

**Order of the Court of First Instance of 2 September 2009  
— E.ON Ruhrgas and E.ON Földgáz Trade v Commission**

(Case T-57/07) <sup>(1)</sup>

**(Action for annulment — Competition — Concentrations — Decision declaring the concentration compatible with the common market — Commitments — Commission letters regarding the commitments — Non-actionable measures — Inadmissibility)**

(2009/C 267/114)

Language of the case: English

**Parties**

*Applicants:* E.ON Ruhrgas International AG (Essen, Germany); and E.ON Földgáz Trade Zrt (Budapest, Hungary) (represented by: G. Wiedemann and T. Lübbig, lawyers)

*Defendant:* Commission of the European Communities (represented by: A. Bouquet and V. Di Bucci, Agents)

**Re:**

APPLICATION for annulment of the decisions allegedly contained in the Commission's letters of 19 December 2006 and 16 January 2007 concerning the commitments entered into by E.ON Ruhrgas International AG referred to in Article 3 of the Commission Decision of 21 December 2005 declaring a concentration to be compatible with the common market and the EEA Agreement (Case No COMP/M.3696 — E.ON/MOL).

**Operative part of the order**

The Court:

1. Dismisses the action as inadmissible;
2. Orders E.ON Ruhrgas International AG and E.ON Földgáz Trade Zrt to bear their own costs and to pay those incurred by the Commission of the European Communities.

<sup>(1)</sup> OJ C 95, 28.4.2007.

**Order of the Court of First Instance of 4 September 2009  
— Pioneer Hi-Bred International v Commission**

(Case T-139/07) <sup>(1)</sup>

**(Approximation of laws — Deliberate release into the environment of genetically modified organisms — Authorisation procedure for placing on the market — Failure by the Commission to submit draft measures to the regulatory committee — Action for failure to act — Action which becomes devoid of purpose in the course of proceedings — No need to adjudicate)**

(2009/C 267/115)

Language of the case: English

**Parties**

*Applicant:* Pioneer Hi-Bred International, Inc. (Iowa, United States) (represented by: J. Temple Lang, Solicitor)

*Defendant:* Commission of the European Communities (represented initially by: D. Lawunmi and C. Zadra, and subsequently by P. Oliver and C. Zadra, acting as Agents)

**Re:**

Application for a declaration under Article 232 EC that, by failing to submit to the regulatory committee, in accordance with Article 5(2) of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ 1999 L 184, p. 23), a draft of the measures to be taken with regard to the notification by the applicant relating to the placing on the market of genetically modified maize 1507, the Commission has failed to fulfil its obligations under Article 18(1) of Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC (OJ 2001 L 106, p. 1).

**Operative part of the order**

1. There is no need to adjudicate in the present action.
2. The Commission of the European Communities shall bear its own costs and pay those incurred by Pioneer Hi-Bred International Inc.

<sup>(1)</sup> OJ C 155, 7.7.2007.

**Order of the Court of First Instance of 7 September 2009  
— LPN v Commission**

(Case T-186/08) <sup>(1)</sup>

**(Action for annulment and damages — Environment — Directive 92/43/EEC — Decision to take no further action on a complaint — Failure to bring an action for failure to fulfil obligations — Access to documents — Regulation (EC) No 1049/2001 — Manifest inadmissibility — No need to adjudicate)**

(2009/C 267/116)

Language of the case: Portuguese

**Parties**

*Applicant:* Liga para a Protecção da Natureza (LPN) (Lisbon, Portugal) (represented by: P. Vinagre e Silva, lawyer)

*Defendant:* Commission of the European Communities (represented by: P. Costa de Oliveira and D. Recchia, Agents)

*Intervener in support of the defendant:* Portuguese Republic (represented by: L. Inez Fernandes, T. Moreira and A. de Oliveira Mendonça, Agents, and by D. Abecasis and A. Marques, lawyers)

**Re:**

Application for annulment of (i) the decision of the Commission of 28 February 2008, as referred to in the Commission's letter of 3 April 2008, addressed to the applicant under reference ENV.A.2/MAS/mm/D (2008) 5542, by which the Commission declared its intention to take no further action on the applicant's complaint regarding the alleged incompatibility of construction of a dam on the River Sabor (Portugal) with Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992 L 206, p. 7) (complaint No 2003/4523 — 'Baixa Sabor' dam project) and (ii) an alleged implied decision of the Commission refusing to grant the applicant access to certain documents, and an application for compensation.

**Operative part of the order**

1. *There is no longer any need to adjudicate on the action in so far as it seeks the annulment of an alleged implied decision refusing access to documents under Article 8(3) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents;*
2. *The remainder of the action is dismissed as manifestly inadmissibly;*
3. *The Liga para a Protecção da Natureza (LPN) is ordered to bear its own costs and to pay those incurred by the Commission of the European Communities;*
4. *The Portuguese Republic is ordered to bear its own costs.*

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<sup>(1)</sup> OJ C 183, 19.7.2008.

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**Order of the Court of First Instance of 9 September 2009  
— Nijis v Court of Auditors**

(Case T-375/08 P) <sup>(1)</sup>

*(Appeal — Public service — Officials — Decision of the Court of Auditors to renew the mandate of its Secretary General — Decision not to promote the appellant in the 2004 promotion year — Appeal partly inadmissible and partly manifestly unfounded)*

(2009/C 267/117)

Language of the case: French

**Parties**

Appellant: Bart Nijis (Bereldange, Luxembourg) (represented by: F. Rollinger and A. Hertzog, lawyers)

Other party to the proceedings: Court of Auditors (represented by: T. Kennedy, J.-M. Stenier and G. Corstens, Agents)

**Re:**

Appeal against the order of the Civil Service Tribunal of the European Union (Second Chamber) in Case F-108/07 Nijis v Court of Auditors [2008] ECR I-0000 seeking the annulment of that order.

**Operative part of the order**

1. *The appeal is dismissed.*
2. *Mr Bart Nijis is to bear his own costs and to pay those incurred by the Court of Auditors of the European Communities in the present proceedings.*

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<sup>(1)</sup> OJ C 301, of 22.11.2008.

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**Action brought on 4 August 2009 — Sanyō Denki v OHIM  
— Telefónica O2 Germany (eneloop)**

(Case T -309/09)

(2009/C 267/118)

Language in which the application was lodged: German

**Parties**

Applicant: Sanyō Denki Kabushiki Kaisha (Osaka, Japan) (represented by: M. De Zorti, M. Koch and T. Grimm, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal of OHIM: Telefónica O2 Germany GmbH & Co. OHG (Munich, Germany)

**Form of order sought**

- Annul the contested decision of the Second Board of Appeal of OHIM of 6 May 2009 (Case R 794/2008-2);
- Order OHIM to pay the costs of the proceedings;
- Order the intervener to pay the costs of the proceedings, including the costs incurred in the appeal procedure.

**Pleas in law and main arguments**

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'eneloop' for goods in Class 9 (application No 4620225)

Proprietor of the mark or sign cited in the opposition proceedings: Telefónica O2 Germany GmbH & Co. OHG