

Form of order sought

The parties claim that the Court should:

- annul the decision published on 15 April 2016 amending the Rights and obligations of officials, temporary and contract agents: Education Allowances;
- order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the decision of the European External Action Service (EEAS) of 15 April 2016 (‘the contested decision’) is unlawful in that it was adopted in infringement of Article 1 of Annex X to the Staff Regulations and of Article 110 of the Staff Regulations in the absence of EEAS general implementing provisions.

The applicants also claim the total absence of any statement of reasons for the dismissal of their complaint against the contested decision.

2. Second plea in law, alleging failure to implement a social dialogue before the adoption of the contested decision, in infringement of Article 27 of the Charter of Fundamental Rights of the European Union.
3. Third plea in law, alleging infringement of the acquired rights of officials and agents who have been employed for several years and whose children have also been in school for several years. That infringement is the result of the contested decision in so far as it alters the previously-established system whereby the vast majority of officials and agents who applied for a supplementary reimbursement obtained full reimbursement of the cost exceeding the statutory ceiling.
4. Fourth plea in law, alleging infringement of the precautionary principle, and the principles of legitimate expectations and legal certainty and infringement of the principle of sound administration, which result from the contested decision, in particular as it provides only for a transitional measure for one year and the new terms of reimbursement thus adopted will have been imposed on employed officials and agents the time of their adoption.
5. Fifth plea in law, alleging that there is no balancing of interests and observance of the proportionality principle which vitiated the contested decision, the sole objective of which is the reduction of the financial impact involved in an additional reimbursement of education costs whereas the EEAS could have prioritised other measures in order to attain such an objective, without infringing the rights of its staff. The defendant thus chose the solution which was the most prejudicial to its officials and agents.
6. Sixth plea in law, alleging infringement of the principle of non-discrimination, in so far as the contested decision introduces discrimination by establishing a principle of reimbursement on an identical basis for officials and other agents located in different delegations and, therefore, identical treatment of different situations.
7. Seventh ground of appeal, alleging infringement of the right to family and the right to education allegedly committed by the EEAS since the effect of the adoption of the contested decision is to force the applicants to choose between their professional life and those fundamental rights.

Action brought on 26 January 2017 — France.com v EUIPO — France (FRANCE.com)

(Case T-71/17)

(2017/C 112/56)

Language in which the application was lodged: English

Parties

Applicant: France.com, Inc. (Coral Gables, Florida, United States) (represented by: A. Bertrand, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: French Republic

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: EU figurative mark containing the word elements 'FRANCE.com' — Application for registration No 13 158 597

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 20 October 2016 in Case R 2452/2015-1

Form of order sought

The applicant claims that the Court should:

- submit the following preliminary questions to the Court of Justice: (i) In the light of Articles 8(2) and 41(1) of the European Trade Marks Regulation and of Rules 15(2)(b) and 17 of the European Union Trade Marks Implementing Regulation, in an opposition procedure, does the Applicant, as the defendant to the opposition have the right to invoke prior rights, which could constitute prior rights to the earlier trademark used as a prior right in the opposition? (ii) Does the French State have any kind of prior intellectual property right on the word 'France' which is not the official name of the French State and which is just a geographical entity? (iii) If the answer to the question (ii) is 'No', should the name 'France' be considered as a word which is in the public domain and on which no one can claim any intellectual property right? (iv) If the answer to the question (ii) is 'Yes', should the fact that the French State as of this day has never claim any rights in the word 'France' except against France.com be considered as a discrimination against the Applicant?
- annul the contested decision;
- rejects the opposition filed by the French State against the registration of the European semi-figurative trademark 'France.com' applied for by France.com Inc.;
- dismiss the action as to the remainder;
- order EUIPO to bear its own costs and to pay those incurred by France.com Inc. for the purpose of the proceedings before the Court;
- order EUIPO and the French State each to pay half of the costs necessarily incurred by France.com Inc. for the purpose of the proceedings before the Board of Appeal of EUIPO.

Pleas in law

- Infringement of Articles 8(1), 8(2) and 41(1) of Regulation No 207/2009;
- Infringement of Rules 15(2)(b) and 17 of Regulation No 2868/95.

Action brought on 3 February 2017 — RS v Commission

(Case T-73/17)

(2017/C 112/57)

Language of the case: French

Parties

Applicant: RS (represented by: S. Orlandi and T. Martin, lawyers)

Defendant: European Commission