Action brought on 22 November 2006 — Italy v Commission

(Case T-335/06)

(2006/C 326/160)

Language of the case: Italian

Parties

Applicant: Italian Republic (represented by: G. Aiello, Avvocato dello Stato)

Defendant: Commission of the European Communities

Form of order sought

— declare that the Commission has failed to act in that, after being formally called upon to act, in accordance with Article 232 EC, it unlawfully omitted to adopt exceptional measures to support the Italian market in poultrymeat, pursuant to Article 14 of Council Regulation No 2777/75, as regards the chicks that were destroyed for lack of battery brooder pens in the areas affected by avian influenza and subject to veterinary measures restricting free circulation in the period from December 1999 to September 2003;

— order the defendant to pay all fees and costs entailed by the proceedings.

Pleas in law and main arguments

The Italian Government has brought an action for failure to act before the Court of First Instance of the European Communities on account of the failure of the European Commission to adopt exceptional measures to support the Italian market in poultrymeat.

In support of its action, the Italian Government claims:

(1) breach of the principle of non-discrimination between Community producers, laid down in the second subparagraph of Article 34(2) EC, in that, after Italy had been granted exceptional measures in support only of the market in eggs, analogous measures for the market in poultrymeat were refused, with the result that Italian poultry producers suffered discrimination as compared with Dutch poultry producers, contrary to the second subparagraph of Article 34(2) of the EC Treaty;

(2) misuse of power and manifest error of assessment on the part of the Commission which, by refusing to adopt exceptional measures to support the market also in respect of the day-old chicks destroyed for lack of battery brooder pens, exceeded the powers conferred on it by the basic regulation on the common organisation of the market in poultrymeat and committed an error of assessment regarding the situation of the Italian poultry market, as well as regarding the information available to it concerning the production structure;

(3) infringement and misinterpretation of Article 14 of Regulation No 2777/75 in that the unjustified refusal of the Commission to grant exceptional measures to support the market in respect of the day-old chicks destroyed for lack of battery brooder pens was based on an incorrect interpretation of Article 14 of Regulation No 2777/75;

(4) breach of the principles of sound administration, impartiality, fairness and transparency.

Action brought on 28 November 2006 — UniCredito Italiano v OHIM –Union Investment Privatfonds (UniCredit Wealth Management)

(Case T-337/06)

(2006/C 326/161)

Language in which the application was lodged: Italian

Parties

Applicant: UniCredito Italiano SpA (Genoa, Italy) (represented by: G. Floridia and R. Floridia, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: Union Investment Privatfonds GmbH

Form of order sought

— annulment of the contested decision

Pleas in law and main arguments

Applicant for a Community trade mark: UniCredito Italiano

Community trade mark concerned: Word mark 'UniCredit Wealth Management' (registration application No 2.330.066) for goods and services in Classes 16, 35, 36, 41 and 42

Proprietor of the mark or sign cited in the opposition proceedings: Union Investment Privatfonds GmbH

Mark or sign cited in opposition: German word marks 'UNIFONDS' (No 991.995) and 'UNIRAK' (No 991.997) and figurative mark 'UNIZINS' (No 2.016.954) for services in Class 36 (capital investment)

Decision of the Opposition Division: Opposition allowed in part in so far as there was held to be a likelihood of confusion as regards capital investments

Decision of the Board of Appeal: to dismiss the action

Pleas in law: Misapplication of the theory of the extended protection of what are known as serial marks as formulated by the Court of First Instance in Case T-194/03 *Il Ponte Finanziaria* v *OHIM* [2006] ECR II-0000 (*Bainbridge*)

Action brought on 30 November 2006 — Greece v Commission

(Case T-339/06)

(2006/C 326/162)

Language of the case: Greek

Parties

Applicant: Hellenic Republic (represented by: I. Khalkias and S. Papaïoannou)

Defendant: Commission of the European Communities

Form of order sought

— annul or alter the contested Commission decision in so far as it concerns the financial allocation for the restructuring and conversion of vineyards in Greece, in order that the correct statistical information which the applicant transmitted to the Commission on 22 September 2006 be taken into account and the sums be allocated to Greece.

Pleas in law and main arguments

The Hellenic Republic challenges Commission Decision C(2006) 4348 final of 4 October 2006 (OJ 2006 L 275, p. 62) fixing, for the 2006 financial year and in respect of a certain number of hectares, the definitive financial allocations to Member States for the restructuring and conversion of vineyards under Regulation (EC) No 1493/1999. The Hellenic Republic seeks the annulment or alteration of the decision in so far as the decision relates to Greece because, in its submission, the Commission:

(a) infringed the obligation of cooperation which governs relations between it and the Member States by failing to take account of the information which was transmitted to it by the applicant;

(b) infringed the principle of good faith and of proper administration, not acknowledging a clear computer error of which it was notified in good and due time by means of the subsequent correction;

(c) infringed the principle of equity and of proportionality, given that the loss of funds for Greece (EUR 1 129 015) is out of proportion with the allegedly belated correction of the computing error in the information originally forwarded; and finally

(d) infringed the principle that a beneficial result should be achieved, given that the restructuring and conversion of vineyards (Articles 11, 13 and 14 of Regulation (EC) No 1493/1999 ([1]) and Articles 16 and 17 of Regulation (EC) No 1227/2000 ([2])) constitute an important measure for the qualitative upgrading of Community vineyards and the unjustified reduction of Greece's financial allocation prejudices that Community objective.

([1]) OJ 1999 L 179, p. 1.
([2]) OJ 2000 L 143, p. 1.

Action brought on 30 November 2006 — Stradivarius España v OHIM — Ricci (Stradivari 1715)

(Case T-340/06)

(2006/C 326/163)

Language in which the application was lodged: Spanish

Parties

Applicant: Stradivarius España (Arteixo, La Coruña, Spain) (represented by: G. Marín Raigal and P. López Ronda, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: Cristina Ricci