Form of order sought

The applicant claims that the Court should:

— annul the defendant's decision of 6 September 2005 [C(2005)3232 Final] in Case N 248/04 — Landesbank Hessen-Thüringen;

— order the defendant to pay costs.

Pleas in law and main arguments

The applicant challenges Commission Decision C(2005)3232 Final of 6 September 2005, in which the Commission determined that the notified transfer of the special Hessian Investment Fund as silent partnership participation to Landesbank Hessen-Thüringen ('Helaba') does not constitute state aid.

In support of its application, the applicant advances four pleas.

First, the applicant contends that the Commission has breached the duty to state reasons under Article 253 EC.

Second, the applicant supports its claim in contending that the defendant, by confirming the appropriateness of the agreed remuneration for the transfer to Helaba, has breached the principle of a private investor in a market economy and, thereby, Article 87(1) EC.

The applicant further claims that the Commission wrongly deducted the refinancing costs because of the lack of liquidity of the transfer to Helaba. The applicant contends that, for this reason, the Commission has breached the principle of a private investor in a market economy and, thereby, Article 87(1) EC.

Finally, the applicant submits that the right to a fair hearing has been infringed, on the ground that the Commission failed to open a formal investigation procedure under Article 88(2) EC and Article 6 of Regulation (EC) No 659/1999 in respect of the transfer to Helaba ([1]).

([1]) Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty.

Action brought on 7 February 2006 — MEGGLE Aktiengesellschaft v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case T-37/06)

(2006/C 96/31)

Language of the case: German

Parties

Applicant: MEGGLE Aktiengesellschaft (Wasserburg a. Inn, Germany) (represented by: T. Rabb, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: Clover Corporation Limited (North Sydney, Australia)

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 22 November 2005 and the opposition decision of the Opposition Division of the Office with competence for trade marks of 30 September 2004;

— order the defendant to pay the costs.

Pleas in law and main arguments

Applicant for Community trade mark: Clover Corporation Limited

Community trade mark sought: Figurative mark 'HiQ with cloverleaf' for goods in Classes 5, 29 and 30 (No 2 171 114)

Proprietor of mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited in opposition: the German figurative mark 'Cloverleaf' for goods in Classes 1, 3, 5, 29, 30, 31, 32 and 33 (No 980 458) and the German figurative mark 'Cloverleaf' for goods in Classes 1, 3, 5, 29, 30, 31, 32, 33 (No 39 652 600)

Decision of the Opposition Division: Rejection of the opposition

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Article 8(1)(b) of Regulation (EC) No 40/94 ([1]) has been incorrectly applied, on the ground that there exists a likelihood of confusion between the opposing marks. The marks show a high degree of similarity and the earlier mark has particular distinctive character. Article 74(1) of Regulation No 40/94 has been breached, on the ground that the defendant Office is in breach of its duty to examine the facts before it.

([1]) Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark.

Action brought on 9 February 2006 — Trioplast Industrier v Commission

(Case T-40/06)

(2006/C 96/32)

Language of the case: Swedish

Parties

Applicant: Trioplast Industrier AB (Smålandsstenar, Sweden) (represented by: Tommy Pettersson, lawyer)

Defendant: Commission of the European Communities

Form of order sought

The applicant claims that the Court should:

— partially annul Article 1(g) of the decision in relation to the period during which the applicant is held liable for the infringement;

— partially annul Article 2(f) of the decision in relation to the fine imposed which the applicant is jointly liable to pay; in the alternative, reduce the fine;

— order the Commission to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments relied on by the applicant are identical to those relied on in Case T-26/06 *Trioplast Wittenheim* v *Commission*.

Action brought on 6 February 2006 — Republic of Poland v Commission of the European Communities

(Case T-41/06)

(2006/C 96/33)

Language of the case: Polish

Parties

Applicant: Republic of Poland (represented by: Paweł Szałamacha, Government Agent)

Defendant: Commission of the European Communities

Form of order sought

The applicant claims that the Court should:

— declare invalid the decision of 18 October 2005 in Case COMP/M.3894 establishing that the merger of Unicredito Italiano SpA and Bayerische Hypo- und Vereinsbank AG is compatible with the common market;

— order the Commission to pay the costs of the proceedings.

Pleas in law and main arguments

The applicant seeks a declaration that the decision of the European Commission of 18 October 2005 in case COMP/M.3894 recognising the merger of the banks Unicredito Italiano SpA (UCI) and Bayerische Hypo- und Vereinsbank AG (HVB) as being compatible with the common market is invalid. Each of those banks has holdings in banking institutions in Poland and, according to the assertions made by the applicant, the effect of the proposed concentration will be the assumption of control by UCI over HBV's holding within the Polish banking market.