

Pleas in law and main arguments

By the present action, the applicant seeks the annulment of Commission Decision C(2008) 926 final of 11 March 2008 in Case COMP/38.453 — International Removal Services, by which the Commission found that certain undertakings, including the applicant, infringed Article 81 of the EC Treaty and Article 53 of the European Economic Area Agreement by fixing prices in Belgium for international removal services, by sharing part of that market and by rigging the procedure under invitations to tender.

In support of its allegations, the applicant claims that the Commission made manifest errors of assessment and of law in the definition of the market in question and in the evaluation of its size and of the market shares of each of the companies in question.

The applicant relies, in addition, on pleas in law alleging breach of the duty to state the reasons for the decision, of the rights of the defence, of the right of access to the file, of the right to fair procedure and of the general principle of sound administration.

So far as concerns the fine imposed and its amount, the applicant claims that:

- the Commission did not show that the practices in questions had appreciably affected trade between the Member States;
- the amount of the fine is disproportionate in relation to the effective extent of the practices and their actual effect on the market; and
- the practice of bogus quotes was known and accepted by the Commission for a long time; the lack of any reaction by the Commission led the applicant to believe that the practice was lawful.

Finally, the applicant maintains that the Commission did not take into account, as mitigating circumstances, that the concerted practice ceased long ago so far as the applicant was concerned and that bogus quotes were a response to market demand and not a cartel or concerted practice. The applicant also relies on breach of the principle of equal treatment.

Action brought on 22 May 2008 — Interflon v OHIM — Illinois Tool Works (FOODLUBE)

(Case T-200/08)

(2008/C 183/54)

Language in which the application was lodged: English

Parties

Applicant: Interflon BV (Roosendaal, Netherlands) (represented by: S. M. Wertwijn, lawyer)

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

Other party to the proceedings before the Board of Appeal: Illinois Tool Works Inc. (Glenview, United States)

Form of order sought

- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 3 March 2008 in case R 638/2007-2; and
- grant applicant's request for the cancellation of the Community trade mark concerned.

Pleas in law and main arguments

Community trade mark concerned: The word mark 'FOODLUBE' for goods in classes 1 and 4 — registration No 1 647 734

Decision of the Cancellation Division: Refusal of the request for the declaration of invalidity

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Infringement of Article 7(1)(b) of Council Regulation No 40/94 as the trade mark concerned is devoid of any distinctive character; infringement of Article 7(1)(c) of Council Regulation 40/94 as the trade mark concerned is not capable of distinguishing the indicated goods in terms of their origin.

Action brought on 5 June 2008 — CLL Centre de langues v Commission

(Case T-202/08)

(2008/C 183/55)

Language of the case: French

Parties

Applicant: Centre de langues à Louvain-la-Neuve et -en-Woluwe (CLL Centre de langues) (Louvain-la-Neuve, Belgium) (represented by: F. Tulkens and V. Ost, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- Annul the rejection decision;
- Order the Commission to bear its own costs and to pay those incurred by CLL.

Pleas in law and main arguments

The applicant disputes the Commission's decision to reject its application to participate in invitation to tender ADMIN/D1/PR/2008/004 regarding language training for staff at the European Union (EU) institutions, bodies and agencies in Brussels (OJ 2008/S 44-060121), on the ground that the application was submitted after the deadline stated in the contract notice.

In support of its action, the applicant submits that the contested decision is based on an incorrect supposition that the awarding authority is required to reject all late applications to participate. The applicant takes the view, on the contrary, that the awarding authority has a margin of discretion in that regard.

Furthermore, the applicant submits that the contested decision is not sufficiently reasoned, since the Commission has not explained why it has not exercised its discretionary powers.

Finally, the applicant raises a plea alleging breach of Article 123 of the implementing rules ⁽¹⁾, according to which the number of candidates invited to tender must be sufficient to ensure genuine competition, and the disproportionate nature of the rejection of the applicant's application.

⁽¹⁾ Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 357, p. 1).

Order of the Court of First Instance of 23 May 2008 — FagorBrandt v Commission**(Case T-273/04) ⁽¹⁾**

(2008/C 183/56)

Language of the case: French

The President of the Third Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 251, 9.10.2004.

Order of the Court of First Instance of 5 May 2008 — Rath v OHIM — Sanorell Pharma (Immunocel)**(Case T-368/06) ⁽¹⁾**

(2008/C 183/57)

Language of the case: German

The President of the Eighth Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 56, 10.3.2007.

Order of the Court of First Instance of 2 June 2008 — Avaya v OHIM — ZyXEL Communications (VANTAGE CNM)**(Case T-171/07) ⁽¹⁾**

(2008/C 183/58)

Language of the case: English

The President of the First Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 170, 21.7.2007.

Order of the Court of First Instance of 9 June 2008 — Malheiro v Commission**(Case T-228/07) ⁽¹⁾**

(2008/C 183/59)

Language of the case: English

The President of the Fourth Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 24, 8.9.2007.