Order of the Court of First Instance of 9 April 2008 — Meggle v OHIM — Clover (HiQ with trefoil)

(Case T-37/06) ([1])

(Community trade mark — Opposition — Withdrawal of opposition — No need to adjudicate)

(2008/C 142/44)

Language of the case: German

Parties

Applicant: Meggle AG (Wasserburg, Germany) (represented by: T. Raab and H. Lauf, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: J. Weberndörfer, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance: Clover Corporation Limited (Sydney, Australia)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 22 November 2005 (Case R 1130/2004-2) concerning opposition proceedings between Meggle AG and Clover Corporation Limited

Operative part of the order

1. *There is no longer any need to adjudicate in the case.*

2. *The applicant is ordered to pay the costs.*

([1]) OJ C 96, 22.4.2006.

Order of the Court of First Instance of 3 April 2008 — Landtag Schleswig-Holstein v Commission

(Case T-236/06) ([1])

(Action for annulment — Access to documents — Regional parliament — Lack of capacity to be a party to legal proceedings — Inadmissibility)

(2008/C 142/45)

Language of the case: German

Parties

Applicant: Landtag Schleswig-Holstein (Germany) (represented by: S. Laskowski and J. Caspar)

Defendant: Commission of the European Communities (represented by: P. Costa de Oliveira and C. Ladenburger)

Re:

Application for the annulment of the Commission decisions of 10 March and 23 June 2006 refusing to grant the applicant access to document SEK(2005) 420 of 22 March 2005, containing a legal analysis of a draft framework decision, under discussion in the Council, on the retention of data processed and stored in connection with the provision of publicly available electronic communications services or data on public communications networks for the purpose of prevention, investigation, detection and prosecution of crime and criminal offences including terrorism.

Operative part of the order

1. *The action is dismissed as inadmissible;*

2. *It is not necessary to rule on the applications to intervene;*

3. *Landtag Schleswig-Holstein shall bear its own costs and pay the Commission's costs, except those relating to the applications to intervene;*

4. *Landtag Schleswig-Holstein, the Commission, the Republic of Finland and the United Kingdom of Great Britain and Northern Ireland shall bear their own costs in relation to the applications to intervene.*

([1]) OJ C 261, 28.10.2006.

Order of the Court of First Instance of 10 April 2008 — 2K-Teint and Others v Commission and EIB

(Case T-336/06) ([1])

(Non-contractual liability — Financing contract concluded with Morocco — EIB's alleged negligence and failures in monitoring a loan financed by the Community budget — Limitation — Inadmissibility)

(2008/C 142/46)

Language of the case: French

Parties

Applicants: 2K-Teint SARL (Casablanca, Morocco); Mohammed Kermoudi, Khalid Kermoudi, Laila Kermoudi, Mounia Kermoudi, Salma Kermoudi and Rabia Kermoudi (Casablanca) (represented by: P. Thomas, lawyer)

Defendants: Commission of the European Communities (represented by A. Aresu and V. Joris, Agents) and European Investment Bank (EIB) (represented by C. Gómez de la Cruz and J.-P. Minnaert, Agents)

Re:

Action for compensation for the loss allegedly suffered by the applicants by reason of the EIB's negligence and failures in monitoring the use of funds intended for the completion of the project of 2K-Teint, in performance of the financing contract concluded between the EIB, as agent of the Community, and the Kingdom of Morocco.

Operative part of the order

1. *The action is dismissed as inadmissible;*

2. *2K-Teint SARL, Mohammed Kermoudi, Khalid Kermoudi, Laila Kermoudi, Mounia Kermoudi, Salma Kermoudi and Rabia Kermoudi are ordered to pay, in addition to their own costs, the costs incurred by the Commission and the European Investment Bank (EIB).*

([1]) OJ C 20, 27.1.2007.

Action brought on 19 February 2008 — Hellenic Republic v Commission of the European Communities

(Case T-86/08)

(2008/C 142/47)

Language of the case: Greek

Parties

Applicant: Hellenic Republic (represented by: B. Kondolaimos, S. Kharitaki, and by M. Tassopoulou)

Defendant: Commission of the European Communities

Form of order sought

The Court is asked to

— annul or otherwise amend the Commission's decision of 20 December 2007, notified under No E(2007) 6514 final and published as Decision 2008/68/EC (OJ 2008 L 18, p. 12), in so far as it imposes financial corrections on the Hellenic Republic as specified in the application;

— order the Commission to pay the costs.

Pleas in law and main arguments

The applicant seeks the annulment of the Commission's decision excluding from Community financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) in so far as it concerns the financial corrections imposed on it in the sectors: (a) fruit and vegetables, (b) guarantee accompanying measures, (c) failure to meet payment deadlines.

The applicant claims that the contested decision should be annulled because it is unlawful, inasmuch as Community provisions were misinterpreted and misapplied, or it was based on an error as to the facts and incorrect assessment of the factual circumstances, or otherwise as having defective, insufficient and imprecise reasoning, undermining the legal basis of the decision; in addition it should be annulled because in imposing the corrections in question the Commission infringed the principle of proportionality and exceeded the bounds of its discretion.

In particular the applicant puts forward six grounds for annulment.

As regards citrus processing, in view of the factual circumstances and the fact that the correction of 2 % imposed concerns the repetition of the procedure from the bilateral consultation stage, after the annulment of a similar Commission decision by the Court of Justice of the European Communities in Case C-5/03 ([1]), the applicant alludes first to the fact that the Commission was in breach of its obligation to comply with the judgments of the Court of Justice under Article 233 EC and the principle of res iudicata, and also with the Community rules and guidelines for the clearance of accounts. The applicant also submits that the Commission did not have the necessary powers at the time, that the imposition of a correction for a shortcoming in supplementary checking was unlawful and, lastly, that the 24-month rule was infringed because of the erroneous categorisation of the letter of 1999 as a letter of conclusions.

Secondly, the applicant alleges error as to the facts, insufficient reasoning, infringement of the principle of proportionality and that the Commission exceeded the bounds of its discretion in view of the fact that the alleged infringement (payment by cheque instead of bank transfer) concerns a shortcoming rather than the non-existence of supplementary controls, with no finding of unlawful payment, in conjunction with the date when it was effected.

Thirdly, with regard to the correction in the sector of guarantee accompanying measures, the applicant alleges infringement of essential procedural requirements and otherwise alludes to the fact that at the time the Commission was not empowered to impose financial corrections retroactively for a period earlier than 24 months before the sending of the conciliation letter. Fourthly, the applicant maintains that the contested decision is vitiated by insufficient reasoning, in so far as the conciliation letter merely refers to a shortcoming and in the summary there is doubt as to the exact reason for the correction.

Fifthly, the applicant maintains that the Commission was in error as to the facts and imposed a correction of 5 % in respect of agro-environmental measures and the salvage measure in infringement of the Community rules and guidelines for the clearance of accounts, without justification, in breach of the principle of proportionality and exceeding the bounds of its discretion.