

Judgment of the Court of First Instance of 5 October 2005
— Land Oberösterreich and Austria v Commission

(Joined Cases T-366/03 and T-235/04) ⁽¹⁾

(Approximation of laws — National provisions derogating from a harmonisation measure — Ban on the use of genetically modified organisms in Upper Austria — Conditions for application of Article 95(5) EC)

(2005/C 296/46)

Language of the case: German

Parties

Applicant(s): Land Oberösterreich (represented by: F. Mitterdorfer, lawyer) and Republic of Austria (represented by: H. Hauer and H. Dossi, Agents)

Defendant(s): Commission of the European Communities (represented by: M. Patakia and U. Wölker, Agents)

Application for

annulment of Commission Decision 2003/653/EC of 2 September 2003 relating to national provisions on banning the use of genetically modified organisms in the region of Upper Austria notified by the Republic of Austria pursuant to Article 95(5) of the EC Treaty (OJ 2003 L 230, p. 34)

Operative part of the judgment

The Court:

- 1) *Dismisses the actions;*
- 2) *Orders the applicants to pay the costs.*

⁽¹⁾ OJ C 35, 7.2.2004.

Judgment of the Court of First Instance of 6 October 2005
— Fischer v Court of Justice

(Case T-404/03) ⁽¹⁾

(Officials — Action for annulment — Invalidity — Half-time on medical grounds — Statement of reasons — Invalidity committee — Action for damages)

(2005/C 296/47)

Language of the case: French

Parties

Applicant(s): Pia Fischer (Konz-Roscheid, Germany) (represented by: C Marhuenda, lawyer)

Defendant(s): Court of Justice of the European Communities (represented by: M. Schauss, Agent)

Subject-matter of the case

Firstly, an application for annulment of the decisions of the appointing authority of 10 April and 6 June 2003 declaring that the applicant was not affected by complete and permanent invalidity making it impossible for her to carry out duties involved in a post in her career bracket and requesting her to return to work on a half-time basis on medical grounds for a total period of 13 weeks. Secondly, an application for the payment of 1 EUR as token damages for the non-material loss allegedly suffered.

Operative part of the judgment

1. *The appeal is dismissed in its entirety.*
2. *Each party shall bear its own costs.*

⁽¹⁾ OJ C 47, 21.2.2004

Judgment of the Court of First Instance of 5 October 2005
— Bunker & BKR v OHIM

(Case T-423/04) ⁽¹⁾

(Community trade mark — Opposition — Application for a Community figurative mark containing the verbal element 'B.K.R.' — Earlier national word mark BK RODS — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94)

(2005/C 296/48)

Language of the case: Spanish

Parties

Applicant(s): Bunker & BKR, SL (Almansa, Spain) (represented by: J. Astiz Suárez, lawyer)

Defendant(s): Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: J. García Murillo, Agent)

Other party or parties to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance: Marine Stock Ltd (Tortola, British Virgin Islands, United Kingdom) (represented by: M. de Justo Bailey, lawyer)