

- in the alternative and by way of partial variation of the contested decision, dismiss the opponent's application for cancellation of EU trade mark No 4 187 159 for non-use in relation to goods and services in Classes 30 (Coffee), 41 (Educational and training activities, training courses) and 43 (Providing of food and drink, services provided by businesses which undertake to obtain food and drink ready for consumption provided by bars, restaurants, self-service restaurants, canteens);
- order the unsuccessful party to pay the costs of these proceedings and both the preceding procedural stages.

#### **Pleas in law**

- Incorrect assessment of the evidence of use for the purpose of Article 58(1)(a) and Article 18(1) of Regulation No 2017/1001.

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### **Action brought on 24 January 2018 — Autoridad Portuaria de Vigo v Commission**

**(Case T-41/18)**

(2018/C 142/69)

*Language of the case: Spanish*

#### **Parties**

*Applicant:* Autoridad Portuaria de Vigo (Vigo, Spain) (represented by: J. Costas Alonso, lawyer)

*Defendant:* European Commission

#### **Form of order sought**

The applicant claims that the Court should:

- ensure that the European Commission, as guardian of the Treaties, fulfills its obligation to ensure the uniform application of Community provisions by all the Member States, takes action to guarantee uniform application of EU legislation relating to imports of products of animal origin from third countries in all Member States, and standardises the rules governing such controls;
- in particular, order the European Commission's Directorate-General for Health and Food Safety to carry out a comparative analysis on the application of EU legislation that regulates imports of products of animal origin from third countries through the ports of Vigo and Leixoes (Portugal).

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

In support of the action, the applicant claims that inconsistent application of EU legislation in relation to the importation of frozen and refrigerated fishery products from non-EU countries has skewed competition rules and the level playing field, leading to a distortion of the internal market.

In that regard, it also submits that ports play a key role in freight transportation and, more specifically, in relation to imports of fishery products, 76 % of which enter through ports.

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### **Action brought on 6 February 2018 — Alfamicro v Commission**

**(Case T-64/18)**

(2018/C 142/70)

*Language of the case: Portuguese*

#### **Parties**

*Applicant:* Alfamicro — Sistema de Computadores — Sociedade Unipessoal, Lda (Cascais, Portugal) (represented by: G. Gentil Anastácio and D. Pirra Xarepe, lawyers)

*Defendant:* European Commission

### **Form of order sought**

The applicant claims that the Court should:

- first, declare that Commission Decision (2017) 8839 final of 13 December 2017 on the recovery of a debt is null and void in so far as it relates to debit note No 3241507078 and, secondly, annul that decision as to the remainder;
- order the Commission to pay the costs.

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

The applicant relies on the following pleas in law:

1. With regard to the application for a declaration that the decision is null and void, the applicant relies on the Commission's appropriation of the powers of the judiciary, in that it substituted the decision of the General Court of 14 November 2017 in Case T-831/14, in which the Court set the European Union's claim relating to a specific debt, with a different, enforceable, decision relating to that debt, in breach of Article 19 TEU and Article 272 TFEU;
2. With regard to the application for annulment, the applicant relies on:
  - a failure to provide adequate reasons, in that the Commission merely stated that certain systemic errors were found in the checks made in the financial audit carried out in the agreement which is the subject of the contested decision, without, however, explaining what those errors are;
  - misuse of powers, in that, by automatically extending the conclusions of a financial audit carried out in the context of one contractual relationship to other contractual relationships, the Commission infringed the second paragraph of Article 135(5) of Regulation No 966/2012<sup>(1)</sup> and a fundamental principle of administrative contracts in general, and public contracts in particular, that is to say, the inviolability of the remuneration clause.

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<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ 2012 L 298, p. 1).

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### **Action brought on 09/02/2018 — Barata v Parliament**

**(Case T-81/18)**

(2018/C 142/71)

*Language of the case: English*

### **Parties**

*Applicant:* Joao Miguel Barata (Evere, Belgium) (represented by: G. Pandey, D. Rovetta and V. Villante, lawyers)

*Defendant:* European Parliament

### **Form of order sought**

The applicant claims that the Court should:

- as a preliminary matter, where appropriate, declare Article 90 of the Staff Regulations invalid and inapplicable in the present proceedings under Article 277 of the Treaty on the Functioning of the European Union;