

Defendant: European Commission (represented by: R. Lyal and P. Arenas, acting as Agents, and by O. Lytra, lawyer)

Re:

Applications, under Article 272 TFEU, seeking, on the one hand, first, a declaration that the Commission's demand for reimbursement of the subsidies paid to the applicant in implementation of the contracts No. 045459 'Perceptual spaces promoting independent aging', and No. 507749 'Impact of e-governance on local and regional administrative services', concluded in the context of the Sixth framework programme for research, technological development and demonstration activities (2002-2006) is unfounded, and, second, to order the Commission to pay the balance of the unpaid subsidies under the first of those contracts and, on the other, to order the applicant, by way of counterclaim, to reimburse the subsidies unduly paid under those contracts.

Operative part of the judgment

The Court:

- 1) *Dismisses the appeal brought by ANKO AE Antiprosopeion, Emporiou kai Viomichanias;*
- 2) *Orders ANKO AE Antiprosopeion, Emporiou kai Viomichanias to pay the European Commission the sum of EUR 606 570,61, corresponding to the reimbursement of the financial contributions which it received under contracts No. 045459 'Perceptual spaces promoting independent aging' and No. 507749 'Impact of e-governance on local and regional administrative services', concluded in the context of the Sixth framework programme for research, technological development and demonstration activities (2002-2006) plus default interest as from 3 May 2014 at the rate of 3,75 %;*
- 3) *Orders ANKO AE Antiprosopeion, Emporiou kai Viomichanias to pay the costs.*

⁽¹⁾ OJ C 175, 10.6.2014.

Judgment of the General Court of 28 April 2016 — Zehnder Group International v EUIPO — Stiebel Eltron (comfotherm)

(Case T-267/14) ⁽¹⁾

(EU trade mark — Invalidity proceedings — EU word mark comfotherm — Earlier national word mark KOMFOTHERM — Relative ground for refusal — Article 8(1)(b) of Regulation (EC) No 207/2009 — Likelihood of confusion — Similarity of the goods — Relevant public — Interdependence of factors)

(2016/C 211/56)

Language of the case: German

Parties

Applicant: Zehnder Group International AG (Gränichen, Switzerland) (represented by: J. Krenzel, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO) (represented by: initially A. Pohlmann and subsequently S. Hanne, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Stiebel Eltron GmbH & Co. KG (Holzminden, Germany) (represented by: J. Eberhardt, H. Förster and Y. Holderied, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 21 February 2014 (Case R 1318/2013-4), relating to invalidity proceedings between Stiebel Eltron GmbH & Co. KG and Zehnder Group International AG.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Zehnder Group International AG to pay the costs.

⁽¹⁾ OJ C 194, 24.6.2014.

**Judgment of the General Court of 27 April 2016 — Österreichische Post v Commission
(Case T-463/14) ⁽¹⁾**

(Directive 2004/17/EC — Procurement procedures of entities operating in the water, energy, transport and postal services sectors — Implementing decision exempting certain services in the postal sector in Austria from the application of Directive 2004/17 — Article 30 of Directive 2004/17 — Duty to state reasons — Manifest error of assessment)

(2016/C 211/57)

Language of the case: German

Parties

Applicant: Österreichische Post AG (Vienna, Austria) (represented by: H. Schatzmann, J. Bleckmann and M. Oder, lawyers)

Defendant: European Commission (represented by: A. Tokár and C. Vollrath, acting as Agents)

Re:

Application for annulment in part of Implementing Commission Decision 2014/184/EU of 2 April 2014 exempting certain services in the postal sector in Austria from the application of Directive 2004/17/EC of the European Parliament and of the Council coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (OJ 2014 L 101, p. 4), in so far as that directive continues to apply to the award of contracts for certain postal services in Austria.

Operative part of the judgment

The Court:

1. Annuls Implementing Commission Decision 2014/184/EU of 2 April 2014 exempting certain services in the postal sector in Austria from the application of Directive 2004/17/EC of the European Parliament and of the Council coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors, in so far as it states that that directive continues to apply to the market for postal services for addressed letters between business customers and between business customers and private customers on an international level in Austria;
2. Dismisses the action as to the remainder;
3. Orders Österreichische Post AG to bear its own costs and to pay eight tenths of the costs incurred by the European Commission;
4. The Commission shall bear two tenths of its own costs.

⁽¹⁾ OJ C 303, 8.9.2014.