

Pleas in law and main arguments

The applicants, being the President of AIFO (Associazione Italiana Frantoiani Oleari) and that association itself, seek annulment of Commission Regulation (EC) No 1019/2002 of 13 June 2002 on marketing standards for olive oil ⁽¹⁾.

In support of their claims, they plead infringement of Article 33, the second subparagraph of Article 34(2) and Articles 153, 157 and 253 of the EC Treaty. They maintain in that regard that the contested regulation favours the maintenance of the dominant positions occupied by large undertakings in the sector concerned, thereby impeding the development of small and medium-sized undertakings, and that it does not provide consumers with guarantees as to the provenance and authenticity of the product. In particular, the regulation provides that the labelling is to bear information on the category of olive oil concerned, but that information is inadequate to guarantee the intrinsic quality of the product. More specifically, it provides that the designation of origin of virgin and extra virgin olive oils is to be purely optional, whereas, for consumers, the geographical origin of the raw materials is invariably a point of major importance. The regulation requires the product to be presented to the final consumer in packaging of a maximum capacity of five litres, to the prejudice of small operators such as pressers, who generally sell the product in bulk on the spot.

Moreover, the contested regulation does not provide adequate guarantees as to the provenance and authenticity of the product, thus impeding the marketing of types of oil which are of higher quality and are more susceptible to direct control by the consumer, such as that sold directly by the presser.

From another standpoint, and contrary to the objective of the common agricultural policy, the contested regulation discourages the distribution of high-quality olive oil such as that marketed directly by pressers, and acts as a disincentive to productivity, technical progress and rational agricultural development.

⁽¹⁾ OJ L 155 of 14.6.2002, p. 27.

Action brought on 2 August 2002 by Kharis Alexandratos and Maria Panagiotou against the Council of the European Union

(Case T-233/02)

(2002/C 233/58)

(Language of the Case: Greek)

An action against the Council of the European Union was brought before the Court of First Instance of the European

Communities on 2 August 2002 by Kharis Alexandratos and Maria Panagiotou, resident in Brussels, represented by K. Tagaras, Lawyer, with an address for service in Luxembourg.

The applicants claim that the Court should:

- allow the application;
- annul the contested measures so that the defendant is obliged to allow the applicants to sit the oral tests;
- order the defendant to pay the costs.

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This is an action challenging the decision of the selection board for Council Open Competition A/393 to award the applicants a fail mark in one of the written tests and not to allow them to sit the oral tests.

The applicants plead infringement of the first paragraph of Article 27 of the Staff Regulations and of the principle of equal treatment. They contend that the infringement is aggravated by the defendant's refusal to grant requests made by them seeking information concerning the guidelines and criteria for marking their papers and comparing them with those of the successful candidates.

Furthermore, in the applicants' submission that refusal renders the contested measures liable to annulment also by reason of breach of the duty to state reasons for measures adversely affecting them and of the principle of transparency in conjunction with Article 255 EC concerning access to documents.

Action brought on 5 August 2002 by Strongline A/S against the Office for Harmonisation in the Internal Market

(Case T-235/02)

(2002/C 233/59)

(Language of the case: English)

An action against the Office for Harmonisation in the Internal Market was brought before the Court of First Instance of the European Communities on 5 August 2002 by Strongline A/S, represented by Mr Jacob S. Ørndrup at Gorrissen, Federspiel, Kierkegaard in Copenhagen, Denmark.

The applicant claims that the Court should:

- annul the First Board of Appeal's decision of 27 May 2002 in Case R 830/2001-1;
- remit the case to the First Board of Appeal;
- order each party to bear its own costs.

- Registration of the Scala Inc's Community trade mark application is an infringement of Article 8(1) of Council Regulation No 40/94, as the applicant is the owner of two earlier and identical trade marks which are registered for identical or similar goods.

Pleas in law and main arguments

Applicant for the Community trade mark:	Scala Inc., USA
The Community trade mark concerned:	Word mark SCALA for 'computer software' in class 9.
Proprietor to the right to the trade mark or sign asserted by way of opposition in the opposition proceedings:	The Applicant
Trade mark or sign asserted by way of opposition in the opposition proceedings:	Danish trade mark registration no. VR 1300 1989 SCALA (word mark), registered on 17 March 1989, and German trade mark registration no. 2059843 SCALA (Word mark), registered on 15 March 1994. These two marks are registered for a range of goods in classes 9 and 16. The applicant's opposition was based on some of the goods for which the earlier mark was registered, specifically 'counterprograms stored on datacarriers' and 'date processing programs stored on data carriers' in class 9, and was directed against all the goods specified in Scala Inc's application
Decision of the Opposition Division:	Refusal of the application
Decision of the Board of Appeal:	Refusal of the application
Grounds of claim:	<ul style="list-style-type: none"> — The documents submitted by the Applicant to the Opposition Division did comply with Rule 16(2) of Regulation (EC) No. 2868/95, implementing Council Regulation No 40/94, on the Community Trade Mark

Action brought on 8 August 2002 by Luigi Marcuccio against the Commission of the European Communities

(Case T-236/02)

(2002/C 233/60)

(Language of the case: Italian)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 8 August 2002 by Luigi Marcuccio, represented by Luciano Garofalo, lawyer.

The applicant claims that the Court should:

- annul the decision changing the 'affectation de l'emploi A7/A6 et de son titulaire M. Luigi Marcuccio (n. Personnel 048092), fonctionnaire de grade A7' ('transferring the A6/A7 post and its holder, Mr Luigi Marcuccio (Staff No 048092), a grade A7 official') from the Directorate-General for Development, Commission's Delegation in Luanda (Angola) to the Directorate-General for Development in Brussels; the said decision was adopted by the Director-General for Development, Mr Koos Richelle, on 18 March 2002;
- order the defendant:
 - to pay compensation for the non-material, existential, biological, physical, psychological and material damage suffered by the applicant as a result of the decision contested in these proceedings, in the sum of 100 000 (one hundred thousand) euros or such greater or lesser sum as the Court may think fair and equitable;
 - to pay all the salary-related allowances connected with the performance by the said Marcuccio of his duties in Angola, with effect from the date on which his transfer took effect (1 April 2002), together with interest thereon at the rate of 10 % per annum, compounded annually;
 - to pay the costs.