

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.*

⁽¹⁾ OJ C 183, 19.7.2008.

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

(Case T-375/08 P) ⁽¹⁾

(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.*

⁽¹⁾ OJ C 301, of 22.11.2008.

**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