

2. Second plea in law, alleging that the Commission misapplied Article 4(2), second indent, of Regulation (EC) No 1049/2001 by deciding that access to the requested documents would seriously undermine the protection of pending court proceedings initiated in cases T-192/16, T-193/16 and T-257/16 and that access to the said documents would undermine the Commission's interest in seeking legal advice and receiving frank, objective and comprehensive advice. It is also argued under this plea that the Commission failed to recognize that access to the requested documents is of overriding public interest and that they should for that reason be disclosed.
3. Third plea in law, alleging that the Commission misapplied Article 4(3), first and second subparagraph, of Regulation (EC) No 1049/2001 by deciding that access to the requested documents would seriously undermine the decision-making process and/or by failing to recognize the existence of an overriding public interest, particularly given that the decision-making process in question has been finalised.
4. Fourth plea in law, alleging, in subsidiary order, that the Commission misapplied Article 4(6) of Regulation (EC) No 1049/2001 by not granting at least partial access to the requested documents which it withheld in their entirety.

⁽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 22 December 2016 — SilverTours v EUIPO (billiger-mietwagen.de)

(Case T-866/16)

(2017/C 053/41)

Language of the case: German

Parties

Applicant: SilverTours GmbH (Freiburg im Breisgau, Germany) (represented by: P. Neuwald, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: EU word mark 'billiger-mietwagen.de' — Application No 14 343 099

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 3 November 2016 in Case R 206/2016-5

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO to pay the costs.

Pleas in law

- Infringement of the first sentence of Article 76(1) of Regulation No 207/2009;
 - Infringement of Article 7(1)(b) of Regulation No 207/2009;
 - Infringement of Article 7(1)(c) of Regulation No 207/2009.
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