

**Order of the General Court of 2 September 2014 — Verein Natura Havel and Vierhaus v Commission**(Case T-538/13) <sup>(1)</sup>

*(Access to documents — Regulation (EC) No 1049/2001 — Letter of formal notice sent in the context of ongoing infringement proceedings concerning the compliance with EU law of German aviation law — Refusal of access — Exception relating to the protection of the purpose of inspections, investigations and audits — Action in part manifestly inadmissible and in part manifestly lacking any foundation in law)*

(2014/C 380/18)

Language of the case: German

**Parties**

*Applicants:* Verein Natura Havel eV (Berlin, Germany), and Hans-Peter Vierhaus (Berlin, Germany) (represented by: O. Austilat, lawyer)

*Defendant:* European Commission (represented by: initially by B. Martenczuk and C. Zadra, and subsequently by B. Martenczuk and J. Baquero Cruz, acting as Agents)

**Re:**

Action for annulment of the Commission's decision of 24 June 2013 rejecting the initial request for access to a letter of formal notice sent to the Federal Republic of Germany under Article 258 TFEU and of the Commission's decision of 3 September 2013 rejecting the confirmatory application for access to that letter.

**Operative part of the order**

1. *The action is dismissed.*
2. *Verein Natura Havel eV and Hans-Peter Vierhaus are ordered to pay the costs.*

<sup>(1)</sup> OJ C 344, 23.11.2013.

**Action brought on 23 June 2014 — Ertico — Its Europe v Commission**

(Case T-499/14)

(2014/C 380/19)

Language of the case: English

**Parties**

*Applicant:* European Road Transport Telematics Implementation Coordination Organisation — Intelligent Transport Systems & Services Europe (Ertico — Its Europe) (Brussels, Belgium) (represented by: M. Wellinger and K. T'Syen, lawyers)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- Annul the decision of the Validation panel of the European Commission of 15 April 2014 holding that the applicant does not qualify as a micro, small and medium-sized enterprise within the meaning of Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (L 124, p. 36); and
- Order the defendant to bear the costs of the proceedings.

**Pleas in law and main arguments**

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

1. First plea in law, alleging that the Validation Panel's conclusion that the applicant would not qualify as a micro, small and medium-sized enterprise is based on a manifestly wrong reading of Article 3(4) of the Annex to Commission Recommendation 2003/361/EC.
2. Second plea in law, alleging that by concluding that the applicant would not qualify as a micro, small and medium-sized enterprise and by leaving the door open for the Commission to re-claim the FP7 grants that were awarded to the applicant in the past, the Validation Panel breached the fundamental principles of European law of: (i) sound administration; (ii) legal certainty; and (iii) the protection of the applicant's legitimate expectations.
3. Third plea in law, alleging that the Validation Panel infringed the applicant's rights of defence and breached the principle of sound administration in that it failed to give the applicant the opportunity to effectively make its views known.
4. Fourth plea in law, alleging that the Validation Panel failed to comply with its duty to duly motivate its decision.

---

**Action brought on 28 July 2014 — Ahmed Mohamed Saleh Baeshen v OHIM****(Case T-564/14)**

(2014/C 380/20)

*Language of the case: English***Parties**

*Applicant:* Ahmed Mohamed Saleh Baeshen & Co. (Jeddah, Saudi Arabia) (represented by: M. Vanhegan, Barrister)

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

**Form of order sought**

The applicant claims that the Court should:

- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 19 May 2014 given in Case R 687/2014-2;
- Order the defendant to bear the costs of proceedings.

**Pleas in law and main arguments**

*Registered Community trade mark in respect of which an application for revocation has been made:* The word mark 'TEAVANA' for services in Class 35 — Community trade mark No 4 098 588

*Proprietor of the Community trade mark:* The other party to the proceedings before the Board of Appeal, Teavana Corporation

*Party applying for revocation of the Community trade mark:* The applicant

*Decision of the Cancellation Division:* Revoked the CTM proprietor's right in respect of Community trade mark No 4 098 588 in its entirety

*Decision of the Board of Appeal:* Rejected the appeal as inadmissible

*Pleas in law:* Infringement of Articles 51(1)(a), 59 and 75 CTMR.

---