

Form of order sought by the appellant

The appellant claims that the Court should:

- Set aside the judgment of the Civil Service Tribunal of the European Union (Third Chamber) of 30 January 2013 in Case F-20/06 RENV *De Luca v Commission*;
- Giving judgment itself,
 - Annul the decision of the European Commission of 23 February 2005 to appoint the appellant as an administrator, in so far as it sets her classification at grade A*9 step 2;
 - Order the Commission to pay the costs in respect of both instances.

Pleas in law and main arguments

1. In support of the appeal, the appellant relies on a certain number of grounds of appeal alleging the following errors of law:
 - the Civil Service Tribunal interpreted the judgment of 14 December 2011 in Case T-563/10 P *De Luca v Commission* as restricting the examination of the legality of the contested decision at first instance solely to the effects of the application by analogy of the rules on recruitment without taking into account the pre-eminence of the applicable provisions concerning normal career progression;
 - the Civil Service Tribunal held that Article 12(3) of Annex XIII to the Staff Regulations of Officials of the European Union could lawfully apply by analogy, but stated that that did not constitute an advantage for the appellant in terms of career and that the limited advantage in terms of remuneration would ultimately disappear;
 - the Civil Service Tribunal did not carry out an examination of the legality of Article 12(3) of Annex XIII to the Staff Regulations and of its application by analogy to the appellant taking into account the principle of equal treatment and of the right to reasonable career prospects;
 - it is for the Civil Service Tribunal to ascertain, and not for the appellant to establish, the manifestly inappropriate nature of the application of Article 12(3) of Annex XIII to the Staff Regulations;
 - the Civil Service Tribunal rejected at the outset, without an in-depth examination, the appellant's argument alleging infringement of the principle of equal treatment resulting from the fact that the eligibility of officials for promotion under Article 45 of the Staff Regulations is maintained notwithstanding the amendments to the Staff Regulations which have taken place, although this does not, on account of the application of Article 12(3) of Annex XIII to the Staff Regulations, apply to the appellant.

Action brought on 9 April 2013 — Group'Hygiène v Commission

(Case T-202/13)

(2013/C 171/62)

Language of the case: French

Parties

Applicant: Group'Hygiène (Paris, France) (represented by: J.-M. Leprêtre and N. Chahid-Nourai, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- Annul, with immediate effect, on the basis of Article 263 TFEU, Commission Directive 2013/2/EU of 7 February 2013 amending Annex I to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste, in so far as it adds rolls, tubes and cylinders, with the exception of those for industrial use, to the list of examples of packaging;
- Order the European Commission to pay the costs in their entirety.

Pleas in law and main arguments

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

1. First plea in law, alleging lack of competence on the part of the Commission, inasmuch as the Commission may not, on the basis of its implementing powers, amend essential elements of the basic legislation. Since Directive 2013/2/EU⁽¹⁾ expanded the definition of packaging to products which are not referred to in Directive 94/62/EC⁽²⁾, Directive 2013/2/EU is therefore vitiated by lack of competence.
2. Second plea in law, alleging infringement of Article 296 TFEU and of the general principles of European Union law on the obligation to state reasons as Directive 2013/2/EU does not explain the reasons why only some rolls, tubes and cylinders constitute packaging. The applicant submits that the statement of reasons for the measure was particularly necessary because the contested measure constitutes a change in position as against the relevant previous positions of the bodies of the European Union.
3. Third plea in law, alleging infringement of Directive 94/62/EC inasmuch as it is obvious that rolls, tubes and cylinders may not be categorised as packaging as a roll, tube or cylinder is a purely internal part of a product and does not correspond to the legal definition of packaging used in Directive 94/62/EC.

4. Fourth plea in law, alleging infringement of the principle of equal treatment as Directive 2013/2/EU treats comparable situations differently inasmuch as the directive does not categorise industrial rolls, tubes and cylinders as packaging, although industrial rolls, tubes and cylinders and non-industrial rolls, tubes and cylinders are in an objectively comparable situation, and inasmuch as products with characteristics similar to rolls, tubes and cylinders are excluded from the category of packaging.
5. Fifth plea in law, alleging infringement of the principles of legal certainty and of the protection of legitimate expectations inasmuch as Directive 2013/2/EU abruptly, and without transitional measures, calls in question the approach taken by the European Union legislature according to which rolls, tubes and cylinders are not packaging within the meaning of Directive 94/62/EC.
6. Sixth plea in law, alleging infringement of the principle of proportionality inasmuch as the contested measure gives rise to disproportionate financial consequences for the economic operators in the sector because, unlike the other manufacturers subject to the legislation relating to packaging, manufacturers of rolls, tubes and cylinders cannot reduce the volume of rolls, tubes and cylinders produced as they are absolutely necessary and integrated into the products.

⁽¹⁾ OJ 2013 L 37, p. 10.

⁽²⁾ European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ 1994 L 365, p. 10).

Action brought on 8 April 2013 — Stance/OHIM — Pokarna (STANCE)

(Case T-206/13)

(2013/C 171/63)

Language in which the application was lodged: English

Parties

Applicant: Stance, Inc. (San Clemente, United States) (represented by: R. Kunze and G. Würtenberger, lawyers)

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

Other party to the proceedings before the Board of Appeal: Pokarna Ltd (Secundrabad, India)

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Fifth Board of Appeal of 1 February 2013 in Case R 885/2012-5 pertaining to the opposition based on Community trademark registration No. 005 491 329 against Community trademark application No. 008 957 516 'STANCE';

- Order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'STANCE' for goods in class 25 — Community trade mark application 8 957 516

Proprietor of the mark or sign cited in the opposition proceedings: The other party to the proceedings before the Board of Appeal

Mark or sign cited in opposition: Community trade mark registration of the black and white figurative mark 'STANZA', for goods and services in classes 25 et 35

Decision of the Opposition Division: Upheld the opposition for all the contested goods

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Articles 65, 8(1)(b), 75, 76(1), (2) and 83 of Council Regulation No 207/2009.

Action brought on 10 April 2013 — 1872 Holdings/OHIM — Havana Club International (THE SPIRIT OF CUBA)

(Case T-207/13)

(2013/C 171/64)

Language in which the application was lodged: English

Parties

Applicant: 1872 Holdings vof (Amsterdam, Netherlands) (represented by: M. Antoine-Lalance, lawyer)

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

Other party to the proceedings before the Board of Appeal: Havana Club International, SA (Havana, Cuba)

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 of 31 January 2013 in case R 684/2012-1;
- Order the Office to pay the costs.