

2. Must Article 9(2) of Regulation 2017/1001 on the European Union trade mark be interpreted as meaning that the shipment, in the course of trade and without the consent of the proprietor of a trade mark, to the final consumer of goods bearing a sign identical with the mark constitutes a use attributable to the shipper only if the shipper has actual knowledge that that sign has been affixed to those goods?

Is such a shipper the user of the sign concerned if the shipper itself or an economically linked entity has informed the final consumer that it will undertake that shipment after it or an economically linked entity has stocked the goods for that purpose?

Is such a shipper the user of the sign concerned if the shipper itself or an economically linked entity has previously made an active contribution to the display, in the course of trade, of an advertisement for the goods bearing that sign or has taken the final consumer's order on the basis of that advertisement?

(¹) OJ 2017 L 154, p. 1.

Appeal brought on 29 March 2021 by Giacomo Santini and Others against the judgment of the General Court (Eighth Chamber, Extended Composition) delivered on 10 February 2021 in Joined Cases T-345/19, T-346/19, T-364/19 to T-366/19, T-372/19 to T-375/19, and T-385/19, Santini and Others v Parliament

(Case C-198/21 P)

(2021/C 217/37)

Language of the case: Italian

Parties

Appellants: Giacomo Santini, Marco Cellai, Domenico Ceravolo, Natalino Gatti, Antonio Mazzone, Luigi Moretti, Gabriele Sboarina, Lina Wuhrer, Patrizia Capraro, and Luciana Meneghini (represented by: M. Paniz, avvocato)

Other party to the proceedings: European Parliament

Form of order sought

The appellants claim that the Court should:

- set aside the judgment under appeal on account of (i) the incorrect application of the general principles of legal certainty, legitimate expectations and proportionality, as well as the rights guaranteed under the Charter in respect of the unjustified and disproportionate infringement of the right to property, (ii) the incorrect finding that the decisions at issue could be legitimately based on Annex III to [the Rules governing the payment of expenses and allowances to Members of the European Parliament ('the PEAM Rules')], (iii) the incorrect categorisation of those decisions as acts of ordinary administration that are or can be delegated to the Head of Unit, and (iv) the seriously imprecise, incomplete and incorrect nature of the reasoning relating to the breach of the duty to state reasons;
- annul all the acts, communications and/or decisions at issue;
- order the European Parliament to pay the costs of the proceedings at first instance and on appeal.

Grounds of appeal and main arguments

The appellants rely on six grounds in support of the appeal.

1. **First ground of appeal: the General Court erred in law and/or fact by finding that the decision at issue had an effect on the amount of the pension alone, not on the right to a pension and the stage at which it arose, incorrectly finding that that decision was in line with the general principles of the European Union and the Charter of Fundamental Rights.** The appellants claim that the judgment under appeal is unlawful because (i) it confused the right to a pension with the right to the amount of the pension, excluding the application of the principle that the right to a pension cannot be changed, although that principle was in fact applicable, (ii) it incorrectly failed to find that the action taken relating to the appellants' life annuities resulted, not in a mere reduction of the amount, but in a total reform of the system which affected retroactively and permanently the stage at which the right to the life annuities — which had already been distributed and acquired for years and had definitively become part of the assets of the persons concerned — arose, and (iii) it incorrectly failed to find that the Parliament did not carry out any review of the conformity of the acts at issue with EU law and that no reasoning whatsoever was provided in that respect.

2. **Second ground of appeal: the General Court erred in law in its interpretation of Article 75 of the [Implementing measures for the Statute for Members of the European Parliament ('the IMS')], Article 28 of the Statute for Members of the European Parliament, and of Annexes I, II and III to the PEAM Rules, and also infringed the right to a pension, general principles, and the Charter of Fundamental Rights.** The appellants claim that the judgment under appeal is unlawful in so far as that judgment (i) incorrectly interpreted the reference standards, attributing an ongoing validity and effectiveness to Annex III to the PEAM Rules despite the express repeal thereof and notwithstanding the lack of any express provision regarding continued validity, and (ii) unlawfully failed to find that, in the present case, the requirements for the right to a pension were amended beyond the scope of Article 2 of Annex III [to those rules], in breach of the general principles of the European Union and the Charter of Fundamental Rights.
3. **Third ground of appeal: the General Court erred in law and/or fact by finding that the decision at issue was in line with the general principles of the European Union and the Charter of Fundamental Rights, the principles of legitimate expectations, proportionality and equality, and the right to property.** The appellants claim that the judgment under appeal is unlawful in so far as (i) that judgment, failing to assess the specific circumstances of the present case and incorrectly interpreting the reference standards, held that the decisions at issue were in line with EU law and the principles of the Charter of Fundamental Rights, (ii) it failed to consider the evidence, including documentary evidence, demonstrating the many assurances given to the appellants regarding the maintenance of the acquired right and the immutable nature of that right, and (iii) it did not find that the decisions at issue lacked any reasoning or reason and that those decisions resulted in manifestly disproportionate and completely unjustified action being taken.
4. **Fourth ground of appeal: the General Court erred in law in its interpretation of Articles 74 and 75 of the IMS and Annex III to the PEAM Rules.** The appellants claim that the judgment under appeal is unlawful because it incorrectly found that the decisions at issue could be legitimately based on Annex III to the PEAM Rules when that annex was no longer in force, as it had been repealed in the meantime.
5. **Fifth ground of appeal: the General Court erred in law in its assessment of procedural infringements: competence.** The appellants claim that the judgment [under appeal] is unlawful because it incorrectly held that the Head of the Members' Salaries and Social Entitlements Unit was competent to adopt the decisions at issue, which were, however, acts that could not be delegated as they were acts of extraordinary administration falling within the competence of the Bureau of the European Parliament.
6. **Sixth ground of appeal: the General Court erred in law in its assessment of procedural infringements: reasoning.** The appellants claim that the judgment under appeal is unlawful because (i) it incorrectly held that there was adequate reasoning, whereas in actual fact no reasoning was provided, (ii) it failed to find that the European Parliament was required to carry out a review of conformity, providing an account of that review supported by adequate reasoning, and that the Parliament had failed to conduct such a review and to provide such reasoning, and (iii) it referred to Article 1(7) of Resolution No 14/2018 — a rule that no longer exists since it was annulled by the Chamber of Deputies itself by Decision No 2/2020, which is already in effect — as an element of protection.

Appeal brought on 30 March 2021 by ABLV Bank AS, in liquidation, against the judgment of the General Court (Tenth Chamber, Extended Composition) delivered on 20 January 2021 in Case T-758/18, ABLV Bank v SRB

(Case C-202/21 P)

(2021/C 217/38)

Language of the case: English

Parties

Appellant: ABLV Bank AS, in liquidation (represented by: O. Behrends, Rechtsanwalt)

Other parties to the proceedings: Single Resolution Board (SRB), European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgement under appeal;

— declare void the decision of the SRB with respect to ABLV Bank AS dated 17 October 2018;