

Appeal brought on 28 March 2007 by Jacques Frankin and Others against the judgment of the Civil Service Tribunal delivered on 16 January 2007 in Case F-3/06 Jacques Frankin and Others v Commission

(Case T-92/07 P)

(2007/C 117/48)

Language of the case: French

Parties

Appellants: Jacques Frankin (Sorée, Belgium) and 482 other appellants (represented by F. Frabetti, lawyer)

Other party to the proceedings: Commission of the European Communities

Form of order sought by the appellant

- set aside the judgment of the Civil Service Tribunal of 16 January 2007 in Case F-3/06 principally concerning an action for annulment of an express decision of 10 June 2005 by which the Commission refused to grant the appellants assistance under Article 24 of the Staff Regulations;
- make an order as to the costs, fees and expenses and order the Commission to pay them.

Pleas in law and main arguments

In support of their action, the appellants assert that by dismissing their action at first instance, the Civil Service Tribunal erred in law when examining the pleas in law relied on at first instance, alleging, first, infringement of Article 24 of the Staff Regulations and from the duty to have regard to the welfare of officials and, second, breach of the principle of non-discrimination.

Action brought on 22 March 2007 — Italy v Commission

(Case T-93/07)

(2007/C 117/49)

Language of the case: Italian

Parties

Applicant: Italian Republic (represented by: P. Gentili, Avvocato dello Stato)

Defendant: Commission of the European Communities

Form of order sought

The applicant claims that the Court should:

- annul Memorandum No 175 of 11.1.2007 of the European Commission, Directorate General for Regional Policy — Programmes and projects in Cyprus, Greece, Hungary, Italy, Malta and the Netherlands — concerning payments made by the Commission which differ from the amount requested. Ref: Programma POR Sicilia (No CCI 1999 IT 161 PO 011);
- annul Memorandum No 234 of 12.1.2007 of the European Commission, Directorate General for Regional Policy — Programmes and projects in Cyprus, Greece, Hungary, Italy, Malta and the Netherlands — concerning payments made by the Commission which differ from the amount requested. Ref: Programma POR Sicilia (No CCI 1999 IT 161 PO 011);
- annul all connected and prior acts and, consequently, order the Commission of the European Communities to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those relied upon in Case T-345/04 *Italian Republic v Commission* ⁽¹⁾.

⁽¹⁾ OJ C 262 of 23.10.2004, p. 55.

Action brought on 26 March 2007 — EREF v Commission

(Case T-94/07)

(2007/C 117/50)

Language of the case: English

Parties

Applicant: European Renewable Energies Federation (EREF) ASBL (Brussels, Belgium) (represented by: D. Fouquet, lawyer)

Defendant: Commission of the European Communities

Form of order sought

- The decision K(2006) 4963 final of the European Commission, dated 24 October 2006, is declared null and void;
- the Financial Vehicle in question in its present shape and structure is declared unlawful state aid.
- Alternatively, the Commission is ordered to open a formal investigation procedure pursuant to Article 88(2) EC for Case NN 62/B/2006.
- The European Commission is ordered to pay all procedural costs, including the costs of the claimant.

Pleas in law and main arguments

In 2004 the applicant filed a complaint with the Commission claiming among others that different aspects of the financing of a new nuclear power plant under construction in Finland was state aid that had not been notified. In 2006, the Commission split the file into two cases numbered NN 62/A/2006 and NN 62/B/2006.

In the present case, the applicant seeks the annulment of Commission Decision C(2006) 4963 final, which concerns state aid Case NN 62/B/2006, by which the Commission found that a credit facility granted by a consortium of five banks and a loan granted by AB Svensk Exportkredit ('SEK') did not constitute aid within the meaning of Article 87(1) EC.

The applicant submits that the Commission's split of the file into two separate cases is unlawful from a procedural as well as a substantive point of view. According to the applicant, it was only possible to give the credit facility and the loan at such a low interest rate because of a guarantee from the French export credit insurance agency COFACE. However, the state aid aspects of COFACE's involvement were dealt with under Case NN 62/A/2006. The applicant therefore claims that the splitting up of the file into two separate cases thus taking the guarantee element out of Case NN 62/B/2006 lead the Commission to the misunderstanding that the granting of the credit facility and the SEK loan at such a low interest rate could not constitute state aid simply because the participating banks were, according to the Commission, privately owned.

Moreover, the applicant submits that even disregarding the guarantee from COFACE the credit facility as well as the loan granted by SEK constitutes state aid since:

- the credit facility was granted at a low interest rate with the participation of the banks BLB and BNP Paribas, which the applicant alleges are both public banks; and
- the loan from SEK was given by a 100 % state owned bank at an interest rate below market conditions.

Finally, the applicant invokes a lack of reasoning and a manifest error of assessment.

Action brought on 30 March 2007 — Aventis Pharma v OHIM — Altana Pharma (PRAZOL)

(Case T-95/07)

(2007/C 117/51)

Language in which the application was lodged: English

Parties

Applicant: Aventis Pharma SA (Antony, France) (represented by: R. Gilbey, lawyer)

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

Other party to the proceedings before the Board of Appeal: Altana Pharma AG (Konstanz, Germany)

Form of order sought

- Annul the decision of the Fourth Board of Appeal OHIM dated 8 February 2007 Case R 302/2005-4 and confirm the decision of the Opposition Division of 26 January 2005;
- order the Office for Harmonisation in the Internal Market to bear the costs of the appellant in the present instance.

Pleas in law and main arguments

Applicant for the Community trade mark: Altana Pharma AG

Community trade mark concerned: The word mark 'PRAZOL' for goods in class 5 — application No 1 154 269

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

Mark or sign cited: The national word mark 'PREZAL' for goods in class 5

Decision of the Opposition Division: Opposition upheld

Decision of the Board of Appeal: Annulment of the Opposition Division's decision and rejection of the opposition

Pleas in law: The Board of Appeal failed to compare the marks globally taking all relevant factors into account.

Action brought on 23 March 2007 — Telecom Italia Media v Commission

(Case T-96/07)

(2007/C 117/52)

Language of the case: Italian

Parties

Applicant: Telecom Italia Media S.p.A. (Rome, Italy) (represented by: F. Bassan and S. Venturini, avvocati)

Defendant: Commission of the European Communities