

- Annul the contested decision and, in so far as necessary, the decision rejecting the claim;
- Order the defendant to pay EUR 68 500 in compensation for the applicant's various non-pecuniary losses;
- Order the defendant to pay the costs.

### **Pleas in law and main arguments**

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

1. First plea in law, alleging infringement of Article 41 of the Charter of Fundamental Rights of the European Union ('the Charter'), Article 24 of the Staff Regulations of Officials of the European Union ('the Staff Regulations') and of the obligation to state reasons, the principle of sound administration, the right to be heard and the rights of the defence, the duty of care, which vitiates the contested decision in this case, namely the decision of the European Parliament to reject the applicant's application for assistance.
2. Second plea in law, alleging a manifest error of assessment, infringement of Article 31 of the Charter, Article 12a of the Staff Regulations and Article 24 of the Staff Regulations and of the duty of care.

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### **Action brought on 12 February 2018 — VE v ESMA**

**(Case T-77/18)**

(2018/C 134/37)

*Language of the case: English*

### **Parties**

*Applicant:* VE (represented by: L. Levi and N. Flandin, lawyers)

*Defendant:* European Securities and Markets Authority (ESMA)

### **Form of order sought**

The applicant claims that the Court should:

- declare the present appeal admissible and founded;
- annul the applicant's 2016 appraisal report in so far as it assesses the applicant's performance as 'unsatisfactory';
- together with, and so far as necessary, annul the decision of ESMA of 6 November 2017 which rejects the applicant's complaint;
- order the compensation of the moral prejudice suffered by the Applicant, evaluated *ex aequo et bono* to 10,000 Euros; and
- order the reimbursement of all the costs incurred by his lawyers for the present appeal.

### **Pleas in law and main arguments**

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

1. Plea of illegality in that the appraisal manual has been adopted by ESMA without having been submitted beforehand to the Staff Committee in accordance with Article 110 of the Staff Regulations.

2. Breach of Article 43(1) of the Staff Regulations and Appraisal Manual in that the defendant made several manifest errors of assessment:
  - manifest errors of assessment in relation to the main activities of the applicant as regard the criteria ‘Efficiency’, ‘Abilities’ and ‘Conduct’; and
  - as regard the errors of assessment committed by the defendant in relation to the other activities of the applicant.
3. Breach of the duty of care and of good administration as regards the applicant’s health problems and as regard the lack of guidance provided to the applicant and adverse working conditions and the absence of adequate trainings.

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**Action brought on 9 February 2018 — Bekat v EUIPO — Borbet (ARBET)**

**(Case T-79/18)**

(2018/C 134/38)

*Language in which the application was lodged: German*

**Parties**

*Applicant:* Arif Oliver Bekat (Esslingen, Germany) (represented by: P. Kohl, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Borbet GmbH (Hallenberg, Germany)

**Details of the proceedings before EUIPO**

*Applicant for the trade mark at issue:* Applicant

*Trade mark at issue:* Application for EU figurative mark ARBET — Application for registration No 14 320 915

*Procedure before EUIPO:* Opposition proceedings

*Contested decision:* Decision of the Fourth Board of Appeal of EUIPO of 6 December 2017 in Case R 1117/2017-4

**Form of order sought**

The applicant claims that the Court should:

- annul the contested decision and dismiss the intervener’s appeal of 26 May 2017 against the decision of the Opposition Division of 30 March 2017;
- order the intervener to pay the costs, including those incurred in the proceedings before the Board of Appeal.

**Plea in law**

- Infringement of Article 8(1)(b) of Regulation 2017/1001.

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**Action brought on 13 February 2018 — Husky CZ v EUIPO — Husky of Tostock (HUSKY)**

**(Case T-82/18)**

(2018/C 134/39)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Husky CZ s.r.o. (Prague, Czech Republic) (represented by: L. Lorenc, lawyer)