

Action brought on 16 January 2004 by Luigi Marcuccio against the Commission of the European Communities

(Case T-18/04)

(2004/C 71/66)

(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 16 January 2004 by Luigi Marcuccio, represented by Alessandro Distanto, avvocato.

The applicant claims that the Court should:

- Annul the decision of the Appointing Authority rejecting his request;
- Declare that the applicant is entitled, pursuant to Article 72 of the Staff Regulations, to reimbursement of 100 % of all medical expenses incurred by him from 4 January 2002 until complete recovery;
- Order the Commission to pay the costs.

Pleas in law and main arguments

The applicant takes issue with the defendant's refusal to reimburse him 100 % of the medical expenses incurred by him in the course of treating his illness.

In support of those claims, the applicant alleges infringement of Article 72 of the Staff Regulation and an absolute failure to state reasons.

Action brought on 19 January 2004 by Metso Paper Automation Oy against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case T-19/04)

(2004/C 71/67)

(Language of the case: English)

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) was brought before the Court of First Instance of the European Communities on 19 January 2004 by Metso Paper Automation Oy, Tampere, Finland, represented by J. Tanhuanpää, lawyer.

The applicant claims that the Court should:

- annul the contested decision⁽¹⁾ partially as concerns refusal to register the trade mark PAPERLAB on the grounds of Article 7(1)(c) CTMR (item 1 of the order). The subject appeal does not apply to item 2 of the order in which the Board of Appeal remits the case to the examiner for further prosecution on the grounds of Article 7(3) CTMR;
- order the Office to pay the costs of the applicant.

Pleas in law and main arguments

The trade mark concerned: The word mark 'PAPERLAB' — application No 2 575 009

Goods or service concerned: Goods in Class 9 (Computer equipment and measuring installations for surveying and testing of paper)

Decision contested before the Board of Appeal: Refusal of registration by the examiner

Decision of the Board of Appeal: The contested decision was upheld insofar as it rejected the application on the grounds of Article 7(1)(c) of Regulation (EC) No 40/94. The case was remitted to the examiner for further prosecution on the grounds of Article 7(3) of Regulation (EC) No 40/94.

- Grounds of claim:
- The mark 'PAPERLAB' is registrable in Class 9 because it does not directly describe the goods in any manner;
 - The trade mark 'PAPERLAB' can serve as a mark in trade to distinguish goods of the applicant from goods of other traders;
 - The Office for Harmonisation in the Internal Market has accepted several similar trademarks.

(¹) Decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 17 November 2003 (Case R 842/2002-1).

Action brought on 20 January 2004 by María Pilar Aguar Fernández and 126 others against Commission of the European Communities

(Case T-20/04)

(2004/C 71/68)

(Language of the case: Spanish)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 20 January 2004 by María Pilar Aguar Fernández and 126 others, all residing in Ireland, represented by Sébastien Orlandi, Albert Coolen, Jean-Noël Louis and Etienne Marchal, lawyers, with an address for service in Luxembourg.

The applicant claims that the Court should:

- 1) annul the decisions of the Commission establishing the pay slips and the back pay slips in respect of the applicants since 1 July 2002 pursuant to Council Regulation (EC, Euratom) No 2265/2002 of 16 December 2002 adjusting with effect from 1 July 2002 the remuneration and pensions of officials and other servants of the European Communities and the weightings applied thereto;

- 2) order the Commission to pay the costs.

Pleas in law and main arguments

The applicants in the present case, all officials and servants posted to the Food and Veterinary Office, Dublin, contest the pay slips and the back pay slips concerning them for the period since 1 July 2002.

In support of their application, the applicants put forward a single plea in law challenging the validity of the weighting fixed for Ireland by Council Regulation (EC, Euratom) No 2265/2002 of 16 December 2002 (¹) inasmuch as, contrary to Article 64 of the Staff Regulations which lays down the principle of equal purchasing power between officials irrespective of their place of work does, that weighting does not offset the difference between the actual cost of living at their place of work and that in Brussels. Specifically, they state that setting the weighting at 124,8 does not meet such a requirement.

(¹) OJ 2002 L 347, p. 1.

Action brought on 21 January 2004 by Fusion Electronics Limited against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case T-21/04)

(2004/C 71/69)

(Language of the case: to be determined pursuant to article 131(2) of the Rules of Procedure — language in which the case was submitted: English)

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) was brought before the Court of First Instance of the European Communities on 21 January 2004 by Fusion Electronics Limited, Auckland, New Zealand, represented by Mr A. Roughton Barrister. Ford Motor Company was also a party to the proceedings before the Board of Appeal.