Pleas in law and main arguments

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

1. First plea in law, alleging that the contested decision is vitiated by manifest errors in its assessment of the product market definition for nuclear fuel assemblies

   — As a result of these errors, the contested decision would reach the allegedly erroneous conclusion that, within the market for pressurised water reactor type fuel assemblies, no separate market exists for European pressurised water reactor type fuel assemblies. Due to the alleged errors in market definition, the contested decision would fail to consider the effects of the acquisition by EDF of the Areva Group's nuclear reactors business (the 'Transaction') on the narrower product market in question.

   — Moreover, the substantive assessment of the broader pressurised water reactor fuel assemblies market would be vitiated by additional errors of assessment.

2. Second plea in law, alleging that the contested decision is vitiated by manifest errors in its assessment of the product market definition for nuclear services

   — As a result of these errors, the contested decision would reach the allegedly erroneous conclusion that, within the nuclear services market for existing nuclear steam supply systems, no separate product market exists for nuclear services for European pressurised water reactor type nuclear steam supply systems. Due to the alleged errors in market definition, the contested decision would fail to consider the effects of the Transaction on the narrower product market in question.

   — Moreover, the substantive assessment of the broader nuclear services market for existing nuclear steam supply systems would be vitiated by additional errors of assessment.

3. Third plea in law, alleging that the contested decision is vitiated by manifest errors in its assessment of the geographic market definition of the downstream market for the generation and wholesale of electricity

This erroneous geographic market definition allegedly leads to additional errors of assessment of the effects of the Transaction.

Action brought on 31 January 2018 — Germany v Commission

(Case T-53/18)

(2018/C 112/51)

Language of the case: German

Parties

Applicant: Federal Republic of Germany (represented by: T. Henze and J. Möller, acting as Agents, and by M. Winkelmüller, F. van Schewick and M. Kottmann, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Decision (EU) 2017/1995 of 6 November 2017 to maintain in the *Official Journal of the European Union* the reference of harmonised standard EN 13341:2005 + A1:2011 on static thermoplastic tanks for above-ground storage of domestic heating oils, kerosene and diesel fuels in accordance with Regulation (EU) No 305/2011 of the European Parliament and of the Council (OJ 2017 L 288, p. 36);

— annul Commission Decision (EU) 2017/1996 of 6 November 2017 to maintain in the *Official Journal of the European Union* the reference of harmonised standard EN 12285-2:2005 on Workshop fabricated steel tanks in accordance with Regulation (EU) No 305/2011 of the European Parliament and of the Council (OJ 2017 L 288, p. 39); and

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law: infringement of the obligation to state reasons

   By the first plea in law, the applicant claims that the contested decisions infringe the obligation to state reasons under the second paragraph of Article 296 TFEU. The contested decisions adopt no position on the central question under Article 18(1) of Regulation (EU) No 305/2011 ([1]) as to whether the harmonised standards at issue conform to the relevant mandate and whether the fulfilment of the basic requirements for construction works can be ensured on the basis of those standards. As a result, neither the applicant nor the General Court can assess which essential considerations of fact and of law the defendant took as its basis.

2. Second plea in law: infringement of substantive-law rules of Regulation (EU) No 305/2011

   — First, the contested decisions infringe the first and second sentence of Article 17(5) of Regulation (EU) No 305/2011. Contrary to those provisions, the defendant does not appear to have assessed the extent to which the harmonised standards at issue conform to the relevant mandates. Consequently, it failed to recognise that there is in fact no such conformity.

   — Second, the contested decisions infringe Article 18(2), in conjunction with Article 3(1) and (2) and the first sentence of Article 17(3), of Regulation (EU) No 305/2011. The defendant disregarded the fact that the contested harmonised standards include no methods or criteria for assessing performance in relation to the essential characteristics for the mechanical resistance, stability, breaking resistance and load-bearing capacity of tanks for use coming within the scope of the standards in earthquake and flood areas, and that they are therefore insufficient in respect of three essential characteristics of construction products and consequently jeopardise compliance with the basic requirements for construction works.

   — Third, the defendant committed an error of assessment by rejecting as inadmissible the applicant's request that it add, in each case, a restriction when publishing the references for the contested harmonised standards, thereby infringing Article 18(2) of Regulation (EU) No 305/2011.

   — Lastly, the defendant committed a further error of assessment when adopting the contested acts by reason of the fact that it rejected the applicant's alternative request that it withdraw the references for the contested standards from the *Official Journal of the European Union* on the basis of the possibility, which in the Commission's view was extant, of a restriction or prohibition on the part of the Member States.

([1]) Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ 2011 L 88, p. 5).

Action brought on 2 February 2018 — Mahr v EUIPO — Especialidades Vira (Xocolat)

(Case T-58/18)

(2018/C 112/52)

Language in which the application was lodged: English

Parties

Applicant: Ramona Mahr (Vienna, Austria) (represented by: T. Rohracher, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Especialidades Vira, SL (Martorell, Spain)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: EU word mark 'Xocolat' — Application for registration No 14 335 574