

- The European Commission proceeded on the incorrect assumption that the compensation fund fulfils the requirement of non-discrimination in relation to the uniform maximum contribution in the amount of 2 % of the revenue of the provider of universal services or substitutable services; this percentage of the contribution to be paid by providers applies uniformly to all market operators, which is discriminatory since the situation of providers of universal services and the situation of providers of substitutable services are not the same.
4. Fourth plea in law, alleging infringement of Article 7(1) of the Postal Services Directive, since the European Commission acknowledges that the costs of the universal service were financed through a multitude of exclusive and special rights which were granted to the Polish postal service
- Article 7(1) of the Postal Services Directive provides that the Member States may not grant or maintain in force exclusive or special rights for the establishment and provision of postal services. At the same time, the Commission acknowledges that the Polish postal service was granted exclusive and special rights in connection with the universal services being provided by it.
5. Fifth plea in law, alleging infringement of Article 102, in conjunction with Article 106(1), of the Treaty
- The disproportionately high contribution to the compensation fund leads to ‘anticompetitive foreclosure’ of the postal services market.
6. Sixth plea in law, alleging infringement of Article 16 and Article 17(1) of the Charter of Fundamental Rights of the European Union
- By the contested decision, a State aid scheme (programme) was confirmed which results in a disproportionate interference with the applicant’s right to property and a disproportionate restriction of its freedom to conduct a business.
7. Seventh plea in law, alleging infringement of essential procedural requirements and failure to comply with the obligation to state reasons under Article 296 of the Treaty
- The Commission incorrectly determined the circumstances and frequently based its decision on incorrectly determined facts. In addition, the Commission thereby failed to state adequate reasons, since it did not — contrary to its own decision-making practice — take account, as regards the effect on competition, of the failure to launch a call for tenders as an incriminating factor.

---

**Action brought on 23 May 2016 — Gulli v EUIPO — Laverana (Lybera)**

**(Case T-284/16)**

(2016/C 270/67)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Diego Gulli (Genoa, Italy) (represented by: M. Andreolini and F. Andreolini, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* Laverana GmbH & Co.KG (Wennigsen, Germany)

**Details of the proceedings before EUIPO**

*Applicant of the trade mark at issue:* Applicant

*Trade mark at issue:* EU figurative mark containing the word element 'Lybera' — Application for registration No 12 155 743

*Procedure before EUIPO:* Opposition proceedings

*Contested decision:* Decision of the Fifth Board of Appeal of EUIPO of 17 March 2016 in Case R 3219/2014-5

**Form of order sought**

The applicant claims that the Court should:

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

**Plea in law**

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

---

**Action brought on 30 May 2016 — Belgium v Commission**

**(Case T-287/16)**

(2016/C 270/68)

*Language of the case: French*

**Parties**

*Applicant:* Kingdom of Belgium (represented by: J. C. Halleux and M. Jacobs, acting as Agents, and by É. Grégoire and J. Mariani, lawyers)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- annul Commission Implementing Decision (EU) 2016/417 of 17 March 2016, in so far as it excludes from European Union financing in relation to the Kingdom of Belgium an amount of EUR 9 601 619,00 (budget item 6701);
- in the alternative, partially annul that decision to exclude from European Union financing the amount of EUR 9 601 619 in so far as it includes the sum of EUR 4 106 470,02 from which the EAGF has already benefited;
- order the Commission to pay the costs.