

**Details of the proceedings before OHIM**

*Trade mark at issue:* Community figurative mark containing the word elements 'JEDE FLASCHE ZÄHLT!' — Application No 13 510 123

*Contested decision:* Decision of the Fourth Board of Appeal of OHIM of 7 September 2015 in Case R 479/2015-4

**Form of order sought**

The applicant claims that the Court should:

- annul the contested decision;
- order OHIM to pay the costs, including the costs in respect of the proceedings before OHIM.

**Plea in law**

- Infringement of Article 7(1)(b) in conjunction with Article 7(2) of Regulation No 207/2009.

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**Action brought on 6 November 2015 — European Food and Others/Commission**

(Case T-624/15)

(2016/C 016/54)

*Language of the case: English*

**Parties**

*Applicants:* European Food SA (Drăgănești, Romania), Starmill Srl (Drăgănești), Multipack Srl (Drăgănești), Scandic Distilleries SA (Bihor, Romania) (represented by: K. Struckmann, lawyer, G. Forwood, Barrister, and A. Kadri, Solicitor)

*Defendant:* European Commission

**Form of order sought**

The applicants claim that the Court should:

- annul Commission Decision (EU) 2015/1470 of 30 March 2015 on State aid SA.38517 (2014/C) (ex 2014/NN) implemented by Romania [Arbitral award *Micula v Romania* of 11 December 2013 (notified under document C(2015) 2112)] (OJ 2015 L 232, p. 43);
- alternatively, annul the contested decision insofar as it (a) concerns each of the applicants, (b) prevents Romania from complying with the award, (c) orders Romania to recover any incompatible aid, (d) orders that the applicants shall be jointly liable to repay aid received by any of the entities identified in Article 2(2) of the contested decision;
- order the Commission to pay the costs of the proceedings.

**Pleas in law and main arguments**

In support of the action, the applicants rely on eight pleas in law.

1. First plea in law, alleging that the contested decision errs in failing to properly apply Article 351 TFEU and general principles of law to the present case.

2. Second plea in law, alleging that the contested decision wrongly found that the measure in question conferred an advantage on the applicants, specifically in incorrectly assessing the time at which the alleged advantage was granted, or alternatively in finding that the payment of damages constitutes an advantage.
3. Third plea in law, alleging that the contested decision wrongly found that the measure in question was imputable to the Romanian State.
4. Fourth plea in law, alleging that the contested decision incorrectly assessed the compatibility of the alleged aid measure.
5. Fifth plea in law, alleging that the contested decision incorrectly identified the beneficiaries of the alleged aid, and failed to state reasons for its conclusion, specifically in identifying the natural or legal persons comprising the alleged beneficiary undertaking.
6. Sixth plea in law, alleging that the contested decision erred in law and exceeded its competence in ordering recovery of the alleged aid.
7. Seventh plea in law, alleging that the contested decision breaches the principle of the protection of legitimate expectations.
8. Eighth plea in law, alleging that the contested decision is vitiated by a failure to observe essential procedural requirements, specifically the right to be heard, Article 108(3) TFEU and Article 6(1) of Regulation 659/1999 <sup>(1)</sup>.

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<sup>(1)</sup> Council Regulation No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, OJ L 83, p. 1 (as amended).

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**Action brought on 10 November 2015 — Spa Monopole v OHIM — YTL Hotels & Properties (SPA VILLAGE)**

**(Case T-625/15)**

**(2016/C 016/55)**

*Language in which the application was lodged: French*

**Parties**

*Applicant:* Spa Monopole, compagnie fermière de Spa SA/NV (Spa, Belgium) (represented by: E. Cornu and E. De Gryse, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* YTL Hotels & Properties Sdn Bhd (Kuala Lumpur, Malaysia)

**Details of the proceedings before OHIM**

*Applicant for the trade mark at issue:* Other party to the proceedings before the Board of Appeal

*Trade mark at issue:* Community word mark 'SPA VILLAGE' — Application for registration No 3 841 202

*Procedure before OHIM:* Opposition proceedings