

3. Third plea in law: Manifest errors of assessment, lack of or erroneous exercise of discretion and infringement of the principle of proportionality

In the applicant's view, the Council made manifest errors of assessment when it adopted the contested acts. The Council failed adequately and/or correctly to investigate the facts underlying the contested acts. In that context, it is submitted, inter alia, that, so far as concerns the applicant, the grounds for adoption of the restrictive measures that are stated in the contested acts are inapplicable. The contested acts also breach the principle of proportionality.

4. Fourth plea in law: Infringement of the rights guaranteed under the Charter of Fundamental Rights of the European Union

Here, the applicant claims that its fundamental rights as guaranteed by the Charter of Fundamental Rights of the European Union ('the Charter') have been infringed by the contested acts. It invokes, in that regard, breach of the freedom to conduct a business in the European Union (Article 16 of the Charter) and of the right to use its lawfully acquired possessions in the European Union and, in particular, to dispose of them freely (Article 17 of the Charter). Furthermore, the applicant claims breach of the principle of equal treatment (Article 20 of the Charter) and of the principle of non-discrimination (Article 21 of the Charter).

Action brought on 11 February 2016 — Apax Partners v EUIPO — Apax Partners Midmarket (APAX)

(Case T-58/16)

(2016/C 111/43)

Language in which the application was lodged: English

Parties

Applicant: Apax Partners LLP (London, United Kingdom) (represented by: D. Rose, J. Curry and J. Warner, Solicitors)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Apax Partners Midmarket (Paris, France)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: EU word mark 'APAX' — Application for registration No 3 538 981

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 26 November 2015 in Case R 1441/2014-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision in its entirety and remit the application for the Contested Mark to EUIPO to allow it to proceed and;
- order EUIPO and any party involved in these proceedings before the Board to bear their own costs and pay the Applicant's costs of these proceedings and those of the Appeal before the Board and the Opposition B 764 029 before the Opposition Division.

Plea in law

- Infringement of Article 8(1)(a) and (b) of Regulation No 207/2009.

Appeal brought on 13 February 2016 by Carlo de Nicola against the judgment of the Civil Service Tribunal of 18 December 2015 in Case F-9/14 De Nicola v EIB

(Case T-59/16 P)

(2016/C 111/44)

Language of the case: Italian

Parties

Appellant: Carlo de Nicola (Strassen, Luxembourg) (represented by: G. Ferabecoli, lawyer)

Other party to the proceedings: European Investment Bank

Form of order sought by the appellant

The appellant claims that the Court should:

- Uphold the present appeal and, partially reversing the judgment under appeal, annul points 2 and 3 of the operative part, together with paragraphs 58 to 63 of the judgment itself;
- Consequently, annul the guidelines established for the year 2012 or declare that they are no longer applicable; order the EIB to compensate Dr De Nicola for the damage suffered, as requested in the application initiating proceedings or, in the alternative, refer the case to another Chamber of the Civil Service Tribunal in order that it may, in a different formation, give a fresh decision on the annulled paragraphs;
- Order the European Investment Bank to pay the costs.

Grounds of appeal and main arguments

The present appeal is brought against the judgment of the Civil Service Tribunal (single Judge) of 18 December 2015 in *De Nicola v European Investment Bank* (F-9/14).

The grounds of appeal and main arguments are those relied on in Case T-55/16 P *De Nicola v European Investment Bank*.

Appeal brought on 13 February 2016 by Carlo de Nicola against the judgment of the Civil Service Tribunal of 18 December 2015 in Case F-55/13 De Nicola v EIB

(Case T-60/16 P)

(2016/C 111/45)

Language of the case: Italian

Parties

Appellant: Carlo de Nicola (Strassen, Luxembourg) (represented by: G. Ferabecoli, lawyer)

Other party to the proceedings: European Investment Bank