

4. Fourth plea in law, alleging infringement of the principle of non-discrimination and equal treatment: while the Commission has adopted a strict approach on IPU (based on manifest errors of assessment and procedures), it did not do so in similar situations/previous decisions related to substances with similar concerns, which amounts to an infringement of the principle of equal treatment and non-discrimination.
5. Fifth plea in law, alleging infringement of the principle of proportionality: By not choosing less stricter measures which would have achieved the same objectives (e.g. approval subject to conditions to be assessed at Member State level or subject to submission of confirmatory data at the EU level in accordance with Article 6 of the PPPR), and instead by banning IPU, the Commission has infringed the principle of proportionality.

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- (¹) Commission Implementing Regulation (EU) 2016/872 of 1 June 2016 concerning the non-renewal of approval of the active substance isoproturon, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending Commission Implementing Regulation (EU) No 540/2011 (OJ 2016, L 145, p. 7)
- (²) Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ 2008, L 353, p. 1)
- (³) Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ 2009, L 309, p. 1)

Action brought on 26 August 2016 — Epsilon International v Commission

(Case T-477/16)

(2016/C 402/58)

Language of the case: English

Parties

Applicant: Epsilon International SA (Marousi, Greece) (represented by: D. Bogaert and A. Guillerme, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

1) On the basis of article 272 TFEU:

- declare that the amounts paid by the European Commission to the Epsilon under the Grant Agreements BRISEIDE, i-SCOPE and SMART-ISLANDS constitute eligible costs and that Epsilon did not commit errors of a systematic nature in the performance of these agreements;
- declare that the Commission's request for reimbursement of the amounts paid under the BRISEIDE agreement is wholly unfounded and that they should not be repaid to the European Commission;
- declare that the European Commission's decisions to suspend payments regarding Grant agreements i-LOCATE, eENV-Plus, GeoSmartCity and c-SPACE are unfounded;
- order the Commission to reimburse the amounts paid by Epsilon to carry out additional financial audits to contradict the erroneous findings of the auditors mandated by the Commission and to compensate the moral prejudice suffered by Epsilon, assesses provisionally on an ex aequo et bono basis at EUR 10 000.

2) On the grounds of article 263 TFEU, annul the European Commission's decision of June 17th 2016 (ref. Ares (2016) 2835215) to register Epsilon in the Early Detection and Exclusion System Database (EDES).

Pleas in law and main arguments

In support of the action based on the grounds of article 272 TFUE, Epsilon considers that the findings raised by the auditors and endorsed by the European Commission which relate to the personnel costs declared for the performance of the BRISEIDE, SMART-ISLANDS and i-SCOPE projects are erroneous. More specifically, Epsilon argues that no irregularity were committed regarding the time recording system, the productive hours and hourly rate calculations, the lack of invoice for the owners' work and the fact that the agreements concluded with the in-house consultants had not been registered to the Tax Office. In any case, any minor errors regarding the performance of these contracts cannot be regarded as an error of a systematic nature.

Moreover, Epsilon contests the Commission's decision to suspend the payments for the performance of the EU funded projects i-LOCATE, eENV-Plus, GeoSmartCity and c-SPACE and considers that they are not legally founded.

Finally, Epsilon requests a financial compensation for the material and non-material suffered by Epsilon due to the Commission's decisions.

In support of the action based on the grounds of article 263 TFUE, Epsilon requests the General Court to annul the Commission's decision to register Epsilon in the Early Detection and Exclusion System database (EDES), due to the alleged potentially systematic nature of the errors committed in the performance of the abovementioned projects. The applicant considers that this decision breaches the principle of proportionality and the rights of the defence.

Action brought on 30 August 2016 — Lidl Stiftung v EUIPO — Amedei (For you)

(Case T-480/16)

(2016/C 402/59)

Language in which the application was lodged: English

Parties

Applicant: Lidl Stiftung & Co. KG (Neckarsulm, Germany) (represented by: A. Berger, M. Wolter, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Amedei Srl (Pontedera, Italy)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: EU figurative mark containing the word elements 'For you' — Application for registration No 12 267 571

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 28 April 2016 in Case R 851/2015-5

Form of order sought

The applicant claims that the Court should:

- annul the contested decision and reject Opposition No B 2 342 452 filed against the EUTM application No 12 267 571;
- order EUIPO to pay the costs of the proceedings;
- order the intervener to pay the costs of the proceedings before the EUIPO.