

Defendant: European Commission (represented by: V. Di Bucci and É. Gippini Fournier, acting as Agents)

Re:

Application to annul the Commission's decision of 13 August 2008 to close the procedure initiated under Article 21(4) of Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (OJ 2004 L 24, p. 1), in relation to a concentration transaction between the applicant and Autostrade SpA (Case COMP/M.4388 — Abertis/Autostrade)

Operative part of the order

1. *The action is dismissed as inadmissible.*
2. *Abertis Infraestructuras, SA is ordered to pay the costs.*

(¹) OJ C 167, 18.7.2009.

Order of the General Court of 26 May 2010 — Noko Ngele v Commission

(Case T-15/10 R)

(Application for interim measures — Formal requirements — Inadmissibility)

(2010/C 195/31)

Language of the case: French

Parties

Applicant: Mariyus Noko Ngele (Brussels, Belgium) (represented by: F. Sabakunzi, lawyer)

Defendant: European Commission (represented by: A. Bordes, acting as Agent)

Re:

Essentially, an application to have the activity of the 'Centre pour le développement de l'entreprise (CDE)' in Belgium declared illegitimate, to prevent the Commission and its agents from entering into financial relations with the CDE or from recognising the legitimacy of the CDE and to order the Commission to pay the applicant a sum of money if the Commission recognises the legitimacy of that body

Operative part of the order

1. *The application for interim relief is dismissed.*
2. *Costs are reserved.*

Action brought on 28 April 2010 — Hungary v Commission

(Case T-194/10)

(2010/C 195/32)

Language of the case: Hungarian

Parties

Applicant: Hungarian Republic (represented by: J. Fazekas, M. Fehér and K. Szijjártó, Agents)

Defendant: European Commission

Form of order sought

— Annulment of the registration by the Commission in the E-Bacchus database of the protected designation of origin 'Vinohradnícka oblasť Tokaj' in place of the previous Slovak protected designation of origin 'Tokajská vinohradnícka oblasť'.

— An order that the Commission pay the costs.

Pleas in law and main arguments

The applicant takes issue with the registration of the Slovak protected designation of origin 'Vinohradnícka oblasť Tokaj' in the electronic register of protected designations of origin and protected geographical indications for wine ('E-Bacchus register') made by the Commission pursuant to Council Regulation (EC) No 1234/2007. (¹)

By its first plea in law the applicant alleges that, by changing the registration the Commission has breached the relevant provisions of Regulation No 1234/2007 and of Regulation (EC) No 607/2009, (²) since the disputed amendment of the original entry in the E-Bacchus register grants automatic protection, pursuant to the new legislation, to a designation which cannot be considered to be an 'existing protected name' within the meaning of Article 118s of Regulation No 1234/2007.

In that connection, the applicant takes the view that on 1 August 2009, the date of the entry into force of the new legislation of the Union on the market in the wine sector, it was the name 'Tokajská/Tokajské/Tokajský vinohradnícka oblasť' which enjoyed Community protection, as is clear, in particular, from the list of table wines designated by a geographical indication ⁽³⁾ and from the list of quality wines. ⁽⁴⁾

In addition, the applicant alleges that examination of the Slovak legislation yields the same conclusion, given that the new Slovak law on wine, which includes the designation 'Tokajská vinohradnícka oblasť', was adopted on 30 June 2009. Furthermore, although the applicable regulations have to be interpreted in such a way that the date of the entry into force of the national legislation (1 September 2009) is also relevant for the assessment of the existing protected name, in this case Article 73(2) of Regulation No 607/2009 must be applied by analogy, that is to say, in this case, too, it is the designation included in the new law which must be considered to be an existing protected name within the meaning of Article 118s of Regulation No 1234/2007.

By its second plea, the applicant alleges that the Commission, in its maintenance and management of the E-Bacchus register and, specifically, by making the disputed registration in this case, has breached the fundamental principles of sound administration, cooperation in good faith and legal certainty recognised by Union law.

In that connection, the applicant takes the view that, having regard to the principle of sound administration and, in particular, the significance of the register in question, the Commission is required to guarantee that the register contains authentic, reliable and accurate data. The Commission must determine in particular, at the time of the entry into force of the new legislation on the market in the wine sector, which national rules are applicable and which names must be considered to be 'existing protected names' under those rules. Further, the applicant considers that the Commission has also breached the principle of cooperation in good faith in that it did not notify the Hungarian Republic in any way, either before or after the event, of the amendment of the entries in the E-Bacchus register relating to Slovakia, although it must have known that the interests of Hungary could be affected. Finally, the applicant alleges that the Commission has also infringed the principle of legal certainty by organising and keeping the register in such a way that, at any time, the entries in it may be changed with retrospective effect without it being possible to determine the actual date of the change.

⁽¹⁾ Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (OJ 2007 L 229, p. 1).

⁽²⁾ Commission Regulation (EC) No 607/2009 of 14 July 2009 laying down certain detailed rules for the implementation of Council Regulation (EC) No 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products (OJ 2009 L 193, p. 60).

⁽³⁾ List of names of geographical units smaller than the Member State as referred to in Article 51(1) of [Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine (OJ 1999 L 179, p. 1)] (table wines with geographical indication) (published in OJ 2009 C 187, p. 67).

⁽⁴⁾ List of quality wines produced in specified regions (published in OJ 2009 C 187, p. 1).

Action brought on 6 May 2010 — Deutsche Telekom v Commission

(Case T-207/10)

(2010/C 195/33)

Language of the case: German

Parties

Applicant: Deutsche Telekom AG (Bonn, Germany) (represented by: A. Cordewener and J. Schönfeld, lawyers)

Defendant: European Commission

Form of order sought

— Annulment of Commission Decision C(2009) 8107 final corr. of 28 October 2009 (as amended on 8 December 2009) in relation to the provision for the protection of the legitimate expectations of the Spanish investors detailed in Article 1(2) and (3) thereof;

— An order for the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

The applicant challenges Commission Decision C(2009) 8107 final corr. of 28 October 2009, in which the Commission decided that the aid scheme in the form of the tax provision in Article 12(5) of the Spanish Company Tax Act ('TRLIS') concerning the tax amortization of financial goodwill for the acquisition of significant shareholdings in foreign companies was, as regards aid granted to beneficiaries which realise intra-Community acquisitions, incompatible with the common market. The contested decision sets out which aid is to be recovered by the Kingdom of Spain.

In support of its action the applicant submits, first of all, that the tax relief connected with the application of Article 12(5) TRLIS was procedurally unlawful since, contrary to the first sentence of Article 88(3) EC (first sentence of Article 108(3) TFEU), the Kingdom of Spain failed to inform the Commission