

## GENERAL COURT

### Judgment of the General Court of 21 November 2012 — Germany v Commission

(Case T-270/08) <sup>(1)</sup>

**(ERDF — Reduction in financial assistance — Operational programme falling under Objective No 1 (1994-1999) for Berlin (East) (Germany))**

(2013/C 9/60)

Language of the case: German

#### Parties

*Applicant:* Federal Republic of Germany (represented by: M. Lumma, T. Henze and C. Blaschke, acting as Agents, and C. von Donat, lawyer)

*Defendant:* European Commission (represented by: A. Steiblyté and B. Conte, acting as Agents)

*Interveners in support of the applicant:* Kingdom of Spain (represented initially by: J. Rodríguez Cárcamo and N. Díaz Abad and subsequently by: A. Rubio Gonzáles, abogados del Estado); Kingdom of the Netherlands (represented by: C. Wissels, Y. de Vries, B. Koopman, M. Bulterman and J. Langer, acting as Agents); and French Republic (represented by: G. de Bergues and N. Rouam, acting as Agents)

#### Re:

Annulment of Commission Decision C(2008) 1615 final of 29 April 2008 reducing the financial contribution under the European Regional Development Fund (ERDF) initially granted for the Operational Programme falling under Objective 1 (1994-1999) for Berlin (East) in the Federal Republic of Germany

#### Operative part of the judgment

*The Court:*

1. Dismisses the action;
2. Orders the Federal Republic of Germany to bear its own costs and pay those incurred by the European Commission;
3. Orders the Kingdom of Spain, the French Republic and the Kingdom of the Netherlands to bear their own costs.

<sup>(1)</sup> OJ C 247, 27.9.2008.

### Judgment of the General Court of (Third Chamber) of 21 November 2012 –Spain v Commission

(Case T-76/11) <sup>(1)</sup>

**(Fisheries — Measures for the conservation of living aquatic resources — Article 105 of Regulation (EC) No 1224/2009 — Deductions from quotas allocated for a given year on account of overfishing in previous years — Temporal application — Legal certainty — Interpretation guaranteeing compliance with primary law — Principle that penalties must have a proper legal basis — Non-retroactivity)**

(2013/C 9/61)

Language of the case: Spanish

#### Parties

*Applicant:* Kingdom of Spain (represented by: N. Díaz Abad, abogado del Estado)

*Defendant:* European Commission (represented by: by F. Jimeno Fernández and D. Nardi, Agents)

#### Re:

Annulment of Commission Regulation (EU) No 1004/2010 of 8 November 2010 of operating deductions from certain fishing quotas for 2010 on account of overfishing in the previous year (OJ 2010 L 291, p. 31)

#### Operative part of the judgment

*The Court:*

1. Dismisses the action;
2. Orders the Kingdom of Spain to pay the costs.

<sup>(1)</sup> OJ C 89, 19.3.2011.

### Judgment of the General Court of 21 November 2012 — Getty Images v OHIM (PHOTOS.COM)

(Case T-338/11) <sup>(1)</sup>

**(Community trade mark — Application for the Community word mark PHOTOS.COM — Absolute grounds for refusal — Lack of distinctive character — Descriptive character — No distinctiveness acquired through use — Article 7(1)(b) and (c) and Article 7(3) of Regulation (EC) No 207/2009)**

(2013/C 9/62)

Language of the case: English

#### Parties

*Applicant:* Getty Images (US), Inc. (New York, United States) (represented by: P. Olson, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: V. Melgar, acting as Agent)

**Re:**

Action brought against the decision of the Second Board of Appeal of OHIM of 6 April 2011 (Case R 1831/2010-2) concerning an application for registration of the word mark PHOTOS.COM as a Community trade mark.

**Operative part of the judgment**

*The Court:*

1. Dismisses the action;
2. Orders Getty Images (US), Inc. to pay the costs.

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(<sup>1</sup>) OJ C 252, 27.8.2011.

**Judgment of the General Court of 21 November 2012 — Atlas v OHIM — Couleurs de Tollens (ARTIS)**

(Case T-558/11) (<sup>1</sup>)

**(Community trade mark — Opposition proceedings — Application for Community word mark ARTIS — Earlier national word mark ARTIS — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)**

(2013/C 9/63)

*Language of the case: English*

**Parties**

*Applicant:* Atlas sp. z o.o. (Łódź, Poland) (represented by: R. Rumpel, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Geroulakos, Agent)

*Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court:* Couleurs de Tollens (Clichy, France) (represented by J.-G. Monin, lawyer)

**Re:**

Action brought against the decision of the First Board of Appeal of OHIM of 28 July 2011 (Case R 1253/2010-1), relating to opposition proceedings between Couleurs de Tollens-Agora and Atlas sp. z o.o.

**Operative part of the judgment**

*The Court:*

1. Dismisses the action;
2. Orders Atlas sp. z o.o. to pay the costs, including those incurred by Couleurs de Tollens during the proceedings before the Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM).

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(<sup>1</sup>) OJ C 13, 14.1.2012.

**Judgment of the General Court of 20 November 2012 — Phonebook of the World v OHIM — Seat Pagine Gialle (PAGINE GIALLE)**

(Case T-589/11) (<sup>1</sup>)

**(Community trade mark — Invalidity proceedings — Community word mark PAGINE GIALLE — Absolute grounds for refusal — Distinctive character — Lack of descriptive character — No signs or indications which have become customary — Article 7(1)(b) to (d) of Regulation (EC) No 207/2009 — Distinctive character acquired through use — Article 7(3) of Regulation No 207/2009)**

(2013/C 9/64)

*Language of the case: English*

**Parties**

*Applicant:* Phonebook of the World (Paris, France) (represented by: A. Bertrand, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Bullock, Agent)

*Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court:* Seat Pagine Gialle SpA (Milan, Italy) (represented by: F. Jacobacci, lawyer)

**Re:**

Action brought against the decision of the Second Board of Appeal of OHIM of 4 August 2011 (Case R 1541/2010-2), relating to invalidity proceedings between Phonebook of the World and Seat Pagine Gialle SpA.

**Operative part of the judgment**

*The Court:*

1. Dismisses the action;
2. Orders Phonebook of the World to pay the costs.

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(<sup>1</sup>) OJ C 32, 4.2.2012.

**Order of the General Court of 15 November 2012 — Marcuccio v Commission**

(Case T-286/11 P) (<sup>1</sup>)

**(Appeal — Civil service — Officials — Non-contractual liability — Compensation for the damage resulting from the fact that a letter concerning the costs in a case was sent to the lawyer who represented the appellant in that case — Appeal in part manifestly inadmissible and in part manifestly unfounded)**

(2013/C 9/65)

*Language of the case: Italian*

**Parties**

*Appellant:* Luigi Marcuccio (Tricase, Italy) (represented by: G. Cipressa, lawyer)