

Appeal brought on 27 November 2017 by Anastasia-Soultana Gaki against the order of the General Court (Sixth Chamber) made on 27 September 2017 in Case T-366/16, Gaki v Europol

(Case C-671/17 P)

(2018/C 249/04)

Language of the case: German

Parties

Appellant: Anastasia-Soultana Gaki (represented by: G. Keisers, Rechtsanwalt)

Other party to the proceedings: European Union Agency for Law Enforcement Cooperation (Europol)

By order of 7 June 2018, the Court of Justice of the European Union (Tenth Chamber) dismissed the appeal as being in part manifestly unfounded and in part manifestly inadmissible and ordered the appellant to bear her own costs.

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 9 January 2018 — Finnair PLC v Igor Turtschin and Others

(Case C-15/18)

(2018/C 249/05)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Defendant and appellant on a point of law: Finnair PLC

Applicants and respondents in the appeal on a point of law: Igor Turtschin, Evgeniya Turtschina, Leon Turtschin

The case was removed from the Register of the Court of Justice by order of the Court of 6 June 2018.

Appeal brought on 27 March 2018 by Deichmann SE against the judgment of the General Court (Fourth Chamber) delivered on 17 January 2018 in Case T-68/16: Deichmann SE v European Union Intellectual Property Office

(Case C-223/18 P)

(2018/C 249/06)

Language of the case: English

Parties

Appellant: Deichmann SE (represented by: C. Onken, Rechtsanwältin)

Other parties to the proceedings: European Union Intellectual Property Office; Munich, SL

Form of order sought

The appellant claims that the Court should:

— set aside the decision of the General Court of 17 January 2018 in case T-68/17;

- annul the decision of the Fourth Board of Appeal of the EUIPO of 4 December 2015 in case R 2345/2014-4;
- in the alternative refer the case back to the General Court of the European Union;
- order the respondent and the intervener to bear the costs both in relation to the proceedings at first instance and the appeal.

Pleas in law and main arguments

The appellant submits that the contested decision infringes Articles 51 (1) (a) and 15 (1) CTMR (now Articles 58 (1) (a) and 18 (1) of Regulation (EU) 2017/1001 ⁽¹⁾ of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark, hereinafter referred to as 'EUTMR') in several regards. In particular the General Court did not correctly determine the meaning of the term 'the trade mark' in Articles 51 (1) (a) and 15 (1) CTMR.

- (1) First, the General Court misjudged the importance, and the legal consequences of, determining the type of mark concerned. It wrongly assumed that it did not matter whether the contested trademark was classified as a figurative mark or as a position mark. In fact, however, the distinction between different types of marks has a significant influence on their subject matter as well as on the way in which they are used. The use of the contested trademark as a figurative mark would differ considerably from the way in which it would be used if it was a position mark.
- (2) Second, the General Court did not correctly determine the subject matter of the contested trademark, but regarded and treated the contested trade mark as a position mark. The contested mark is a figurative mark, since it has been applied for and registered as a figurative mark, and no description or disclaimer was entered that suggested otherwise. The mere use of broken lines does not make a figurative mark a position mark.
- (3) As a consequence, the General Court incorrectly assumed that Munich S.L. showed genuine use of its mark by showing the sale of shoes, to the side of which two intersecting lines were applied. This kind of use could only account for the use of a position mark, but not for the use of a figurative mark like the contested one.

⁽¹⁾ OJ 2017, L 154, p. 1.

Request for a preliminary ruling from the Landesverwaltungsgericht Tirol (Austria) lodged on 30 March 2018 — PI

(Case C-230/18)

(2018/C 249/07)

Language of the case: German

Referring court

Landesverwaltungsgericht Tirol

Parties to the main proceedings

Complainant: PI

Defendant authority: Landespolizeidirektion Tirol

Questions referred

1. Is Article 15(2) of the Charter of Fundamental Rights of the European Union, according to which every citizen of the Union has the freedom to seek employment, to work, to exercise the right of establishment and to provide services in any Member State, to be understood as precluding legislation of a Member State which, as in the case of Paragraph 19(3) of the Tiroler Landespolizeigesetz (Tyrol State police Law), LGBl. (State Law Gazette) No 60/1976, last amended by Law LGBl. No 56/2017, makes it possible for bodies of an authority, even without a prior administrative procedure, to be able to take measures of direct authority and coercive power, such as, in particular, the on-the-spot closure of a business establishment, without these merely being interim measures?