

2. Second plea in law, alleging, firstly, a failure to have regard to the staff policy defined by the Management Board, in that the view was taken in the decision not to re-employ her that it was in the interests of the service to implement a policy of replacing the temporary members of staff by members of the contractual staff. Secondly, this plea alleges an error of assessment in that the view was taken that the replacement of the applicant by a member of the contractual staff was justified by the reorganisation of the Translation Support Department and, thirdly, a factual error in that the view was taken that that was the case.
3. Third plea in law, alleging an error of law, a manifest error of assessment and/or an insufficient statement of reasons, in that it was decided, retroactively and on the sole ground of the interest of the service, not to re-employ the applicant rather than to compensate her, while, in her view, reinstatement of the withdrawn decision was impossible or particularly difficult. Moreover, that decision was not necessary to achieve the objectives of the measure, did not constitute a full re-examination of the facts of the case, ran counter to legitimate expectations and allowed an obligation to persist to remedy the harm resulting from the other irregularities by which the original decision was vitiated.

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**Action brought on 9 April 2018 — Martini-Sportswear v EUIPO — Olympique de Marseille (M)**

**(Case T-237/18)**

(2018/C 221/38)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Martini-Sportswear GmbH (Annaberg, Austria) (represented by: W. Lang, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Olympique de Marseille SASP (Marseille, France).

**Details of the proceedings before EUIPO**

*Proprietor of the trade mark at issue:* Applicant

*Trade mark at issue:* International registration designating the European Union in respect of the figurative mark M — International registration designating the European Union No 1 238 066

*Procedure before EUIPO:* Opposition proceedings

*Contested decision:* Decision of the Fourth Board of Appeal of EUIPO of 29 January 2018 in Case R 1755/2017-4.

**Form of order sought**

The applicant claims that the Court should:

- declare the Decision of the Opposition Division of 25 May 2017 invalid;
- revise the contested decision, so that the Opposition is to be dismissed;
- order EUIPO to pay the costs.

**Plea in law**

- Infringement of Art. 8(1)(b) of Regulation No 2017/1001.
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