

Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law.

1. First plea in law, alleging conflict of interests, breach of the rights of defence, breach of the adversarial principle, breach of the principle of equality of arms and infringement of Article 41(2) and 42 of the Charter of Fundamental Rights of the European Union.
2. Second plea in law, alleging manifest error of assessment in the appointment of the investigator, lack of independence and impartiality of the investigator and breach by the investigator of his mandate.
3. Third plea in law, alleging violation of the obligation to state reasons for a decision closing an administrative investigation.
4. Fourth plea in law, alleging breach of the right to good administration and duty of care.
5. Fifth plea in law, alleging manifest error in the assessment of the grounds for moral harassment.

Action brought on 09 November 2016 — Government of Gibraltar v Commission**(Case T-783/16)**

(2017/C 022/54)

*Language of the case: English***Parties**

Applicant: Government of Gibraltar (Gibraltar) (represented by: M. Llamas, QC, J. Temple Lang, solicitor, F.-C. Laprévote and C. Froitzheim, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the European Commission decision of 1 October 2014 in the State aid case SA.34914(C/2013) (ex 2013/NN) — Gibraltar Corporate Income Tax Regime;
- order the defendant to pay the applicant's legal and other costs and expenses in relation to this matter.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law.

1. First plea in law, alleging that, in finding that the tax rulings could be a new aid, the contested decision errs in fact and law and is based on inadequate reasoning.

In support of this plea, the applicant submits as follows: first, that the Commission erred in law in not concluding from the outset that, should the practice of tax rulings or the individual tax rulings constitute State aid, they would be an existing aid; second, that the Commission erred in fact in stating that section 42 of the Income Tax Act of 2010 is the legal basis of the tax rulings; and third, that the decision lacks reasoning when claiming that the tax rulings practice constitutes new aid, an assertion that is contradicted by the claim that the rulings practice amounts to a '*de facto* scheme'.

2. Second plea in law, alleging that the contested decision errs in fact and law and is based on inadequate reasoning.

In support of this plea, the applicant submits as follows: first, that the elements needed to justify an extension of the opening of a State aid investigation are manifestly absent from the case; second, that the Commission made a manifest error of assessment and an error of fact in finding that the tax rulings provide an advantage; third, that the Commission made a manifest error of assessment and an error of fact in finding that the tax rulings are selective; fourth, that the Commission made a manifest error of assessment and an error of fact in finding that the tax rulings are liable to distort competition and/or have an effect on intra-Community trade; and fifth, that the contested decision lacks reasoning.

3. Third plea in law, alleging that the contested decision errs in law in diverting the Commission's initial investigation and artificially 'extending' the Income Tax Act procedure to rulings.

Action brought on 11 November 2016 — QD v EUIPO

(Case T-787/16)

(2017/C 022/55)

Language of the case: English

Parties

Applicant: QD (Alicante, Spain) (represented by: H. Tettenborn, lawyer)

Defendant: European Union Intellectual Property Office

Form of order sought

The applicant claims that the Court should:

- annul the decision of EUIPO of 4 March 2016 not to adopt a definitive decision regarding the applicant's request of 19 January 2016 for a second renewal of her contract concluded under Art. 2(f) CEOS and to defer a definitive decision about the applicant's request of 19 January 2016 for a second renewal of her contract concluded under Art. 2(f) CEOS to a 'specific procedure' in the future; and
- order EUIPO to pay the procedural costs.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging that the EUIPO has infringed the relevant provisions of the SR and CEOS, namely Art. 90(1) SR (in connection with Art. 46 CEOS), Annex III to the SR, Art. 2, 8, 53, CEOS, 110 SR;
 2. Second plea in law, alleging that the EUIPO breached its fiduciary duty;
 3. Third plea in law, alleging that the EUIPO breached the principle of sound administration (Art. 41 (1), Art. 41 (2)(3) of the Charter of Fundamental Rights of the EU (CFR));
 4. Fourth plea in law, alleging that the EUIPO committed a misuse of power.
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