

The applicant seeks the annulment of Commission Decision 2007/730/EC of 16 October 2007⁽¹⁾ by which the Commission declared that the list drawn up by the United Kingdom pursuant to Article 3a(1) of Council Directive 89/552/EEC, listing the entire UEFA European Football Championship final tournament — the EURO, was compatible with Community law.

In support of its application, the applicant submits that the Commission's decision:

- is not adopted following a clear and transparent procedure as required under Article 3a(1) of Directive 89/552/EEC;
- does not set out an adequate statement of reasons;
- is based on a manifest error of appreciation, as the Commission concluded that matches not involving any home nation team in the EURO could be considered as events of major importance for the UK society;
- contains no proper analysis of competition law or of the free movement of services and leads to a disproportionate and unjustified distortion of competition on the relevant market and restriction of the free provision of broadcasting services;
- infringes the applicant's property rights, as it results in a restriction of the way in which the applicant may market the television rights to the EURO;
- infringes the principle of proportionality, as it is neither suitable nor necessary for the objectives it purports to achieve; and
- infringes the principle of equal treatment, as it gives the applicant a disadvantage compared to other right holders.

(1) Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by Law, Regulation or Administrative Action in Member States concerning the pursuit of television broadcasting activities (OJ 1989 L 298, p. 23).

(2) Commission Decision 2007/730/EC of 16 October 2007 on the compatibility with Community law of measures taken by the United Kingdom pursuant to Article 3a(1) of Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OJ 2007 L 295, p. 12).

Action brought on 5 February 2008 — IEA and Others v Commission

(Case T-56/08)

(2008/C 107/49)

Language of the case: English

Parties

Applicant: Stichting IEA Secretariaat Nederland (IEA) (Amsterdam, Netherlands), Educational Testing Service Global BV (ETS-Europe) (Amsterdam, Netherlands), Deutsches Institut für Internationale Pädagogische Forschung (DIPF) (Frankfurt am Main, Germany), Institut zur Qualitätsentwicklung im Bildungswesen (IQB) (Berlin, Germany) (represented by: E. Morgan de Rivery and S. Thibault-Liger, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- Annul in its entirety the decision of the Commission of 23 November 2007 rejecting the tender from the applicant in response to the call for tender No EAC/21/2007 'European survey on language competences', in so far as it infringes EU law and is based on manifest errors of assessment;
- annul in its entirety the decision of the Commission awarding the contract related to this call for tender to the SurveyLang Consortium, in so far as it infringes EU law and is based on manifest errors of assessment; and
- order, pursuant to Article 87(2) of the Rules of Procedure of the CFI, the Commission to pay the costs of the applicant.

Pleas in law and main arguments

The applicants submitted a bid in response to the defendant's call for tender concerning the 'European survey on language competences' (OJ 2007/S 61-074161), as rectified (OJ 2007/S 109-133727). The applicants contest the defendant's decision of 23 November 2007 to reject their bid and to award the contract to another tenderer.

In support of their application, the applicants submit that the contested decision violates the principle of equal treatment, Article 100(1) of the financial regulation⁽¹⁾ and the tender specifications.

Furthermore, the applicants claim that the Commission committed a manifest error of assessment of the qualitative criteria laid down in the tender specifications, which in turn led to a manifest error of assessment in the setting of the bidders' respective scores.

Finally, the applicants allege that the Commission breached the principle of good administration by failing to exercise due care during the tender procedure.

(⁴) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ 2002 L 248, p. 1), as rectified (OJ 2003 L 25, p. 43).

Action brought on 11 February 2008 — Hedgefund Intelligence v OHIM — Hedge Invest (InvestHedge)

(Case T-67/08)

(2008/C 107/50)

Language in which the application was lodged: English

Parties

Applicant: Hedgefund Intelligence Ltd (London, United Kingdom) (represented by: J. Reed, Barrister, and G. Crofton Martin, Solicitor)

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

Other party to the proceedings before the Board of Appeal: Hedge Invest SGR P.A. (Milan, Italy)

Form of order sought

- The decision of the Second Board of Appeal dated 28 November 2007 in Case R 148/2007-2 dismissing the appeal shall be annulled;
- the Opponent's opposition be dismissed;
- the Office and the other party shall bear their own costs, and the other party shall pay those of the applicant before the Opposition Division, the Board of Appeal and this Court.

Pleas in law and main arguments

Applicant for the Community trade mark: The applicant

Community trade mark concerned: The figurative mark 'InvestHedge' for goods and services in classes 9, 16, 36 and 41 — application No 3 081 081

Proprietor of the mark or sign cited in the opposition proceedings: Hedge Invest SGR P.A.

Mark or sign cited: The Community figurative mark 'HEDGE INVEST' for services in class 36

Decision of the Opposition Division: Opposition upheld for all the contested services in classes 36 and 41; the trade mark application allowed to proceed for the non-contested goods in classes 9 and 16

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: The applicant submits that when determining the visual similarity of the respective marks in the eyes of non-English speaking consumers, the Board of Appeal was wrong to take account of the 'commercial impression' and to consider that the commercial impression of the conflicting trade marks was the same.

When assessing the aural similarity of the conflicting trade marks to the ears of non-English speaking consumers, the Board of Appeal improperly put the burden of proof on the applicant.

Finally, the Board of Appeal failed to apply, at the relevant stage, the uncontested finding that there was only a very limited and/or remote degree of similarity between the services in classes 36 and 41.

Action brought on 6 February 2008 — FIFA v Commission

(Case T-68/08)

(2008/C 107/51)

Language of the case: English

Parties

Applicant: Fédération Internationale de Football Association (FIFA) (Zurich, Switzerland) (represented by: E. Batchelor, F. Young, Solicitors, and A. Barav, lawyer)

Defendant: Commission of the European Communities

Form of order sought

- Annulment, in whole or in part, of the Commission Decision 2007/730/EC of 16 October 2007 on the compatibility with Community law of measures taken by the United Kingdom pursuant to Article 3a(1) of Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, in particular Articles 1-3 thereof in so far as it concerns the FIFA World Cup™;