

7. Seventh plea in law, alleging that the Commission failed to act within the meaning of Article 265 TFEU in relation to the grant of State aid in the form of tax advantages to the third parties concerned which were not authorised in the Planning Decision (Planning Phase).

Action brought on 21 December 2016 — Labiri v EESC and Committee of the Regions

(Case T-904/16)

(2017/C 063/44)

Language of the case: French

Parties

Applicant: Vassiliki Labiri (Brussels, Belgium) (represented by: J.-N. Louis and N. De Montigny, lawyers)

Defendants: European Economic and Social Committee (EESC), Committee of the Regions of the European Union (CoR)

Form of order sought

The applicant claims that the Court should:

- annul the decision of the Secretary General of the Committee of the Regions of 11 May 2016 reassigning the applicant, as an administrator to the Translation Directorate pursuant to the settlement in Case F-33/15;
- hold that the EESC committed a misuse of power and infringed its obligation to act in good faith towards the applicant in knowingly misleading her as to the scope of the agreement concluded between the parties on 4 February 2016;
- order the EESC and the CoR jointly to pay the costs

Pleas in law and main arguments

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

1. First plea in law, alleging the infringement of Article 266 TFEU, since the contested decision was adopted in manifest breach of the amicable agreement reached in Case F-33/15 *Labri v EESC*.
2. Second plea in law, alleging a misuse of power, since the applicant was deliberately misled as to the scope of the agreement reached between the parties and more specifically as to the two committees' interpretation of the terms of that agreement.

Action brought on 22 December 2016 — Schwenk Zement v Commission

(Case T-907/16)

(2017/C 063/45)

Language of the case: German

Parties

Applicant: Schwenk Zement KG (Ulm, Germany) (represented by: U. Soltész, M. Raible and G. Wecker, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order the Commission to pay the applicant's costs.

Pleas in law and main arguments

The present action seeks the annulment of Commission Decision C (2016) 6591 final of 10 October 2016 (Case M.7878 — HeidelbergCement/Schwenk/Cemex Hungary/Cemex Croatia (OJ 2016 C 374, p. 1)).

In support of the action, the applicant relies on two pleas in law:

1. First plea in law, alleging infringement of Article 1 of Regulation (EC) No 139/2004,⁽¹⁾ read, as appropriate, in conjunction with Paragraph 147 of the Commission Consolidated Jurisdictional Notice under Regulation (EC) No 139/2004 ('the Consolidated Jurisdictional Notice')

In the context of the first plea in law, the applicant submits that the examination of the contested concentration does not come within the Commission's competence. Had the applicant, correctly, not been regarded as a participating undertaking, the turnover thresholds indicated in Article 1 of Regulation (EC) No 139/2004 would not have been met.

2. Second plea in law, alleging a failure to state reasons

The applicant claims, in this regard, that, although the Commission did refer to the existence of the exceptional case in Paragraph 147 of the Consolidated Jurisdictional Notice, it failed to prove that the conditions actually existed for such an exceptional case.

⁽¹⁾ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (OJ 2004 L 24, p. 1).

Action brought on 22 December 2016 — RRTec v EUIPO — Mobotec (RROFA)**(Case T-912/16)****(2017/C 063/46)***Language in which the application was lodged: Polish***Parties**

Applicant: RRTec sp. z o.o. (Gliwice, Poland) (represented by: T. Gawrylczyk, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Mobotec AB (Gothenburg, Sweden)

Details of the proceedings before EUIPO

Applicant: Applicant

Trade mark at issue: European Union figurative mark containing the word element 'RROFA' — Application for registration No 12 699 534

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 5 October 2016 in Case R 2392/2015-1