

- The defendants were not lawfully entitled to include applicants on the sole basis of assertions that they are a ZANU-PF member of the Government of Zimbabwe or an associate of such a person; and
 - The defendants were not lawfully entitled to include applicants on the basis of vague unsupported allegations of misconduct stated to have taken place in the past, in many cases before the Government of National Unity was formed.
3. Third plea in law, alleging that the defendants failed to give adequate or sufficient reasons for including individuals and entities in the contested measures.
 4. Fourth plea in law, alleging that the defendants failed to safeguard the applicants' rights of defence and to effective judicial review, in that:
 - The defendants provided no particulars or evidence in support of their vague assertions of serious misconduct, and
 - The defendants provided no opportunity for the applicants to comment on the case and evidence against them.
 5. Fifth plea in law, alleging that the defendants infringed, without justification or proportion, the applicants' fundamental rights, including their right to protection of their property, business, reputation and private and family life.

Action brought on 2 May 2012 — PAN Europe v Commission

(Case T-192/12)

(2012/C 194/43)

Language of the case: English

Parties

Applicant: Pesticide Action Network Europe (PAN Europe) (Brussels, Belgium) (represented by: J. Rutteman, lawyer)

Defendant: European Commission

Form of order sought

- Declare the Commission's Decision of 9 March 2012, which found a request made by the applicant for internal review to be inadmissible, contrary to Regulation (EC) No 1367/2006/EC⁽¹⁾ and the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters ('Aarhus Convention');
- Annul the Commission's Decision of 9 March 2012;

- Instruct the Commission to assess, nonetheless, the substance of the request for internal review, within a period of time determined by the Court; and
- Order the Commission to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on two pleas in law.

1. First plea in law, alleging that the defendant erred when it found that the applicant did not comply with the conditions of eligibility set out in Article 11 of Regulation (EC) No 1367/2006, as the applicant already existed for more than two years when it made its request for internal review.
2. Second plea in law, alleging that the defendant erred when it stated that Implementing Regulation (EU) No 1143/2011⁽²⁾ cannot be considered an administrative act within the meaning of Article 10 of Regulation (EC) No 1367/2006, as it is defined in Article 2(1)(g) of that Regulation, as the decision to approve prochloraz is sufficiently individual in its effects and content to make it an administrative act as is meant in Article 10(1) of Regulation (EC) No 1367/2006.

⁽¹⁾ Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ 2006 L 264, p. 13)

⁽²⁾ Commission Implementing Regulation (EU) No 1143/2011 of 10 November 2011 approving the active substance prochloraz, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011 and Commission Decision 2008/934/EC (OJ 2011 L 293, p. 26)

Action brought on 8 May 2012 — MIP Metro v OHIM — Holsten-Brauerei (H)

(Case T-193/12)

(2012/C 194/44)

Language in which the application was lodged: German

Parties

Applicant: MIP Metro Group Intellectual Property GmbH & Co. KG (Düsseldorf, Germany) (represented by: J.-C. Plate and R. Kaase, lawyers)

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

Other party to the proceedings before the Board of Appeal: Holsten-Brauerei AG (Hamburg, Germany)

Form of order sought

The applicant claims that the Court should:

- annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 23 February 2012 in Case R 2340/2010-1 on the basis of incompatibility with Article 8(1)(b) of Regulation (EC) No 40/94 on the Community Trade Mark, in so far as it upheld the opposition against the extension of protection of international registration No 984 017;
- order the defendant to pay the costs, including the costs of the appeal procedure.

Pleas in law and main arguments

Applicant for a Community trade mark: the applicant

Community trade mark concerned: the international registration which has effect in the European Union of a figurative mark representing an escutcheon with the letter 'H' for goods in Class 32 — No 984 017

Proprietor of the mark or sign cited in the opposition proceedings: Holsten-Brauerei AG

Mark or sign cited in opposition: the German figurative mark representing a knight on horseback with a shield bearing the letter 'H' for goods in Class 32

Decision of the Opposition Division: the opposition was upheld

Decision of the Board of Appeal: the appeal was dismissed

Pleas in law: infringement of Article 8(1)(b) of Regulation No 207/2009

Appeal brought on 11 May 2012 by Luigi Marcuccio against the order of the Civil Service Tribunal of 29 February 2012 in Case F-3/11, Marcuccio v Commission

(Case T-207/12 P)

(2012/C 194/45)

Language of the case: Italian

Parties

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

Other party to the proceedings: European Commission

Form of order sought by the appellant

- Annul in its entirety and without exception whatsoever the order under appeal;
- Grant all the appellant's claims in the proceedings at first instance under appeal;
- Order the defendant to pay to the appellant all the costs incurred by him in the appeal proceedings;
- In the alternative, refer the case back to the Civil Service Tribunal, sitting in a different formation, for a fresh decision on each of the claims referred to in the preceding paragraphs.

Pleas in law and main arguments

The present appeal is brought against the order of 29 February 2012 in Case F-3/11 rejecting as manifestly inadmissible an action seeking, first, annulment of the alleged refusal on the part of the European Commission to place a document on the file relating to his accident and, second, an order that the Commission pay to the appellant the sum of EUR 1 000 by way of compensation for the damage alleged.

The appellant relies on two grounds of appeal.

1. First ground, alleging absolute failure to state reasons for the ruling that the action was manifestly inadmissible and manifest uncertainty, inconsistent reasoning, distortion and misrepresentation of the facts, self-evident, illogical, irrelevant and unreasonable reasoning, infringement of the obligation of *clare loqui*, failure to rule on one of the appellant's claims, and incorrect and unreasonable interpretation and application of:

Articles 26 and 26a of the Staff Regulations of Officials of the European Union;

the rules of law relating to the concept of an actionable measure (in particular, at paragraphs 30 to 47 of the order under appeal);

the rules of law concerning the processing of and access by the individual to personal data affecting him which is held by a European Union institution;

2. Second ground, alleging that the court at first instance's rulings on costs are unlawful (between paragraphs 47 and 48 of the order under appeal).