

Judgment of the Court of First Instance (Eighth Chamber) of 13 November 2008 — SPM v Council and Commission

(Case T-128/05) ⁽¹⁾

(Non-contractual liability of the Community — Common organisation of the markets — Bananas — Rules for importing of bananas from ACP countries into the European Union — Lawful or unlawful conduct — Loss allegedly suffered by independent ACP producer)

(2009/C 6/39)

Language of the case: French

Parties

Applicant: Société des plantations de Mbanga SA (SPM) (Douala, Cameroon) (represented initially by P. Soler Couteaux and S. Cahn, then by S. Cahn, B. Doré and A. Farache, lawyers)

Defendants: Council of the European Union (represented by: A. De Gregorio Merino, M. Balta and A. Westerhoff Löfflerova, Agents) and Commission of the European Communities (represented by: F. Clotuche-Duvieusart and L. Visaggio, Agents)

Re:

Action for damages pursuant to Article 235 EC and the second paragraph of Article 288 EC, based, principally, on the unlawful conduct of the Council and the Commission in the establishment of the rules relating to the import of bananas into the Community and, alternatively, on the liability of the Community in the absence of unlawful conduct by those two institutions.

Operative part of the judgment

The Court:

1. *dismisses the action;*
2. *orders Société des plantations de Mbanga SA (SPM) to pay the costs.*

⁽¹⁾ OJ C 171, 9.7.2005.

Judgment of the Court of First Instance of 20 November 2008 — Italian Republic v Commission

(Case T-185/05) ⁽¹⁾

(Rules on languages — Implementing rules for recruitment to the European Union Civil Service — Action for annulment under Article 230 EC — Action brought by a Member State against, first, a Commission decision to publish vacancy notices for senior management posts in English, French and German and, second, a Commission vacancy notice published in those three languages for the post of Director-General of OLAF — Admissibility — Time-limit for bringing an action — Measures against which an action may be brought — Statement of reasons — Articles 12 EC, 230 EC and 290 EC — Regulation No 1 — Articles 1d and 27 of the Staff Regulations — Principle of non-discrimination)

(2009/C 6/40)

Language of the case: Italian

Parties

Applicant: Italian Republic (represented by: I. Braguglia and M. Fiorilli, avvocati dello Stato)

Defendant: Commission of the European Communities (represented by: L. Cimaglia and P. Aalto, Agents)

Interveners in support of the applicant: Kingdom of Spain (represented by: F. Díez Moreno, abogado del Estado); and Republic of Latvia (represented initially by: E. Balode-Buraka, and subsequently by: L. Ostrovska, Agents)

Re:

APPLICATION for annulment, first, of the decision adopted by the Commission at its 1678th meeting on 10 November 2004, whereby external publications of the vacancy notices for senior management posts in the *Official Journal of the European Union* would be in English, French and German for a period that would in principle end on 1 January 2007 and, second, of vacancy notice COM/2005/335 for the post of Director-General (grade A*15/A*16) of the European Anti-Fraud Office (OLAF), published by the Commission on 9 February 2005 (OJ 2005 C 34 A, p. 3).

Operative part of the judgment

The Court:

1. *Annuls the decision adopted by the Commission at its 1678th meeting on 10 November 2004, whereby external publications of the vacancy notices for senior management posts in the Official Journal of the European Union would henceforth be in English, French and German for a period ending 1 January 2007;*

2. Annuls vacancy notice COM/2005/335 for the post of Director-General (grade A*15/A*16) of the European Anti-Fraud Office (OLAF), published by the Commission on 9 February 2005 (OJ 2005 C 34 A, p. 3);

3. Orders each party to bear its own costs.

(¹) OJ C 155, 25.6.2005.

Judgment of the Court of First Instance of 12 November 2008 — Nalocebar v OHIM — Limiñana y Botella (Limoncello di Capri)

(Case T-210/05) (¹)

(Community trade mark — Opposition proceedings — Application for figurative Community trade mark Limoncello di Capri — Earlier national word mark LIMONCHELO — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94)

(2009/C 6/41)

Language of the case: Italian

Parties

Applicant: Nalocebar — Consultores e Serviços Lda (São Pedro, Portugal) (represented by: G. Pasquarella and R. Pasquarella, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: initially M. Capostagno and then O. Montalto, Agents)

Other party to the proceedings before the Board of Appeal of OHIM: Limiñana y Botella, SL (Monforte del Cid, Spain)

Re:

ACTION brought against the decision of the First Board of Appeal of OHIM of 18 March 2005 (Case R 646/2004-1) relating to opposition proceedings between Limiñana y Botella, SL and Nalocebar — Consultores e Serviços Lda.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Nalocebar — Consultores e Serviços Lda to pay the costs.

(¹) OJ C 182, 23.7.2005.

Judgment of the Court of First Instance of 19 November 2008 — Greece v Commission

(Case T-404/05) (¹)

(Cohesion Fund — Athens International Airport — Reduction of financial assistance — Principle of proportionality)

(2009/C 6/42)

Language of the case: Greek

Parties

Applicant: Hellenic Republic (represented by: M. Tassopoulou, Agent, assisted by N. Korogiannakis and N. Keramidas, lawyers)

Defendant: Commission of the European Communities (represented by: D. Triantafyllou and A. Weimar, Agents)

Re:

Application for annulment of Commission Decision C(2005) 3243 final of 1 September 2005 reducing the financial assistance granted under the Cohesion Fund for Project No 95/09/65/040 (new Athens International Airport at Spata) by Commission Decision C(96) 1356 final of 24 May 1996.

Operative part of the judgment

The Court:

1. Dismisses the action.
2. Orders the Hellenic Republic to pay the costs.

(¹) OJ C 22, 28.1.2006.

Order of the Court of First Instance of 19 November 2008 — Ralf Schröder v OHIM — (SUMCOL 01)

(Case T-187/06) (¹)

(Community plant variety rights — Plant variety SUMCOL 01 — Rejection of the application for a Community plant variety right — Lack of distinctive character of the candidate variety)

(2009/C 6/43)

Language of the case: German

Parties

Applicant: Ralf Schröder (Lüdinghausen — Germany) (represented by: initially by T. Leidereiter, W.-A. Schmidt and I. Memmler, and later by T. Leidereiter and W.-A. Schmidt, lawyers)