

**Judgment of the General Court of 15 December 2011 —  
Luxembourg v Commission**

(Case T-232/08) <sup>(1)</sup>

*(EAGGF — Guarantee Section — Expenses excluded from Community financing — Rural development measures — ‘Less favoured areas’ and ‘agroenvironment’ — National systems for management, monitoring and sanctions — Flat-rate financial correction)*

(2012/C 32/32)

Language of the case: French

**Parties**

*Applicant:* Grand Duchy of Luxembourg (represented by: F. Probst, Agent, assisted by M. Theisen and K. Spitz, lawyers)

*Defendant:* European Commission (represented by: initially T. van Rijn, subsequently F. Clotuche-Duvieusart and F. Jimeno Fernández, Agents)

**Re:**

Application for partial annulment of Commission Decision 2008/321/EC of 8 April 2008 excluding from Community financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) and under the European Agricultural Guarantee Fund (EAGF) (OJ 2008 L 109, p. 35).

**Operative part of the judgment**

*The Court:*

1. Dismisses the action.
2. Orders the Grand Duchy of Luxembourg to pay the costs.

<sup>(1)</sup> OJ C 209, 15.8.2008.

**Judgment of the General Court of 13 December 2011 —  
Konsum Nord v Commission**

(Case T-244/08) <sup>(1)</sup>

*(State aid — Land sale price — Decision declaring the aid incompatible with the common market and ordering its recovery — Private investor test — Determination of market price)*

(2012/C 32/33)

Language of the case: Swedish

**Parties**

*Applicant:* Konsum Nord ekonomisk förening (Umeå, Sweden) (represented by: U. Öberg and I. Otken Eriksson, lawyers)

*Defendant:* European Commission (represented initially by: C. Giolito, P. Dejmek and J. Enegren, then by C. Giolito and L. Parpala, Agents)

**Re:**

Application for annulment of Commission Decision 2008/366/EC of 30 January 2008 on State aid C 35/06 (ex NN 37/06) implemented by Sweden for Konsum Jämtland Ekonomisk Förening (OJ 2008 L 126, p. 3).

**Operative part of the judgment**

*The Court:*

1. Annuls Commission Decision 2008/366/EC of 30 January 2008 on State aid C 35/06 (ex NN 37/06) implemented by Sweden for Konsum Jämtland Ekonomisk Förening;
2. Orders the European Commission to bear its own costs and to pay those incurred by Konsum Nord ekonomisk förening.

<sup>(1)</sup> OJ C 223, 30.8.2008.

**Judgment of the General Court of 15 December 2011 —  
CDC Hydrogene Peroxide v Commission**

(Case T-437/08) <sup>(1)</sup>

*(Access to documents — Regulation (EC) No 1049/2001 — Statement of contents of the administrative file relating to a cartel proceeding — Refusal of access — Exception concerning the protection of the commercial interests of a third party — Exception relating to protection of the purpose of inspections, investigations and audits)*

(2012/C 32/34)

Language of the case: German

**Parties**

*Applicant:* CDC Hydrogene Peroxide Cartel Damage Claims (CDC Hydrogene Peroxide) (Brussels, Belgium) (represented initially by R. Wirtz, subsequently by R. Wirtz and S. Echement and finally by T. Funke, A. Kirschstein and D. Stein, lawyers)

*Defendant:* European Commission (represented initially by P. Costa de Oliveira, A. Antoniadis and O. Weber, and subsequently by A. Bouquet, P. Costa de Oliveira and A. Antoniadis, acting as Agents)

*Intervener in support of the applicant:* Kingdom of Sweden (represented by: A. Falk, K. Petkovska and S. Johannesson, acting as Agents)

*Intervener in support of the defendant:* Evonik Degussa GmbH (Essen, Germany) (represented initially by C. Steinle, and then by C. Steinle and M. Holm-Hadulla, lawyers)

**Re:**

Application for annulment of Commission decision SG.E3/MM/psi D(2008) 6658 of 8 August 2008 refusing full access to the statement of contents of the case-file in Case COMP/F/38.620 — Hydrogen peroxide and perborate.

**Operative part of the judgment**

The Court:

1. Annuls Decision SG.E3/MM/psi D(2008) 6658 of the Commission of 8 August 2008 refusing full access to the statement of contents of the case-file in Case COMP/F/38.620 — Hydrogen peroxide and perborate;
2. Orders the European Commission to bear its own costs and pay those incurred by CDC Hydrogene Peroxide Cartel Damage Claims (CDC Hydrogene Peroxide);
3. Orders the Kingdom of Sweden and Evonik Degussa to pay their own costs.

(<sup>1</sup>) OJ C 313, 6.12.2008.

**Judgment of the General Court of 14 December 2011 —  
Nycomed Danmark v EMA**

(Case T-52/09) (<sup>1</sup>)

*(Medicinal products for human use — Authorisation to place a medicinal product on the market — Regulation (EC) No 1901/2006 — Application for a waiver from the obligation to submit a paediatric investigation plan — Rejection by the EMA — Misuse of powers)*

(2012/C 32/35)

Language of the case: English

**Parties**

**Applicant:** Nycomed Denmark ApS (Roskilde, Denmark) (represented: initially by C. Schoonderbeek and H. Speyart van Woerden, lawyers, and subsequently by C. Schoonderbeek)

**Defendant:** European Medicines Agency (EMA) (represented by: V. Salvatore and N. Rampal Olmedo, Agents)

**Interveners in support of the defendant:** Portuguese Republic (represented by L. Inez Fernandes and P. Antunes, Agents); Kingdom of Belgium, (represented by T. Materne and C. Pochet, Agents); United Kingdom of Great Britain and Northern Ireland (represented by S. Ossowski and H. Walker, Agents, and by J. Stratford, Barrister); French Republic (represented by G. de Bergues, A. Adam, R. Loosli Surrans and J.-S. Pilczer, Agents); and European Commission (represented by P. Oliver and M. Šimerdová, Agents)

**Re:**

Application for annulment of the decision of the European Medicines Agency (EMA) of 28 November 2008 rejecting

the applicant's application for a specific waiver with respect to perflubutane in accordance with Regulation (EC) No 1901/2006 of the European Parliament and of the Council, as amended.

**Operative part of the judgment**

The Court:

1. Dismisses the action;
2. Orders Nycomed Danmark ApS to bear its own costs and those of the European Medicines Agency (EMA), including those relating to the proceedings for interim measures;
3. Orders the Portuguese Republic, the Kingdom of Belgium, the United Kingdom of Great Britain and Northern Ireland, the French Republic and the European Commission to bear their own costs, including those relating to the proceedings for interim measures.

(<sup>1</sup>) OJ C 82, 4.4.2009.

**Judgment of the General Court of 13 December 2011 —  
Meica v OHIM — Böisinger Fleischwaren (Schinken King)**

(Case T-61/09) (<sup>1</sup>)

*(Community trade mark — Opposition proceedings — Application for Community word mark Schinken King — Earlier national word mark King — Earlier national and Community word marks Curry King — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — Duty to state reasons — Article 73 of Regulation No 40/94 (now Article 75 of Regulation No 207/2009))*

(2012/C 32/36)

Language of the case: German

**Parties**

**Applicant:** Meica Ammerländisch Fleischwarenfabrik Fritz Meinen GmbH & Co. KG (Edewecht, Germany) (represented by: S. Russlies, lawyer)

**Defendant:** Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Führer and G. Schneider, Agents)

**Other party to the proceedings before the Board of Appeal of OHIM:** Böisinger Fleischwaren GmbH (Böisingen, Germany)

**Re:**

Action brought against the decision of the First Board of Appeal of OHIM of 11 December 2008 (Case R 1049/2007-1) relating to opposition proceedings between Meica Ammerländisch Fleischwarenfabrik Fritz Meinen GmbH & Co. KG and Böisinger Fleischwaren GmbH