

**Order of the General Court of 8 June 2016 — Kohrener Landmolkerei and DHG v Commission****(Case T-178/15) <sup>(1)</sup>*****(System of traditional specialities guaranteed — Regulation (EU) No 1151/2012 — Letter from the Commission informing the competent national authorities of their late lodging of their opposition measure — Action manifestly lacking any foundation in law)***

(2016/C 270/51)

*Language of the case: German***Parties**

*Applicants:* Kohrener Landmolkerei GmbH (Penig, Germany) and DHG Deutsche Heumilchgesellschaft mbH (Frohburg, Germany) (represented by: A. Wagner, lawyer)

*Defendant:* European Commission (represented by: J. Guillem Carrau and G. von Rintelen, acting as Agents)

**Re:**

Application based on Article 263 TFEU and asking for annulment of the decision contained in the letter of 9 February 2015 from the Director of Directorate B 'Multilateral relations and quality policy' of the Commission's 'Agriculture and rural development' Directorate General, with the reference Ares (2015)529719, informing the competent German authorities that their opposition measure under Article 51(1) of Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ 2012 L 343, p. 1), which was lodged on 5 January 2015, was submitted after the deadline.

**Operative part of the order**

1. *The action is dismissed as being manifestly lacking any foundation in law.*
2. *Kohrener Landmolkerei GmbH and DHG Deutsche Heumilchgesellschaft mbH shall bear their own costs and pay those incurred by the European Commission.*

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<sup>(1)</sup> OJ C 245, 27.7.2015.

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**Action brought on 18 April 2016 — Grizzly Tools v Commission****(Case T-168/16)**

(2016/C 270/52)

*Language of the case: German***Parties**

*Applicant:* Grizzly Tools GmbH & Co. KG (Großostheim, Germany) (represented by: H. Fischer, lawyer)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- annul Commission Implementing Decision (EU) 2016/175 of 8 February 2016 on a measure taken by Spain pursuant to Directive 2006/42/EC of the European Parliament and of the Council, to prohibit the placing on the market of a type of pressure washer (OJ 2016, L 33, p. 12);
- order the defendant to pay the costs of the proceedings.

### Pleas in law and main arguments

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

#### 1. Infringement of essential requirements of form

The applicant claims that the contested decision infringes the duty to state reasons under the second paragraph of Article 296 TFEU in so far as its recitals are contradictory and unclear.

Moreover, the contested decision infringes the principle that the Commission is to state the facts of the case correctly. In the fourth recital, the Commission incorrectly alleges that the applicant made reference in the EC Declaration of Conformity to the standard EN-60335-2-67-2009, which is incorrect.

#### 2. Infringement of Article 11 of Directive 2006/42/EC <sup>(1)</sup>

The applicant claims that the Commission incorrectly took the view that the measure taken by Spain to prohibit the placing on the market was justified.

In particular, the Spanish authorities and the Commission characterised the pressure washer as of dual use, capable of being used not only as a portable appliance, but also as a hand-held appliance. They therefore considered a higher level of safety to be necessary despite the pressure washer not being intended for use as a hand-held appliance and there being no reasonably foreseeable misuse within the meaning of Article 11(1) of Directive 2006/42/EC in its use as a hand-held pressure washer.

<sup>(1)</sup> Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC (OJ 2006 L 157, p. 24).

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### Action brought on 3 May 2016 — Keturi kambariai v EUIPO — Coffee In (coffee inn)

(Case T-202/16)

(2016/C 270/53)

*Language in which the application was lodged: English*

#### Parties

*Applicant:* UAB Keturi kambariai (Vilnius, Lithuania) (represented by: R. Pumputienė, lawyer)

*Defendant:* European Union Intellectual Property Office (EUIPO)

*Other party to the proceedings before the Board of Appeal:* AS Coffee In (Tallinn, Estonia)

#### Details of the proceedings before EUIPO

*Applicant of the trade mark at issue:* Applicant

*Trade mark at issue:* EU figurative mark with the colour claim 'black, orange, white' containing the word elements 'coffee inn' — Application for registration No 11 475 233

*Procedure before EUIPO:* Opposition proceedings

*Contested decision:* Decision of the Fourth Board of Appeal of EUIPO of 3 March 2016 in Case R 137/2015-4