

9. Ninth plea in law, alleging an error of assessment of the facts resulting in an error of law as the Commission took the view, first, that the ONP's conduct relating to the discounts does not fall within the scope of its statutory tasks but reflects its anti-competitive objectives and, secondly, that the ONP consistently, in order to protect the interests of small laboratories, attempted to impose a minimum price on the market for clinical laboratory testing services.

<sup>(1)</sup> Case C-309/99 *Wouters and Others* [2002] ECR I-1577.

<sup>(2)</sup> Commission Inspection Decision C(2008) 6494 of 29 October 2008 ordering the applicants to submit to an inspection pursuant to Article 20(4) of Council Regulation Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 101 TFEU and 102 TFEU is the subject-matter of Case T-23/09 *CNOP and CCG v Commission* (OJ 2009 C 55, p. 49)

### Action brought on 4 April 2011 — Cahier and Others v Council and Commission

(Case T-195/11)

(2011/C 173/30)

*Language of the case: French*

#### Parties

*Applicants:* Jean-Marie Cahier (Montchaude, France) Robert Aubineau (Cierzac, France), Laurent Bigot (Saint Palais sur Mer, France), Pascal Bourdeau (Saintes Lheureine, France), Jacques Brard-Blanchard (Boutiers Saint Trojan, France), Olivier Charruau (St Martial de Mirambeau, France), Daniel Chauvet (Saint Georges Antignac, France), Régis Chauvet (Marignac, France), Fabrice Compagnon (Avy, France), Francis Crepeau (Jarnac Champagne, France), Bernard Deborde (Arthenac, France), Chantal Goulard (Arthenac), Jean Pierre Gourdet (Moings, France), Bernard Goursaud (Brie sous Matha, France), Jean Gravouil (Saint Hilaire de Villefranche, France), Guy Herbelot (Echebrune, France), Rodrigue Herbelot (Echebrune), Sophie Landrit (Ozillac, France), Michel Mallet (Vanzac, France), Alain Marchadier (Villars en Pons, France), Michel Merlet (Jarnac Champagne), René Phelipon (Cierzac, France), Claude Potut (Avy), Philippe Pruleau (Saint Bonnet sur Gironde, France), Béatrice Rousseau (Gensac La Pallue, France), Jean-Christophe Rousseau (Segonzac, France), Françoise Rousseau (Burie, France), Pascale Rulleaud-Beaufour (Arthenac) and Alain Phelipon (Saintes, France) (represented by: C.-E. Gudin, lawyer)

*Defendants:* Council of the European Union and European Commission

#### Form of order sought

The applicants claim that the Court should:

— make good in full the loss suffered by virtue of fines, that is the sum of:

— EUR 53 600 in relation to Jean-Marie Cahier;

- EUR 105 100 in relation to Robert Aubineau;
- EUR 240 500 in relation to Laurent Bigot;
- EUR 111 100 in relation to Pascal Bourdeau;
- EUR 12 800 in relation to Jacques Brard-Blanchard;
- EUR 37 600 in relation to Olivier Charruau;
- EUR 122 100 in relation to Daniel Chauvet;
- EUR 40 500 in relation to Régis Chauvet;
- EUR 97 100 in relation to Fabrice Compagnon;
- EUR 105 600 in relation to Francis Crepeau;
- EUR 1 081 500 in relation to Bernard Deborde;
- EUR 64 800 in relation to Chantal Goulard;
- EUR 94 400 in relation to Jean Pierre Gourdet;
- EUR 43 000 in relation to Bernard Goursaud;
- EUR 82 100 in relation to Jean Gravouil;
- EUR 20 500 in relation to Guy Herbelot;
- EUR 65 100 in relation to Rodrigue Herbelot;
- EUR 53 000 in relation to Sophie Landrit;
- EUR 39 500 in relation to Michel Mallet;
- EUR 332 500 in relation to Alain Marchadier;
- EUR 458 500 in relation to Michel Merlet;
- EUR 23 000 in relation to René Phelipon;
- EUR 85 100 in relation to Claude Potut;
- EUR 3 500 in relation to Philippe Pruleau;
- EUR 34 500 in relation to Béatrice Rousseau;
- EUR 38 070 in relation to Jean-Christophe Rousseau;
- EUR 24 300 in relation to Françoise Rousseau;
- EUR 486 500 in relation to Pascale Rulleaud-Beaufour;
- EUR 10 500 in relation to Alain Phelipon;
- establish a flat-rate amount for non-material loss at the sum of EUR 100 000 for each of the 29 applicants;
- order the Council and the Commission to pay all the costs and disbursements;

- in relation to the ongoing proceedings before the General Court of the European Union;
- in relation also to all the proceedings brought before all of the national courts.

### Pleas in law and main arguments

In support of the action, the applicants submit that the extra-contractual liability of the European Union is incurred by a serious breach of Article 40(2) TFEU, insofar as Article 28 of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine <sup>(1)</sup>, as implemented by Commission Regulation No 1623/2000 <sup>(2)</sup> and maintained by Council Regulation (EC) No 479/2008 <sup>(3)</sup>, prohibits producers of wine obtained from dual-purpose vine varieties from themselves distilling spirits from quantities of wine with a designation of origin produced in excess of the quantity normally produced.

The applicants have been systematically prosecuted and convicted by the national authorities for having failed to deliver the quantities produced in excess of the normal quantity and not exported as wine to third countries for State compulsory distillation into alcohol by approved distillers.

The applicants submit, inter alia, that this is a breach of perfectly clear and unambiguous provisions in respect of which the institutions of the European Union did not have any discretion. They allege a breach of the principles of non-discrimination, legal certainty, proportionality, estoppel, the presumption of innocence, proper administration, care and the right to property, as well as wrongful interference with the freedom to produce industrial goods and put them on the market and the wrongful extension of the application of a regulation with the purpose of stabilising the market and guaranteeing a certain revenue for producers to cases where there are no applications for funding from those producers.

<sup>(1)</sup> OJ 1999 L 179, p. 1.

<sup>(2)</sup> Commission Regulation (EC) No 1623/2000 of 25 July 2000 laying down detailed rules for implementing Regulation (EC) No 1493/1999 on the common organisation of the market in wine with regard to market mechanisms (OJ 2000 L 194, p. 45).

<sup>(3)</sup> Council Regulation (EC) No 479/2008 of 29 April 2008 on the common organisation of the market in wine, amending Regulations (EC) No 1493/1999, (EC) No 1782/2003, (EC) No 1290/2005, (EC) No 3/2008 and repealing Regulations (EEC) No 2392/86 and (EC) No 1493/1999 (OJ 2008 L 148, p. 1).

### Order of the General Court of 8 April 2011 — Bakkers v Council and Commission

(Case T-146/97) <sup>(1)</sup>

(2011/C 173/31)

*Language of the case: Dutch*

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

<sup>(1)</sup> OJ C 199, 28.6.1997.

### Order of the General Court of 11 April 2011 — Quantum v OHIM — Quantum (Q Quantum CORPORATION)

(Case T-31/08) <sup>(1)</sup>

(2011/C 173/32)

*Language of the case: Greek*

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

<sup>(1)</sup> OJ C 92, 12.4.2008.

### Order of the General Court of 15 April 2011 — Amor v OHIM — Jablonex Group (AMORIKE)

(Case T-371/10) <sup>(1)</sup>

(2011/C 173/33)

*Language of the case: English*

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

<sup>(1)</sup> OJ C 288, 23.10.2010.