

in advance of the relevant law and, contrary to the prohibition of implementation laid down in the third sentence of Article 88(3) EC (third sentence of Article 108(3) TFEU) actually applied that law. In addition, Article 12(5) TRLIS is to be regarded as substantially unlawful since, in accordance with Article 87(1) EC (Article 107(1) TFEU), the provision is not compatible with the common market and an authorisation under Article 87(2) or (3) EC (Article 107(2) or (3) TFEU) is out of the question.

Second, in respect of the consequences which follow from a declaration that a national law aid provision is incompatible with Community law, the applicant claims that the Member State concerned is required to recover such aid from the beneficiaries. In that regard, the applicant submits that this fundamental principle is expressly set out, in particular, in the first sentence of Article 14(1) of Regulation (EC) No 659/99.<sup>(1)</sup>

Finally, the applicant claims that, in the present case, there is no reason why recovery should not be ordered as there is no expectation on the part of the Spanish aid recipients which is worthy of protection. In that regard, it submits, inter alia, that the Commission wrongly applied the general principle that primary law takes precedence and the second sentence of Article 14(1) of Regulation No 659/99 in basing the exception which it granted to certain groups of Spanish investors on the principle of the protection of legitimate expectations. The applicant complains, on the one hand, that the principle of the protection of legitimate expectations is not applicable to the beneficiaries since the Spanish State failed to correctly notify the Commission of Article 12(5) TRLIS. On the other hand, it claims that the conditions were not met for granting protection to the legitimate expectations of the beneficiaries. Furthermore, the Community interest in reinstating fair market conditions by recovering the aid granted outweighs the individual interests of the beneficiaries in retaining tax advantages in relation both to past and future years.

<sup>(1)</sup> Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article [88 EC] (OJ 1999 L 83, p. 1).

**Action brought on 3 May 2010 — Strålfors Aktiebolag v OHMI (ID SOLUTIONS)**

(Case T-211/10)

(2010/C 195/34)

*Language of the case: English*

**Parties**

*Applicant:* Strålfors AB (Malmö, Sweden) (represented by: M. Nielsen, lawyer)

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

**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 25 January 2010 in case R 1111/2009-2;

— Approve for registration the Community trade mark application No 8235202 'ID SOLUTIONS' for 'labels and boxes made from paper and cardboard (not for identification of individuals); bookbinding material; adhesives for stationery or household purposes, artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); printers' type; printing blocks' in class 16; and

— Order the defendant to pay the costs.

**Pleas in law and main arguments**

*Community trade mark concerned:* The word mark 'ID SOLUTIONS' for goods in class 16 — Community trade mark application No 8235202

*Decision of the examiner:* Partially refused registration of the application for a Community trade mark

*Decision of the Board of Appeal:* Dismissed the appeal and confirmed the contested decision

*Pleas in law:* The applicant claims that the Community trade mark application No 8235202 'ID SOLUTIONS' should be allowed for registration for goods in class 16 because 'ID SOLUTIONS' is distinctive for these goods and thus meets with the requirements according to Article 4 of Council Regulation No 207/2009.

**Action brought on 3 May 2010 — Strålfors Aktiebolag v OHMI (IDENTIFICATION SOLUTIONS)**

(Case T-212/10)

(2010/C 195/35)

*Language of the case: English*

**Parties**

*Applicant:* Strålfors AB (Malmö, Sweden) (represented by: M. Nielsen, lawyer)

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

*Other party to the proceedings:* European Parliament

### 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 22 January 2010 in case R 1112/2009-2;
- Approve for registration the Community trade mark application No 8235186 'IDENTIFICATION SOLUTIONS' for 'labels and boxes made from paper and cardboard (not for identification of individuals); bookbinding material; adhesives for stationery or household purposes, artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); printers' type; printing blocks' in class 16; and
- Order the defendant to pay the costs.

### Pleas in law and main arguments

*Community trade mark concerned:* The word mark 'IDENTIFICATION SOLUTIONS' for goods in class 16 — Community trade mark application No 8235186

*Decision of the examiner:* Partially refused registration of the application for a Community trade mark

*Decision of the Board of Appeal:* Dismissed the appeal and confirmed the contested decision

*Pleas in law:* The applicant claims that the Community trade mark application No 8235186 'IDENTIFICATION SOLUTIONS' should be allowed for registration for goods in class 16 because 'IDENTIFICATION SOLUTIONS' is distinctive for these goods and thus meets with the requirements according to Article 4 of Council Regulation No 207/2009.

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### Appeal brought on 10 May 2010 by P against the judgment of the Civil Service Tribunal delivered on 24 February 2010 in Case F-89/08 P v Parliament

(Case T-213/10 P)

(2010/C 195/36)

*Language of the case:* French

### Parties

*Appellant:* P (Brussels, Belgium) (represented by E. Boigelot, lawyer)

### Form of order sought by the appellant

- declare the appeal admissible and well founded and, therefore
- annul the judgment under appeal delivered on 24 February 2010 by the Third Chamber of the European Union Civil Service Tribunal in Case F-89/08, notified to the appellant on 1 March 2010, by which the Civil Service Tribunal dismissed as unfounded the appellant's action seeking, inter alia, the annulment of the Parliament's decision of 15 April 2008 to dismiss him and an order against the Parliament for damages and interest for the loss which he claims to have suffered;
- uphold the claims which the appellant submitted to the European Union Civil Service Tribunal;
- order the respondent to pay the costs at both instances.

### Pleas in law and main arguments

By the present appeal, the appellant is seeking the annulment of the judgment of the Civil Service Tribunal of 24 February 2010, delivered in Case F-89/08 *P v Parliament*, which dismissed the action by which the appellant had sought, inter alia, the annulment of the decision of the European Parliament to terminate his temporary agent contract, and payment of damages and interest as compensation for the loss allegedly suffered.

In support of his appeal, the appellant submits three pleas alleging:

- an error of law and contradictory reasoning inasmuch as the Civil Service Tribunal considers that becoming aware of the grounds for a decision solely by consulting one's personal file is adequate and does not lead to the annulment of the decision, despite the fact that the institution did not set out those grounds in the decision to dismiss or in the decision rejecting the complaint;
- a misunderstanding by the Civil Service Tribunal (i) of the system of separation of powers and institutional equilibrium between the administration and the Courts, (ii) of the right to effective judicial protection, inasmuch as the Civil Service Tribunal assumed the role of the European Parliament by stating, in its place, the alleged reasons for the decision which was contested before the Tribunal;