

**Action brought on 29 October 2015 — Azur Space Solar Power v OHIM (Representation of a black line)**

**(Case T-614/15)**

(2016/C 038/86)

*Language of the case: English*

**Parties**

*Applicant:* Azur Space Solar Power GmbH (Heilbronn, Germany) (represented by: J. Nicodemus, lawyer)

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

**Details of the proceedings before OHIM**

*Trade mark at issue:* International registration designating the European Union in respect of the figurative mark (Representation of a black line) — Application for registration No 1 201 652

*Contested decision:* Decision of the Fourth Board of Appeal of OHIM of 2 September 2015 in Case R 3233/2015-4

**Form of order sought**

The applicant claims that the Court should:

- annul the contested decision;
- order OHIM to pay the costs.

**Plea in law**

- Infringement of Article 7(1)(b) of Regulation No 207/2009.

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**Action brought on 23 November 2015 — E-Control v ACER**

**(Case T-671/15)**

(2016/C 038/87)

*Language of the case: English*

**Parties**

*Applicant:* Energie-Control Austria für die Regulierung der Elektrizitäts- und Erdgaswirtschaft (E-Control) (Vienna, Austria) (represented by: F. Schuhmacher, lawyer)

*Defendant:* Agency for the Cooperation of Energy Regulators (ACER)

**Form of order sought**

The applicant claims that the Court should:

- annul the opinion of the Agency for the Cooperation of Energy Regulators N° 09/2015 of 23 September 2015 on the compliance of national regulatory authorities' decisions approving the methods of allocation of cross-border transmission capacity in the Central-East Europe region with Regulation (EC) N° 714/2009 and the guidelines on the management and allocation of available transfer capacity of interconnections between national systems contained in Annex I thereto; 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 six pleas in law.

1. First plea in law, alleging the violation of procedural requirements including in particular the lack of procedural rules, the infringement of the right of access to the file, the infringement of the right to be heard, and the absence of a proper justification.
2. Second plea in law, alleging the lack of legal basis for the measures proposed since ACER has not followed the procedure provided for in Article 8 of Regulation (EC) N° 713/2009 but instead based its opinion on article 7(4) of Regulation (EC) N° 713/2009 and therefore overstepped the competence provided for in Article 7(4) of Regulation (EC) N° 713/2009 and acted *ultra vires*.
3. Third plea in law, alleging infringement of Regulation (EC) N° 714/2009 since ACER's conclusion that structural congestion exists on the German-Austrian border is not supported by facts and is incompatible with the definition of congestion. Furthermore, the opinion lacks an impact assessment and a thorough evaluation of alternative solutions. Finally, the capacity allocation procedure as set out in the opinion is neither an appropriate nor a proportionate remedy for the problems identified in the opinion.
4. Fourth plea in law, alleging infringement of Commission Regulation (EU) N° 1222/2015 (CACM Guideline) to the extent that the opinion disregards the binding material and procedural requirements of the CACM Guideline, which entered into force before the opinion was adopted.
5. Fifth plea in law, alleging infringement of Article 101 TFEU and Article 102 TFEU, in conjunction with Article 4(3) TEU, since the opinion violates fundamental principles of the European Internal Energy Market by ordering the national regulatory authorities and the TSO's to artificially split the integrated electricity market between Austria and Germany.
6. Sixth plea in law, alleging infringement of Article 34 TFEU and Article 35 TFE because the regulatory measure would impose artificial barriers of trade between Member States and would interfere with the fundamental principle of Freedom of Goods in the meaning of Article 34 TFEU and Article 35 TFE.

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### Action brought on 20 November 2015 — Shanxi Taigang Stainless Steel v Commission

(Case T-675/15)

(2016/C 038/88)

*Language of the case: English*

### Parties

*Applicant:* Shanxi Taigang Stainless Steel Co. Ltd (Taiyuan, China) (represented by: F. Carlin, Barrister, and N. Niejahr, lawyer)

*Defendant:* European Commission

### Form of order sought

The applicant claims that the Court should:

- annul Commission Implementing Regulation (EU) 2015/1429 of 26 August 2015 imposing a definitive anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan (OJ 2015 L 224, p. 10), to the extent that it imposes anti-dumping duties on exports by the applicant and collects provisional duties imposed on such exports; and
- order the Commission to pay its own costs and the costs of the applicant in connection with these proceedings.