is unlawful because no reasons were given, no hearing took place and no written decision was issued.

In addition, the applicant asserts a claim to have access to certain e-mails under Article 2 of Regulation No 1049/2001⁽¹⁾. In this connection, she argues that official e-mails do not fall under the protection of personal data.

⁽¹⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

Action brought on 2 July 2014 — Deutsche Umwelthilfe v Commission

(Case T-498/14)

(2014/C 329/28)

Language of the case: German

Parties

Applicant: Deutsche Umwelthilfe eV (Radolfzell, Germany) (represented by: R. Klinger and R. Geulen, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the decision;
- order the European Commission to pay the costs.

Pleas in law and main arguments

The applicant relies on the following pleas in support of its action.

Right of access to the written correspondence between the European Commission and the undertakings Honeywell and DuPont and automobile manufacturers regarding the new refrigerant R1234yf

- The applicant submits that the Commission failed to recognise the applicant's right of access under the first sentence of Article 6(1) of Regulation (EC) No 1367/2006⁽¹⁾. According to that provision, documents of the institutions must always be made accessible if they relate to emissions into the environment. The first sentence of Article 6(1) of Regulation No 1367/2006 contains a statutory presumption that the interest in disclosure of the information takes precedence over the interest of undertakings in ensuring their protection.
- The applicant further submits that the first sentence of Article 6(1) of Regulation No 1367/2006 constitutes an explicit rule for the interpretation of the first and second indents of Article 4(2) of Regulation (EC) No 1049/2001⁽²⁾. The first sentence of Article 6(1) of Regulation No 1367/2006, it argues, modifies what is stated in Regulation No 1049/2001 as soon as documents relate to emissions into the environment. The applicant submits that the documents withheld presumably contain information on the refrigerants R1234yf and R134a, which are harmful to health and to the climate, and that the quantities of poisonous hydrogen fluoride emissions can be deduced from the declarations, assessments and proposals of automobile manufacturers and refrigerant producers with regard to the use of those chemicals.
- In the alternative, the applicant submits that access to the requested documents must itself be granted on the basis of Article 2(1) of Regulation No 1049/2001. The condition governing the exception set out in the first indent of Article 4(2) of Regulation No 1049/2001 is, it argues, not satisfied. In addition, there is an overriding interest in access to the documents because the health risks linked to use of the refrigerant are significant.

⁽¹⁾ Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ 2006 L 264, p. 13).

⁽²⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).