Action brought on 26 March 2005 by the Kingdom of Belgium against the Commission of the European Communities

(Case T-134/05)

(2005/C 132/59)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 26 March 2005 by the Kingdom of Belgium, represented by Jean-Pierre Buyle and Christophe Steyaert, lawyers.

The applicant claims that the Court should:

— annul the decision of the Commission of 19 January 2005, insofar as it states that 'former ESF claims' are not time-barred and, where appropriate, insofar as it states that such claims give rise to default interest calculated on the basis of Article 86 of Regulation No 2342/2202/EC;

— order the Commission to pay the costs.

Pleas in law and main arguments

From 1987 to 1992 the Commission asked the applicant to repay certain sums paid out of the European Social Fund (ESF) and transferred by the Commission directly to various Belgian bodies acting as promoters but not used by them in accordance with the rules relating to the ESF.

In 2004 the Commission set off certain sums payable by the applicant by virtue of its former claims against claims the applicant had against the Commission. Following that setting off, the applicant sent several letters to the Commission to which the Commission replied by the contested decision, stating that the former claims were not time-barred, contrary to the contention of the applicant.

In support of its application the applicant submits that the claims at issue are time-barred pursuant to Article 3.1 of Regulation No 2988/95/EC or, in the alternative, pursuant to the provisions of Belgian law, applicable here pursuant to Article 2.4 of Regulation No 2988/95/EC.

The applicant also disputes the charging by the Commission of default interest. According to the applicant there are specific rules on the subject, namely in Regulation No 1865/90/EEC and Regulation No 448/2001/EC, derogating from Article 86 of 2342/2002/EC which is relied on by the Commission to justify the imposition of default interest. The applicant submits that those specific rules do not provide for the imposition of default interest in respect of ESF action decided on before 6 July 1990 and, therefore, the Commission cannot claim default interest on the claims in question.

Action brought on 29 March 2005 by Franco Campoli against the Commission of the European Communities

(Case T-135/05)

(2005/C 132/60)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 29 March 2005 by Franco Campoli, residing in London, represented by Stéphane Rodrigues and Alice Jaume, lawyers, with an address for service in Luxembourg.

The applicant claims that the Court should:

— annul the decision of the appointing authority of 13 December 2004 rejecting the complaint lodged by the applicant on the basis of Article 90(2) of the Staff Regulations, taken together with, first, the decision of the appointing authority challenged in that complaint, which amended on 1 May 2004 the weighting, household allowance and standard educational allowance applicable to the applicant's pension, and also, second, the applicant's payslips in that they apply that decision from May 2004;

— order the Commission to pay the costs.

Pleas in law and main arguments

In the present case, the applicant seeks, in substance, the application of the weighting applicable to his pension before 1 May 2004, with retroactive effect to 1 May 2004.

In that regard, the applicant observes that, with the aim of covering the transition between the old and new weighting systems following the amendment of the system of Staff Regulations governing the European civil service, Article 20(2) of Annex XIII to the Staff Regulations provides for a transitional period of five years, from 1 May 2004 to 1 May 2009, during which the weighting is to be gradually reduced.

In support of his application, the applicant invokes, fundamentally, an objection of illegality, on the basis of Article 241 of the Treaty, on the ground that the application of Article 20 of Annex XIII to the Staff Regulations is unlawful in this case.

He claims, in that regard:

— breach of the principle of legitimate expectations, owing to the assurances which in his submission were given by the administration to the effect that the new Staff Regulations would have no negative impact on his situation,

— failure to respect the principles of equal treatment and non-discrimination, owing to the differentiation established according to the place of residence of officials in service and in receipt of a pension,

— failure to respect his acquired rights, owing to the amendment of his fundamental conditions of employment, considered as at the date of his retirement,

— breach of the principle of sound administration.

Action brought on 30 March 2005 by EARL Salvat Père et Fils and Others against the Commission of the European Communities

(Case T-136/05)

(2005/C 132/61)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 30 March 2005 by EARL Salvat Père et Fils, established in Saint-Paul de Fenouillet (France), Comité interprofessionnel des vins doux naturels et vins de liqueur à appellations contrôlées (CIVDN), established in Perpignan (France), and Comité national des interprofessionnels des vins à appellation d'origine, established in Paris (France), represented by Hugues Calvet and Olivier Billard, lawyers.

The applicants claim that the Court should:

— annul Articles 1.1 and 1.3 of the Commission's decision of 19 January 2005 concerning the 'Plan Rivesaltes' and the CIVDN parafiscal levies implemented by France;

— order the Commission to pay the costs.

Pleas in law and main arguments

By the contested decision the Commission concluded that the set-aside premium per hectare financed by an inter-trade contribution in the context of the 'Plan Rivesaltes' and the promotional and operational activities of the controlled designations of origin 'Rivesaltes', 'Grand Rousillon', 'Muscat de Rivesaltes' and 'Banyuls' financed by inter-trade contributions constituted State aid within the meaning of Article 87 EC.

The applicants seek for that decision to be annulled, submitting first that its statement of reasons is inadequate, in breach of Article 253 EC, and does not enable the applicants to understand the Commission's reasons for considering that the criteria relating to State aid defined in the case-law of the Court of Justice were satisfied in this case. The applicants also submit that the contested decision resulted from a breach of Article 87 EC, since the Commission did not show either that the measures in question were financed by means made available to the national authorities or that the inter-trade contributions, intended to finance the promotional and operational activities of the controlled designations of origin, were attributable to the State.

Action brought on 1 April 2005 by LA PERLA S.p.A. against the Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case T-137/05)

(2005/C 132/62)

(Language of the case: Italian)

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) was brought before the Court of First Instance of the European Communities on 1 April 2004 by LA PERLA S.p.A., represented by Renzo Maria Morresi and Alberto Dal Ferro, lawyers.

Cielo Brands — Gestao e Investimentos Lda. was also a party to the proceedings before the Board of Appeal.

The applicant claims that the Court should:

— annul in full the contested decision reinstating the decision of the Cancellation Division and therefore declaring the contested trade mark invalid;

— order Cielo Brands — Gestao e Investimentos Lda to pay the costs of the proceedings, including the previous two sets of proceedings before OHIM.