Action brought on 16 March 2017 — CBA Spielapparate- und Restaurantbetriebs v Commission

(Case T-168/17)

(2017/C 151/51)

Language of the case: German

Parties

Applicant: CBA Spielapparate- und Restaurantbetriebs GmbH (Vienna, Austria) (represented by: A. Schuster, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— uphold the action for annulment and annul the contested decision;

— order the Commission to pay the costs of the proceedings.

Pleas in law and main arguments

By its present action, the applicant seeks the annulment of Commission Decision C (2017) 249 final of 13 January 2017 concerning the applicant’s confirmatory application for access to documents under Regulation (EC) No 1049/2001. (1)

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

1. First plea in law: infringement of essential procedural requirements, in particular a failure to state reasons

2. Second plea in law: infringement of the law of the Treaties

The applicant submits that the exceptions provided for in Article 4 of Regulation (EC) No 1049/2001 and applied by the Commission are unlawful, since they conflict with higher-ranking primary law, in particular with Articles 42 and 47 of the Charter of Fundamental Rights of the European Union.

Furthermore, the primacy of application of higher-ranking primary law over conflicting secondary law also applies in EU law, with the result that, for this reason, too, the Commission should not have applied the exceptions provided for in Article 4 of Regulation (EC) No 1049/2001.


Action brought on 17 March 2017 — Pethke v EUIPO

(Case T-169/17)

(2017/C 151/52)

Language of the case: German

Parties

Applicant: Ralph Pethke (Alicante, Spain) (represented by: H. Tettenborn, lawyer)

Defendant: European Union Intellectual Property Office

Form of order sought

The applicant claims that the Court should:

— annul Decision PERS-AFFECT-16-134 of 17 October 2016, by which the applicant was transferred from the post of Director of the Operations Department to another post with the Observatory and was demoted to the post of Senior Expert with effect from 17 October 2016;