

**Re:**

Action for annulment of Commission Decision C(2009) 8707 final of 19 November 2009 declaring that the system of allowances paid to employees of insolvent undertakings and the financing thereof under German legislation does not constitute State aid (State aid NN 55/2009) (OJ 2009 C 323, p. 5).

**Operative part of the order**

1. *The action is dismissed as being inadmissible.*
2. *Phoenix-Reisen GmbH and Deutscher Reiseverband eV (DRV) shall bear their own costs and pay the costs incurred by the European Commission.*
3. *The Federal Republic of Germany shall bear its own costs.*

(<sup>1</sup>) OJ C 113, 1.5.2010.

**Order of the General Court of 11 January 2012 — Ben Ali v Council**

(Case T-301/11) (<sup>1</sup>)

*(Common foreign and security policy — Restrictive measures taken in the light of the situation in Tunisia — Action for annulment — Time-limit for bringing proceedings — Out of time — No force majeure — No excusable error — Application for alteration of the contested measure — Claim for compensation — Manifest inadmissibility)*

(2012/C 58/18)

*Language of the case: French*

**Parties**

*Applicant:* Mehdi Ben Tijani Ben Haj Hamda Ben Haj Hassen Ben Ali (Tunis, Tunisia) (represented by: A. de Saint Remy, lawyer)

*Defendant:* Council of the European Union (represented initially by A. Vitro and R. Liudvinavičiute-Cordeiro, and subsequently by R. Liudvinavičiute-Cordeiro and M. Bishop, Agents)

**Re:**

First, action for annulment of Council Regulation (EU) No 101/2011 of 4 February 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Tunisia (OJ 2011 L 31, p. 1), in so far as it concerns the applicant and, second, an application seeking an order for the Council to adopt certain derogations to the freezing of funds imposed by the regulation and a claim for damages for the harm allegedly suffered by the applicant.

**Operative part of the order**

1. *The order is dismissed.*

2. *Mr Mehdi Ben Tijani Ben Haj Hamda Ben Haj Hassen Ben Ali is ordered to bear his own costs and to pay those incurred by the Council of the European Union.*
3. *There is no need to give a ruling on the application for leave to intervene by the European Commission.*

(<sup>1</sup>) OJ C 226, 30.7.2011.

**Action brought on 16 December 2011 — Boehringer Ingelheim International v OHIM (RELY-ABLE)**

(Case T-640/11)

(2012/C 58/19)

*Language of the case: English*

**Parties**

*Applicant:* Boehringer Ingelheim International GmbH (Ingelheim am Rhein, Germany) (represented by: V. von Bomhard, A. Renck and C. Steudtner, lawyers)

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

**Form of order sought**

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 30 September 2011 in case R 756/2011-4;

— Order that the costs of the proceedings be borne by the defendant.

**Pleas in law and main arguments**

*Community trade mark concerned:* The word mark 'RELY-ABLE' for services in classes 38, 41 and 42 — International Registration (IR) No 1044333

*Decision of the Examiner:* Rejected the protection of the mark in the European Union for all the services applied for.

*Decision of the Board of Appeal:* Dismissed the appeal

*Pleas in law:* Infringement of Article 7(1)(b) of Council Regulation No 207/2009, as the Board of Appeal erred in finding that the sign applied for is 'not particularly fanciful or arbitrary' and an 'obvious misspelling of the word reliable' with the result that it would be perceived as laudatory. It further erred when assuming that misspellings are 'a frequent feature of promotional messages' and that this was relevant to the case at hand.