

3. Third plea in law, relied on in the alternative, alleging infringement of Article 14(1) of Council Regulation (EC) No. 659/1999 of 22 March 1999 laying down detailed rules for the implementation of Article 93 of the EC Treaty, in that the Commission required recovery of the aid in disregard of the principle of legal certainty and of the rights of the defence.

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**Action brought on 21 December 2015 — Tengelmann Warenhandelsgesellschaft v OHIM —  
Fédération Internationale des Logis (T)**

**(Case T-756/15)**

(2016/C 059/56)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Tengelmann Warenhandelsgesellschaft KG (Mülheim an der Ruhr, Germany) (represented by: H. Prange, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Federation Internationale des Logis (Paris, France)

**Details of the proceedings before OHIM**

*Applicant of the trade mark at issue:* Applicant

*Trade mark at issue:* Community word mark 'T' — Application for registration No 11 623 022

*Procedure before OHIM:* Opposition proceedings

*Contested decision:* Decision of the Fifth Board of Appeal of OHIM of 31 August 2015 in Case R 2653/2014-5

**Form of order sought**

The applicant claims that the Court should:

- set aside the contested decision, and amend it to the effect that the opposition is rejected in its entirety;
- order of the defendant and, as the case may be, the other party to the proceedings before the Board of Appeal to pay the costs of the proceedings, including the costs of the appeal proceedings.

**Plea in law**

- Infringement of Article 8(1)(b) of Regulation No 207/2009.

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**Action brought on 29 December 2015 — Fiat Chrysler Finance Europe v Commission**

**(Case T-759/15)**

(2016/C 059/57)

*Language of the case: English*

**Parties**

*Applicant:* Fiat Chrysler Finance Europe (FCFE) (Luxembourg, Luxembourg) (represented by: J. Rodriguez, Solicitor, M. Engel and G. Maisto, lawyers)

*Defendant:* European Commission

### **Form of order sought**

The applicant claims that the Court should:

- declare the action for annulment admissible;
- annul Articles 1-4 of the Commission's decision dated 21 October 2015 addressed to the Grand Duchy of Luxembourg ('Luxembourg') in case SA.38375 (2914/C ex 2014 NN) ('Contested Decision');
- order the Commission to pay FCFE's costs.

### **Pleas in law and main arguments**

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

1. First plea in law, alleging that the contested decision breaches Article 107 TFEU because the Commission has misapplied the concept of 'selective advantage' and failed to show that the APA is liable to distort competition.
2. Second plea in law, alleging that the contested decision breaches Article 296(2) TFEU and its duty to state reasons through its failure to explain how it derives the arm's length principle from Union law, or even what the principle is and through its superficial description of the APA's effect on competition.
3. Third plea in law, alleging that the contested decision breaches the principle of legal certainty since the Commission's novel formulation of the arm's length principle introduces complete uncertainty and confusion as to when an advance pricing agreement, and indeed any transfer pricing analysis might breach EU state aid rules.
4. Fourth plea in law, alleging that the contested decision breaches the principle of legitimate expectations since the Commission has created a legitimate expectation that for state aid purposes it assesses transfer pricing arrangements on the basis of the OECD Guidelines and its sudden departure from this has breached the principle of legitimate expectations.

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## **Action brought on 23 December 2015 — Netherlands v Commission**

**(Case T-760/15)**

(2016/C 059/58)

*Language of the case: Dutch*

### **Parties**

*Applicant:* Kingdom of the Netherlands (represented by: M. Bulterman, B. Koopman and M. de Ree, acting as Agents)

*Defendant:* European Commission

### **Form of order sought**

The applicant claims that the Court should:

- annul the decision of the Commission of 21 October 2015 with reference number C(2015) 7143 concerning State aid SA.38374 (2014/C ex 2014/NN) implemented by the Netherlands in favour of Starbucks;
- order the Commission to pay the costs.