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(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COURT OF JUSTICE OF THE EUROPEAN UNION

(2012/C 200/01)

Last publication of the Court of Justice of the European Union in the *Official Journal of the European Union*

OJ C 194, 30.6.2012

Past publications

OJ C 184, 23.6.2012

OJ C 174, 16.6.2012

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These texts are available on:

EUR-Lex: http://eur-lex.europa.eu

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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Grand Chamber) of 22 May 2012 (reference for a preliminary ruling from the Oberverwaltungsgericht für das Land Nordrhein-Westfalen — Germany) — P. I. v Oberbürgermeisterin der Stadt Remscheid

(Case C-348/09) [1]

(Freedom of movement for persons — Directive 2004/38/EC — Article 28(3)(a) — Expulsion decision — Criminal conviction — Imperative grounds of public security)

(2012/C 200/02)

Language of the case: German

Referring court

Oberverwaltungsgericht für das Land Nordrhein-Westfalen

Parties to the main proceedings

Applicant: P. I.

Defendant: Oberbürgermeisterin der Stadt Remscheid

Re:

Reference for a preliminary ruling — Oberverwaltungsgericht für das Land Nordrhein-Westfalen, Münster — Interpretation of Article 28(3) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004 L 158, p. 77) — Expulsion decision taken on grounds of public security against a European citizen who has resided for the previous 10 years in the host Member State and is facing a prison sentence — Definition of 'imperative grounds of public security'

Operative part of the judgment

Article 28(3)(a) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, must be interpreted as meaning that it is open to the Member States to regard criminal offences such as those referred to in the second subparagraph of Article 83(1) TFEU as constituting a particularly serious threat to one of the fundamental interests of society, which might pose a direct threat to the calm and physical security of the population and thus be covered by the concept of 'imperative grounds of public security', capable of justifying an expulsion measure under Article 28(3), as long as the manner in which such offences were committed discloses particularly serious characteristics, which is a matter for the referring court to determine on the basis of an individual examination of the specific case before it.

The issue of any expulsion measure is conditional on the requirement that the personal conduct of the individual concerned must represent a genuine, present threat affecting one of the fundamental interests of society or of the host Member State, which implies, in general, the existence in the individual concerned of a propensity to act in the same way in the future. Before taking an expulsion decision, the host Member State must take account of considerations such as how long the individual concerned has resided on its territory, his/her age, state of health, family and economic situation, social and cultural integration into that State and the extent of his/her links with the country of origin.

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[1] OJ C 282, 21.11.2009.

Judgment of the Court (Fourth Chamber) of 24 May 2012 (reference for a preliminary ruling from the Commissione tributaria provinciale di Palermo — Italy) — Amia SpA, in liquidation v Provincia Regionale di Palermo

(Case C-97/11) [1]

(Environment — Landfill of waste — Directive 1999/31/EC — Special levy on the disposal of solid waste in landfills — Landfill operator subject to that levy — Operating costs of a landfill — Directive 2000/35/EC — Default interest — Obligations of the national court)

(2012/C 200/03)

Language of the case: Italian

Referring court

Commissione tributaria provinciale di Palermo

Parties to the main proceedings

Applicant: Amia SpA, in liquidation

Defendant: Provincia Regionale di Palermo

Re:

Reference for a preliminary ruling — Commissione Tributaria Provinciale di Palermo — Interpretation of Article 10 of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ 1999 L 182, p. 1), of Directive 2000/35/EC of the European Parliament and of the Council of 29 June 2000 on combating late payment in commercial transactions (JO 2000 L 200, p. 35) and of Articles 12, 14, 43 et 46 EC — National legislation establishing a special tax on the dumping of solid waste in a landfill, and placing the landfill operator under an obligation to pre-pay the tax, the amount of which depends on the volume of waste dumped and which is payable by the party which dumps the waste at the landfill.

Operative part of the judgment

In circumstances such as those in the main proceedings:

— *It is for the referring court, first, before disapplying the relevant provisions of Law No 549 of 28 December 1995 on measures to rationalise public finances, to establish whether, taking into consideration the whole body of domestic law, both substantive and procedural, there is no possibility of reaching an interpretation of its national law with which to resolve the case in the main proceedings in a manner consistent with the wording and purpose of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste, as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003, and Directive 2000/35/EC of the European Parliament and of the Council of 29 June 2000 on combating late payment in commercial transactions;*

— *If such an interpretation is not possible, it is for the referring court to disapply, in the main proceedings, any national provision contrary to Article 10 of Directive 1999/31 as amended by Regulation No 1882/2003 and Articles 1 to 3 of Directive 2000/35.*

([1]) OJ C 238, 13.8.2011.

Judgment of the Court (Fourth Chamber) of 24 May 2012 — Chocoladefabriken Lindt & Sprüngli AG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-98/11 P) ([1])

(Appeal — Community trade mark — Absolute ground for refusal — No distinctive character — Three-dimensional sign consisting of the shape of a chocolate rabbit with a red ribbon)

(2012/C 200/04)

Language of the case: German

Parties

Appellant: Chocoladefabriken Lindt & Sprüngli AG (represented by: R. Lange, Rechtsanwalt)

Other party to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, Agent)

Re:

Appeal lodged against the judgment of the General Court (First Chamber) of 17 December 2010 — *Chocoladefabriken Lindt & Sprüngli* v *OHIM* (T-336/08), by which the General Court dismissed the action for annulment brought against the decision of the Fourth Board of Appeal of OHIM of 11 June 2008, rejecting the appeal against the decision of the Examiner to refuse registration of a three-dimensional sign consisting of the shape of a chocolate rabbit with a red ribbon as a Community trade mark for some goods in Class 30 — Distinctive character of the mark

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Chocoladefabriken Lindt & Sprüngli AG to pay the costs.*

([1]) OJ C 145, 14.5.2011.

Judgment of the Court (Seventh Chamber) of 24 May 2012 (reference for a preliminary ruling from the Landesgericht für Zivilrechtssachen Wien — Austria) — Peter Hehenberger v Republik Österreich

(Case C-188/11) ([1])

(Agriculture — European Agricultural Guidance and Guarantee Fund — Regulations (EC) No 1257/1999 and No 817/2004 — Financial support for agri-environmental production methods — Checks — Beneficiary of agricultural aid — Fact of having prevented an on-the-spot check from being carried out — National legislation requiring the repayment of all aid paid over several years — Whether compatible)

(2012/C 200/05)

Language of the case: German

Referring court

Landesgericht für Zivilrechtssachen Wien

Parties to the main proceedings

Applicant: Peter Hehenberger

Defendant: Republik Österreich

Re:

Reference for a preliminary ruling — Landesgericht für Zivilrechtssachen Wien — Interpretation of Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations (OJ 1999 L 160, p. 80) and of Commission Regulation (EC) No 817/2004 of 29 April 2004 laying down detailed rules for the application of said Regulation (EC) No 1257/1999 (OJ 2004 L 153, p. 30) — Checks and penalties — Legislation of a Member State requiring, in the event that a recipient of agricultural support prevents a check, repayment of all support received over a period of 5 years — Proportionality

Operative part of the judgment

Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations, read in conjunction with Commission Regulation (EC) No 817/2004 of 29 April 2004 laying down detailed rules for the application of Regulation No 1257/1999, does not preclude national rules which provide that, where a farmer who is the beneficiary of financial support prevents an on-the-spot check of the land concerned, all the support already granted during the commitment period to that farmer in relation to an agri-environmental measure must be repaid, even where it has already been paid in respect of a number of years.

([1]) OJ C 211, 16.7.2011.

Judgment of the Court (Third Chamber) of 24 May 2012 — Formula One Licensing BV v Office for Harmonisation in the Internal Market (Trade Marks and Designs), Global Sports Media Ltd

(Case C-196/11 P) ([1])

(Appeal — Community trade mark — Figurative mark 'F1-Live' — Opposition by the proprietor of international and national word marks F1 and Community figurative mark F1 Formula 1 — Lack of distinctive character — Descriptive element — Removal of the protection provided to an earlier national trade mark — Likelihood of confusion)

(2012/C 200/06)

Language of the case: English

Parties

Appellant: Formula One Licensing BV (represented by: K. Sandberg and B. Klingberg, Rechtsanwältinnen)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, acting as Agent), Global Sports Media Ltd (represented by: T. de Haan, avocet)

Re:

Appeal brought against the judgment of the General Court (Eighth Chamber) of 17 February 2011 in Case T-10/09 (Formula One Licensing v OHIM) by which the General Court dismissed an action for annulment brought by the proprietor of Community and national word and figurative marks 'F1', 'F1 Formula 1', 'F1 Racing Simulation', 'F1 Pole Position', and 'F1 Pit Stop Café', in respect of goods and services in Classes 16, 38, and 41, against Decision R 7/2008-1 of the First Board of Appeal of the Office for Harmonisation in the Internal Market (OHIM) of 16 October 2008, annulling the decision of the Opposition Division refusing the registration of the figurative mark 'F1-Live', for goods and services in Classes 16, 38, and 41, in the context of the applicant's opposition — Interpretation and application of Article 8(1)(b) and 8(5) of Regulation (EC) No 40/94 (now Article 8(1)(b), and Article 8(5), of Regulation (EC) No 207/2009)

Operative part of the judgment

The Court:

1. *Sets aside the judgment of the General Court of the European Union of 17 February 2011 in Case T-10/09 Formula One Licensing v OHIM — Global Sports Media (F1-LIVE);*

2. *Refers the case back to the General Court of the European Union;*

3. *Reserves the costs.*

([1]) OJ C 179, 18.6.2011.

Judgment of the Court (Eighth Chamber) of 24 May 2012 — European Commission v Republic of Austria

(Case C-352/11) ([1])

(Failure by a Member State to fulfil its obligations — Environment — Directive 2008/1/EC — Integrated pollution prevention and control — Requirements for the granting of permits for existing installations — Obligation to ensure the operation of such installations in accordance with the requirements of that directive)

(2012/C 200/07)

Language of the case: German

Parties

Applicant: European Commission (represented by: G. Wilms and A. Alcover San Pedro, acting as Agents)

Defendant: Republic of Austria (represented by: C. Pesendorfer and A. Posch, acting as Agents)

Re:

Failure by a Member State to fulfil its obligations — Infringement of Article 5(1) of Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control (OJ 2008 L 24, p. 8) — Requirements for the granting of permits for existing installations — Obligation to ensure that those installations are operated in accordance with the requirements provided for under that directive

Operative part of the judgment

The Court:

1. *Declares that, by having failed to grant permits in accordance with Articles 6 and 8 of Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control, to reconsider and, if necessary, renew existing permits, and to ensure that all existing installations are operated in accordance with the requirements of Articles 3, 7, 9, 10 and 13, 14(a) and (b) and Article 15(2) of that directive, the Republic of Austria has failed to fulfil its obligations under Article 5(1) of that directive.*

2. *Orders the Republic of Austria to pay the costs.*

([1]) OJ C 252, 27.8.2011.

Judgment of the Court (Fifth Chamber) of 24 May 2012 — European Commission v Kingdom of Belgium

(Case C-366/11) ([1])

(Failure of a Member State to fulfil obligations — Environment — Directive 2000/60/EC — European Union action in the field of water policy — River basin management plans — Publication and notification to the Commission — Lack — Public information and consultation concerning the draft management plans — Lack)

(2012/C 200/08)

Language of the case: French

Parties

Applicant: European Commission (represented by: I. Hadjiyiannis and A. Marghelis, Agents)

Defendant: Kingdom of Belgium (represented by: T. Materne and J.-C. Halleux, Agents)

Re:

Failure of a Member State to fulfil obligations — Failure to adopt, within the prescribed periods, the provisions necessary to comply with Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ 2000 L 327, p. 1) — Failure to prepare river basin management plans within the meaning of Article 13(2), (3) and (6) and Article 15(1) of the Directive — Public information and consultation procedure concerning the drafts of those plans — Lack

Operative part of the judgment

The Court:

1. *Declares that, by not having prepared, within the prescribed period, all the river basin management plans, both for river basin districts lying entirely within its territory and for international river basin districts, and by not having communicated to the European Commission a copy of those plans, within the prescribed period, the Kingdom of Belgium has failed to fulfil its obligations under Article 13(2), (3) and (6) and Article 15(1) of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy and, furthermore, that by not having commenced, within the prescribed period, all the public information and consultation procedures concerning the draft river basin management plans, the Kingdom of Belgium has failed to fulfil its obligations under Article 14(1)(c) of that directive;*

2. *Orders the Kingdom of Belgium to pay the costs.*

([1]) OJ C 298, 8.10.2011.

Reference for a preliminary ruling from the Krajský soud v Praze (Czech Republic) lodged on 3 April 2012 — Radek Časta v Česká správa sociálního zabezpečení

(Case C-166/12)

(2012/C 200/09)

Language of the case: Czech

Referring court

Krajský soud v Praze

Parties to the main proceedings

Applicant: Radek Časta

Defendant: Česká správa sociálního zabezpečení

Questions referred

1. How must the concept of 'capital value of pension rights' in Article 11(2) of Annex VIII to Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities, as amended by Council Regulation No 723/2004 (the 'Staff Regulations'), ([1]) be understood? Does that concept include the level of pension rights determined both in the form of the actuarial equivalent and in the form of the flat-rate redemption value as defined in Article 11(2) of Annex VIII to the Staff Regulations, as laid down prior to the entry into effect of Regulation No 723/2004, or must it be identified with only one of those concepts, and if not, how does it differ from those concepts?

2. Does Article 11(2) of Annex VIII to the Staff Regulations, in conjunction with Article 4(3) of the Treaty on European Union, as amended by the Treaty of Lisbon, preclude application of the method for calculating pension rights provided for in Paragraph 105a(1) of Law No 155/1995 on pension insurance and in Government Regulation No 587/2006 laying down detailed arrangements on the reciprocal transfer of pension rights in relation to the pension scheme of the European Communities? In this context, is it relevant that that calculation method results, in a specific case, in the setting of pension rights offered for transfer to the EU pension scheme at a level of not even half the amount of the contributions paid by an official to the national pension scheme?

3. Must the judgment of the Court of Justice in Case C-293/03 *Gregorio My* v *Office national des pensions (ONP)* be interpreted as meaning that, for the purposes of calculating the value of pension rights to be transferred to the EU pension scheme by means of an actuarial method dependent on the period of insurance, the personal basis of assessment must also include the period during which, before the date of submission of an application for the transfer of pension rights, the EU official has already participated in the EU pension scheme?

([1]) OJ, English Special Edition 1968(1), p- 30.

Reference for a preliminary ruling from the Cour de cassation du Grand-Duché de Luxembourg lodged on 17 April 2012 — Caisse nationale des prestations familiales v Salim Lachheb, Nadia Lachheb

(Case C-177/12)

(2012/C 200/10)

Language of the case: French

Referring court

Cour de cassation du Grand-Duché de Luxembourg

Parties to the main proceedings

Applicant: Caisse nationale des prestations familiales

Defendants: Salim Lachheb, Nadia Lachheb

Questions referred

1. Does a benefit such as that set out in the Law of 21 December 2007 on the Child Bonus constitute a family benefit within the meaning of Article 1(u)(i) and Article 4(1)(h) of Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, ([1]) as amended and updated by Council Regulation (EEC) No 118/97 of 2 December 1996? ([2])

2. If the reply to the first question is in the negative, do Articles 18 and 45 of the Treaty on the Functioning of the European Union (formerly Article 12 and Article 39 of the Treaty establishing the European Community), Article 7 of Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community ([3]) or Article 3 of Regulation (EEC) No 1408/71 preclude a national regulation such as the one at issue in the main proceedings, under which the granting of a benefit such as that set out in the Law of 21 December 2007 on the Child Bonus, to workers who carry out their professional activity in the territory of the Member State concerned and who reside with members of their family in the territory of another Member State, is suspended up to the amount of the family benefits provided for the members of their family by the legislation of the Member State of residence, the national regulation requiring the application, to the benefit at issue, of the rules concerning non-cumulation of family benefits set out in Article 76 of Regulation (EEC) No 1408/71 and Article 10 of Regulation (EEC) No 574/72 of the Council of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 ([4]) as amended and updated by Regulation No 118/97?

([1]) English special edition, 1971 (II), p. 416.

([2]) Council Regulation (EC) No 118/97 of 2 December 1996 amending and updating Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 (OJ 1997 L 28, p. 1).

([3]) English special edition, 1968 (II), p. 475.

([4]) Regulation (EEC) No 574/72 of the Council of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community (English special edition, 1972 (I), p. 159).

Reference for a preliminary ruling from the Hof van Cassatie van België (Belgium) lodged on 20 April 2012 — United Antwerp Maritime Agencies (UNAMAR) NV v Navigation Maritime Bulgare

(Case C-184/12)

(2012/C 200/11)

Language of the case: Dutch

Referring court

Hof van Cassatie van België

Parties to the main proceedings

Appellant: United Antwerp Maritime Agencies (UNAMAR) NV

Respondent: Navigation Maritime Bulgare

Question referred

Having regard, not least, to the classification under Belgian law of the provisions at issue in this case (Articles 18, 20 and 21 of the Belgian Law of 13 April 1995 relating to commercial agency contracts) as special mandatory rules of law within the terms of Article 7(2) of the Rome Convention, must Articles 3 and 7(2) of the Rome Convention, [1] read, as appropriate, in conjunction with Council Directive 86/653/EEC [2] of 18 December 1986 on the coordination of the laws of the Member States relating to self-employed commercial agents, be interpreted as meaning that special mandatory rules of law of the forum that offer wider protection than the minimum laid down by Directive 86/653/EEC may be applied to the contract, even if it appears that the law applicable to the contract is the law of another Member State of the European Union in which the minimum protection provided by Directive 86/653/EEC has also been implemented?

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[1] Convention on the law applicable to contractual obligations opened for signature in Rome on 19 June 1980 (OJ 1980 L 266, p. 1).
[2] OJ 1986 L 382, p. 17.

Reference for a preliminary ruling from the Cour Constitutionnelle, Belgium lodged on 26 April 2012 — I.B.V & Cie SA (Industrie du bois de Vielsalm & Cie SA) v Walloon Region

(Case C-195/12)

(2012/C 200/12)

Language of the case: French

Referring court

Cour Constitutionnelle (formerly Cour d'arbitrage)

Parties to the main proceedings

Original claimant: I.B.V & Cie SA (Industrie du bois de Vielsalm & Cie SA)

Original defendant: Walloon Region

Questions referred

1. Must Article 7 of Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004 on the promotion of cogeneration based on a useful heat demand in the internal energy market and amending Directive 92/42/EEC, [1] in conjunction if appropriate with Articles 2 and 4 of Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market [2] and with Article 22 of Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC, [3] be interpreted, in the light of the general principle of equal treatment, of Article 6 of the Treaty on European Union and of Articles 20 and 21 of the Charter of Fundamental Rights of the European Union,

   (a) as applying only to high-efficiency cogeneration plants, within the meaning of Annex III to the directive;

   (b) as requiring, permitting or prohibiting the availability of a support measure of the kind contained in Article 38(3) of the Walloon Region Decree of 12 April 2001 on the organisation of the regional electricity market to all cogeneration plants principally exploiting biomass and meeting the conditions laid down by that article, with the exception of cogeneration plants principally exploiting wood or wood waste?

2. Would the answer be different if the cogeneration plant principally exploits only wood or, on the contrary, only wood waste?

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[1] OJ L 52, p. 50.
[2] OJ L 283, p. 33.
[3] OJ L 140, p. 16.

Reference for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 3 May 2012 — Walter Endress v Allianz Lebensversicherungs-AG

(Case C-209/12)

(2012/C 200/13)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Walter Endress

Defendant: Allianz Lebensversicherungs-AG

Question referred

Must the first indent of Article 15(1) of Council Directive 90/619/EEC of 8 November 1990 [1] on the coordination of laws, regulations and administrative provisions relating to direct life assurance, laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 79/267/EEC (Second Life Assurance Directive), having regard to Article 31(1) of Council Directive 92/96/EEC of 10 November 1992 [2] on the coordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives 79/267/EEC and 90/619/EEC (Third Life Assurance Directive), be interpreted as precluding a provision — such as the fourth sentence of Paragraph 5a(2) of the Versicherungsvertragsgesetz (Law on insurance contracts) in the version of the

Drittes Gesetz zur Durchführung versicherungsrechtlicher Richtlinien des Rates der Europäischen Gemeinschaften (Third Law implementing directives of the Council of the European Communities on insurance law) of 21 July 1994 — under which a right of cancellation lapses one year at the latest after payment of the first premium even if the policy-holder has not been informed about the right of cancellation?

(1) Council Directive 90/619/EEC of 8 November 1990 on the coordination of laws, regulations and administrative provisions relating to direct life assurance, laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 79/267/EEC, OJ 1990 L 330, p. 50.

(2) Council Directive 92/96/EEC of 10 November 1992 on the coordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives 79/267/EEC and 90/619/EEC (third life assurance Directive), OJ 1992 L 360, p. 1.

Appeal brought on 18 May 2012 by Abdulbasit Abdulrahim against the order of the General Court (Second Chamber) delivered on 28 February 2012 in Case T-127/09: Abdulbasit Abdulrahim v Council of the European Union, European Commission

(Case C-239/12 P)

(2012/C 200/14)

Language of the case: English

Parties

Appellant: Abdulbasit Abdulrahim (represented by: H.A.S. Miller, Solicitor, E. Grieves, Barrister)

Other parties to the proceedings: Council of the European Union, European Commission

Form of order sought

The applicant seeks the following order if successful on both pleas:

— the Order of the General Court dated 28.2.12 is quashed

— it is declared that the action for annulment is not devoid of purpose

— the matter be remitted back to the General Court for it to determine the annulment application

— the Commission do pay the costs of this appeal and the costs in the General Court below, including those of making representations upon the Court's invitation.

Pleas in law and main arguments

The Appellant bases his appeal on the following two pleas in law:

— that the General Court erred when it failed to:

  — hear from the Advocate-General, and/or;

  — invite representations from the appellant as to whether the application for annulment was devoid of purpose, and/or;

  — open the oral procedure on the question of whether the application for annulment was devoid of purpose.

— the General Court erred in finding that the action for annulment was not capable of conferring material advantage upon the appellant.

Action brought on 16 May 2012 — European Commission v Republic of Poland

(Case C-245/12)

(2012/C 200/15)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: P. Hetsch, B. Simon and K. Herrmann, Agents)

Defendant: Republic of Poland

Form of order sought

— declare that, by not bringing into force the laws, regulations and administrative provisions necessary to comply with Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for Community action in the field of marine environmental policy (Marine Strategy Framework Directive), (1) or in any event by not notifying the Commission of those provisions, the Republic of Poland has failed to fulfil its obligations under Article 26(1) of that directive;

— impose on the Republic of Poland, in accordance with Article 260(3) TFEU, a periodic penalty payment for failure to meet its obligation to notify transposition of Directive 2008/56/EC at a daily rate of 93 492 EUR calculated from the day on which judgment in the present case is delivered;

— order the Republic of Poland to pay the costs.

Pleas in law and main arguments

The period within which Directive 2008/56/EC had to be transposed expired on 15 July 2010.

(1) OJ 2008 L 164, p. 19.

Appeal brought on 18 May 2012 by Ellinika Nafpigia AE against the judgment of the General Court (Seventh Chamber) of 15 March 2012 in Case T-391/08 Ellinika Nafpigia v European Commission

(Case C-246/12 P)

(2012/C 200/16)

Language of the case: Greek

Parties

Appellant: Ellinika Nafpigia AE (represented by: I. Drosos, lawyer. V. Karagiannis, lawyer)

Other party to the appeal proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal of the General Court in Case T-391/08.

— annul Articles 1(2), 2, 3, 5, 6, 8(2), 9, 11, 12, 13, 14, 15, 16, 18 and 19 of the initially contested Commission decision of 2 July 2008:'On the measures C 16/2004 (ex NN 29/2004, CP 71/2002 and CP 133/2005) implemented by Greece in favour of Hellenic Shipyards [Ellinika Nafpigia A.E]'.

— in the alternative, set aside the judgment under appeal in part to the extent that it applies to the measures E12b, E13a, E13b, E14, E16 and E17 in the initially contested decision and annul the initially contested decision to the same extent.

— in the further alternative, set aside the judgment under appeal in part to the extent that it applies to the measure E7 in the initially contested decision and annul the initially contested decision to the same extent.

— order the Commission to pay the appellant's costs both in the proceedings before the General Court and before the Court of Justice.

Grounds of appeal and main arguments

By the first ground of appeal the appellant claims that the judgment under appeal erred in its interpretation and application of Article 346 TFEU, which means that it must be set aside in its entirety on all counts and in respect of its operative part, or in particular respects as set out in the appeal. By the second ground of appeal the appellant claims that the judgment under appeal erred in its interpretation and application of Article 348 TFEU, which means that it must be set aside in its entirety on all counts and in respect of its operative part, or in particular respects as set out in the appeal. By the third ground of appeal the appellant claims that the judgment under appeal erroneously rejected its claims concerning the infringement of its procedural rights by the initially contested decision, an error which means that the judgment under appeal must be set aside to the extent set out in the appeal.

Appeal brought on 22 May 2012 by Northern Ireland Department of Agriculture and Rural Development against the order of the General Court (Eighth Chamber) delivered on 6 March 2012 in Case T-453/10: Northern Ireland Department of Agriculture and Rural Development v European Commission

(Case C-248/12 P)

(2012/C 200/17)

Language of the case: English

Parties

Appellant: Northern Ireland Department of Agriculture and Rural Development (represented by: K.J. Brown, Departmental Solicitor's office, D. Wyatt QC, V. Wakefield, Barristers)

Other party to the proceedings: European Commission

Form of order sought

The applicant claim that the Court should:

— the Order of the General Court be set aside;

— DARD's action for annulment be declared admissible and the case be referred back to the General Court so that it may examine the substance of DARD's action for annulment;

— the Commission be ordered to pay DARD's costs of the present proceedings and those arising at first instance relating to the plea of inadmissibility; and

— costs be reserved as to the remainder.

Pleas in law and main arguments

First plea, that the General Court failed to identify and apply the proper legal test, namely that *Piraiki-Patraiki* and *Dreyfus* are merely examples of a broader principle of law, namely that a Union measure will be treated as of direct concern to those whose legal situation it affects where its implementation in that way is a 'foregone conclusion', or any other possibility is 'purely theoretical', or it is 'obvious' that any discretionary power will be exercised in a certain way. That principle must be applied to the facts of each case.

Second plea, that the General Court committed an error of law, and acted contrary to the principle of legal certainty, in its attempts to limit the scope of *Piraiki-Patraiki* and *Dreyfus* (in particular by restricting the former to cases in which the Union measure is adopted in response to a request by a Member State, and by restricting the latter to cases with a 'very specific factual context').

Third plea, that the General Court committed an error of law in narrowing the test for standing under Article 263. This is contrary to the proper interpretation of Article 263 as amended by the Treaty of Lisbon, in particular by reference to its purpose and to the principle of effective judicial protection.

Fourth plea, that if the General Court had applied the correct legal principles to the present case, DARD would have been found to be 'directly concerned'. In particular, the constitutional position in the United Kingdom is that the devolved administration — in this case DARD — is directly responsible for bearing the cost of the disallowance. The chain of causation is direct and automatic. The United Kingdom devolutionary arrangements are well established (see Case C-428/07 *Horvath* [2009] ECR 1-6355) and any argument that their application is less than a 'foregone conclusion' should fail.

Reference for a preliminary ruling from the Tribunal de commerce de Bruxelles (Belgium), lodged on 22 May 2012 — Christian van Buggenhout and Ilse van de Mierop (lawyers acting as administrators in the insolvency of Grontimmo SA) v Banque Internationale à Luxembourg

(Case C-251/12)

(2012/C 200/18)

Language of the case: French

Referring court

Tribunal de commerce de Bruxelles

Parties to the main proceedings

Applicants: Christian van Buggenhout and Ilse van de Mierop (lawyers acting as administrators in the insolvency of Grontimmo SA)

Defendant: Banque Internationale à Luxembourg

Questions referred

1. How should the words 'obligation … for the benefit of a debtor' in Article 24 of Regulation (EC) No 1346/2000 [1] of 29 May 2000 be interpreted?

2. Must those words be interpreted as including a payment made to a creditor of the insolvent debtor at the latter's request, in the case where the party which carried out that payment obligation on behalf and for the benefit of the insolvent debtor did so while unaware of the existence of insolvency proceedings which had been opened against the debtor in another Member State?

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[1] Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings (OJ 2000 L 160, p. 1).

Order of the President of the First Chamber of the Court of 7 May 2012 (Reference for a preliminary ruling from the Landgericht Essen — Germany) — Dr Biner Bähr in his capacity as liquidator in respect of the assets of Hertie GmbH v HIDD Hamburg-Bramfeld B.V.1

(Case C-494/10) [1]

(2012/C 200/19)

Language of the case: German

The President of the First Chamber has ordered that the case be removed from the register.

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[1] OJ C 30, 29.1.2011.

GENERAL COURT

Judgment of the General Court of 24 May 2012 — MasterCard and Others v Commission

(Case T-111/08) [1]

(Competition — Decision by an association of undertakings — Market for the provision of debit, charge and credit card transaction acquiring services — Decision finding an infringement of Article 81 EC and Article 53 of the EEA Agreement — Multilateral fallback interchange fees — Article 81(1) and (3) EC — Concept of ancillary restriction — No objective necessity — Restriction of competition by effect — Conditions for the grant of an individual exemption — Rights of the defence — Remedy — Periodic penalty payment — Statement of reasons — Proportionality)

(2012/C 200/20)

Language of the case: English

Parties

Applicants: MasterCard, Inc. (Wilmington, United States); MasterCard International, Inc. (Wilmington); MasterCard Europe (Waterloo, Belgium) (represented by: B. Amory, V. Brophy, S. McInnes, lawyers, and T. Sharpe QC)

Defendant: European Commission (represented: initially by F. Arbault, N. Khan and V. Bottka and subsequently by N. Khan and V. Bottka, acting as Agents)

Interveners in support of the applicants: Banco Santander, SA (Santander, Spain) (represented by: F. Lorente Hurtado, P. Vidal Martínez and A. Rodriguez Encinas, lawyers); Royal Bank of Scotland plc (Edinburgh, United Kingdom) (represented by: D. Liddell, Solicitor, D. Waelbroeck, lawyer, N. Green QC and M. Hoskins, Barrister); HSBC Bank plc (London, United Kingdom) (represented by: M. Coleman and P. Scott, Solicitors and R. Thompson QC); Bank of Scotland plc (Edinburgh) (represented: initially by S. Kim, K. Gordon and C. Hutton, Solicitors, and subsequently by J. Flynn QC, E. McKnight and K. Fountoukakos-Kyriakakos, Solicitors); Lloyds TSB Bank plc (London) (represented by: E. McKnight, K. Fountoukakos-Kyriakakos, Solicitors, and J. Flynn QC); MBNA Europe Bank Ltd (Chester, United Kingdom) (represented by: A. Davis, Solicitor and J. Swift QC)

Interveners in support of the defendant: United Kingdom of Great Britain and Northern Ireland (represented: initially by E. Jenkinson and I. Rao, acting as Agents, subsequently by I. Rao, S. Ossowski and F. Penlington, and finally by I. Rao, S. Ossowski and C. Murrell, acting as Agents, and by J. Turner QC and J. Holmes, Barrister); British Retail Consortium (London) (represented by: P. Crockford, Solicitor, and A. Robertson, Barrister); EuroCommerce AISBL (Brussels, Belgium); (represented: initially by F. Tuytschaever and F. Wijckmans and subsequently by F. Wijckmans and J. Stuyck, lawyers)

Re:

Application for annulment of Decision C(2007) 6474 final of 19 December 2007 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Cases COMP/34.579 — MasterCard, COMP/36.518 — EuroCommerce, COMP/38.580 — Commercial Cards), and, in the alternative, for annulment of Articles 3 to 5 and 7 of that decision.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders MasterCard, Inc., MasterCard International, Inc., and MasterCard Europe to bear their own costs and to pay those incurred by the European Commission;*

3. *Orders the United Kingdom of Great Britain and Northern Ireland to bear its own costs;*

4. *Orders British Retail Consortium and EuroCommerce AISBL to bear their own costs;*

5. *Orders Banco Santander, SA, Royal Bank of Scotland plc, HSBC Bank plc, Bank of Scotland plc, Lloyds TSB Bank plc and MBNA Europe Bank Ltd to bear their own costs.*

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[1] OJ C 116, 9.5.2008.

Judgment of the General Court of 22 May 2012 — Retractable Technologies v OHIM — Abbott Laboratories (RT)

(Case T-371/09) [1]

(Community trade mark — Opposition Procedure — Application for figurative Community mark FT — Earlier national word mark RTH — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2012/C 200/21)

Language of the case: German

Parties

Applicant: Retractable Technologies (Little Elms, Texas, USA) (represented by: K. Dröge, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (represented initially by C. Jenewein, then by G. Schneider and D. Walicka, agents)

Other party to the proceedings before the Board of Appeal of OHIM: Abbott Laboratories (Abbot Park, Illinois, USA)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 24 July 2009 (Case R 1234/2008-4) concerning opposition proceedings between Abbott Laboratories and Retractable Technologies, Inc.

Operative part of the judgment

The Court:

1. *Dismisses the action.*

2. *Orders Retractable Technologies to pay the costs.*

([1]) OJ C 282, 21.11.2009.

Judgment of the General Court of 24 May 2012 — Grupo Osborne v OHIM — Industria Licorera Quezalteca (TORO XL)

(Case T-169/10) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark TORO XL — Early Community figurative mark XL — Relative ground for refusal — Article 8(1)(b) of Regulation No 207/2009 — No likelihood of confusion)

(2012/C 200/22)

Language of the case: Spanish

Parties

Applicant: Grupo Osborne, SA (El Puerto de Santa Maria, Spain) (represented by: J.M. Iglesias Monravá, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (represented by: J. Crespo Carillo, agent)

Other party to the proceedings before the Board of Appeal of OHIM: Industria Licorera Quezalteca, SA (Quetzal Tenango, Guatemala)

Re:

Action brought against the decision of the second Board of Appeal of OHIM of 22 January 2010 (Case R 223/2009-2) concerning opposition proceedings between Industria Licorera Quezalteca, SA and Grupo Osborne, SA.

Operative part of the judgment

The Court:

1. *Annuls the decision of the second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 22 January 2010 (Case R 223/2009-2).*

2. *Orders OHIM to pay the costs.*

([1]) OJ C 148, 5.6.2010.

Judgment of the General Court of 25 May 2012 — Nike International v OHIM — Intermar Simanto Nahmias (JUMPMAN)

(Case T-233/10) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark JUMPMAN — Earlier national word mark JUMP — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2012/C 200/23)

Language of the case: English

Parties

Applicant: Nike International Ltd (Beaverton, Oregon, United States) (represented by: M. de Justo Bailey, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Geroulakos, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Intermar Simanto Nahmias (Çatalca-Istanbul, Turkey) (represented by: J. Güell Serra and M. Curell Aguilà, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 11 March 2010 (Case R 738/2009-1), concerning opposition proceedings between Intermar Simanto Nahmias and Nike International Ltd.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Nike International Ltd to pay the costs.*

([1]) OJ C 195, 17.7.2010.

Judgment of the General Court of 22 May 2012 — Olive Line International v OHIM — Umbria Olii International (O·LIVE)

(Case T-273/10) [1]

(Community trade mark — Opposition proceedings — Application for figurative Community trade mark O·LIVE — Earlier Community and Spanish figurative and word marks Olive line — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2012/C 200/24)

Language of the case: English

Parties

Applicant: Olive Line International, SL (Madrid, Spain) (represented by: P. Koch Moreno, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: S. Schäffner, Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Umbria Olii International Srl (Rome, Italy) (represented by: E. Montelione, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 14 April 2010 (Case R 4/2009-4), relating to opposition proceedings between Olive Line International, SL and O. International Srl.

Operative part of the judgment

The Court:

1. *Declares that the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (trade marks and designs) (OHIM) of 14 April 2010 (Case R 4/2009-4) is annulled in so far as it concerns, first, all the goods covered by the trade mark application in Class 3, namely 'bleaching preparations and other substances for laundry use, cleaning, polishing, scouring and abrasive preparations, soaps, perfumery, essential oils, cosmetics, hair lotions, dentifrices', and, second, 'hygiene and beauty care for humans and animals' in Class 44 covered by the trade mark application;*

2. *Dismisses the action as to the remainder;*

3. *Orders OHIM and Umbria Olii International Srl to bear three quarters of their own costs and to each pay three eighths of the costs incurred by Olive Line International, SL;*

4. *Orders Olive Line International, SL to pay, in addition to one quarter of its own costs, one quarter of the costs incurred by OHIM and the intervener.*

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[1] OJ C 221, 14.8.2010.

Judgment of the General Court of 22 May 2012 — Nordmilch v OHIM — Lactimilk (MILRAM)

(Case T-546/10) [1]

(Community trade mark — Opposition proceedings — Application for Community word mark MILRAM — Earlier national word and figurative marks RAM — Relative ground for refusal — Similarity of goods and signs — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2012/C 200/25)

Language of the case: German

Parties

Applicant: Nordmilch AG (Bremen, Germany) (represented by: R. Schneider, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: K. Klüpfel, Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Lactimilk, SA (Madrid, Spain) (represented by: P. Casamitjana Lleonart, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 15 September 2010 (Joined Cases R 1041/2009-4 and R 1053/2009-4) relating to opposition proceedings between Lactimilk SA and Nordmilch AG.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Nordmilch AG to pay the costs.*

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[1] OJ C 30, 29.1.2011.

Judgment of the General Court of 24 May 2012 — JBF RAK v Council

(Case T-555/10) [1]

(Subsidies — Imports of certain polyethylene terephthalate originating in Iran, Pakistan and the United Arab Emirates — Definitive countervailing duty and definite collection of provisional duty — Articles 11(8), 15(1) and 30(5) of Regulation (EC) No 597/2009 — Principle of sound administration)

(2012/C 200/26)

Language of the case: English

Parties

Applicant: JBF RAK LLC (Ras Al Khaimah, United Arab Emirates) (represented by: B. Servais, lawyer)

Defendant: Council of the European Union (represented by: B. Driessen, Agent, G. Berrisch, lawyer, and N. Chesaites, Barrister)

Intervener in support of the defendant: European Commission (represented by: H. van Vliet, M. França and G. Luengo, Agents)

Re:

Application for annulment of Council Implementing Regulation (EU) No 857/2010 of 27 September 2010 imposing a definitive countervailing duty and collecting definitely the provisional duty imposed on imports of certain polyethylene terephthalate originating in Iran, Pakistan and the United Arab Emirates (OJ 2010 L 254, p. 10).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders JBF RAK LLC to bear its own costs and to pay those incurred by the Council of the European Union;*

3. *Orders the European Commission to bear its own costs.*

([1]) OJ C 30, 29.1.2011.

Judgment of the General Court of 22 May 2012 — Environmental Manufacturing v OHIM — Wolf (Representation of the head of a wolf)

(Case T-570/10) ([1])

(Community trade mark — Opposition proceedings — Application for a Community figurative mark representing a wolf's head — Earlier national and international figurative marks WOLF Jardin and Outils WOLF — Relative grounds for refusal — Detriment to the distinctive character or repute of the earlier mark — Article 8(5) of Regulation (EC) No 207/2009)

(2012/C 200/27)

Language of the case: English

Parties

Applicant: Environmental Manufacturing LLP (Stowmarket, United Kingdom) (represented by: S. Malynicz, Barrister, and M. Atkins, Solicitor)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Société Elmar Wolf (Wissembourg, France) (represented by: N. Boespflug, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 6 October 2010 (Case R 425/2010-2), concerning opposition proceedings between Société Elmar Wolf and Environmental Manufacturing LLP.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Environmental Manufacturing LLP to pay the costs.*

([1]) OJ C 63, 26.2.2011.

Judgment of the General Court of 22 May 2012 — Aitic Penteo v OHIM — Atos Worldline (PENTEO)

(Case T-585/10) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark PENTEO — Earlier Benelux and international word marks XENTEO — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — Articles 75 and 76 of Regulation No 207/2009)

(2012/C 200/28)

Language of the case: English

Parties

Applicant: Aitic Penteo, SA (Barcelona, Spain) (represented by: J. Carbonell Callicó, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Atos Worldline SA (Brussels, Belgium)

Re:

ACTION brought against the decision of the First Chamber of Appeal of OHIM of 23 September 2010 (Case R 774/2010-1) relating to opposition proceedings between Atos Worldline SA and Aitic Penteo, SA.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Aitic Penteo, SA to pay the costs.*

([1]) OJ C 63, 26.2.2011.

Judgment of the General Court of 22 May 2012 — Kraft Foods Global Brands v OHIM — fenaco (SUISSE PREMIUM)

(Case T-60/11) ([1])

(Community trade mark — Opposition proceedings — Application for Community figurative mark SUISSE PREMIUM — Earlier Community figurative mark Premium — Absolute ground for refusal — No likelihood of confusion — Opposition rejected — Article8(1)(b) of Regulation (EC) No 207/2009)

(2012/C 200/29)

Language of the case: German

Parties

Applicant: Kraft Foods Global Brands LLC (Northfield, Illinois, United States) (represented by: M. de Justo Bailey, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: R. Manea, Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: fenaco Genossenschaft (Bern, Switzerland) (represented by: P. Koch Moreno, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 11 November 2010 (Case R 522/2010-1) concerning opposition proceedings between Kraft Foods Global Brands LLC and fenaco Genossenschaft.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Kraft Foods Global Brands LLC to pay the costs.*

([1]) OJ C 103, 2.4.2011.

Judgment of the General Court of 22 May 2012 — Asa v OHIM — Merck (FEMIFERAL)

(Case T-110/11) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark FEMIFERAL — Earlier national word mark Feminatal and earlier national figurative mark feminatal — Relative ground for refusal — Similarity of the signs — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2012/C 200/30)

Language of the case: Polish

Parties

Applicant: Asa sp. z o.o. (Głubczyce, Poland) (represented by: M. Chimiak, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: D. Walicka, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Merck sp. z o.o. (Warsaw, Poland)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 19 November 2010 (Case R 182/2010-1) relating to opposition proceedings between Merck sp. z o.o. and Asa sp. z o.o.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Asa sp. z o.o. to pay the costs.*

([1]) OJ C 139, 7.5.2011.

Judgment of the General Court of 24 May 2012 — TMS Trademark-Schutzrechtsverwertungsgesellschaft v OHIM — Comercial Jacinto Parera (MAD)

(Case T-152/11) ([1])

(Community trade mark — Revocation proceedings — Community figurative mark MAD — Genuine use of the mark — Article 51(1)(a) of Regulation (EC) No 207/2009 — Form differing in elements which do not alter the distinctive character — Article 15(1)(a) of Regulation No 207/2009)

(2012/C 200/31)

Language of the case: Spanish

Parties

Applicant: TMS Trademark-Schutzrechtsverwertungsgesellschaft mbH (Dusseldorf, Germany) (represented by: B. Hein and M.-H. Hoffmann, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: J. Crespo Carrillo, Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Comercial Jacinto Parera, SA (Barcelona, Spain)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 16 December 2010 (Case R 449/2009-2) concerning cancellation proceedings between TMS Trademark-Schutzrechtsverwertungsgesellschaft mbH and Comercial Jacinto Parera, SA.

Operative part of the judgment

The Court:

1. *Dismisses the action.*

2. *Orders TMS Trademark-Schutzrechtsverwertungsgesellschaft mbH to pay the costs.*

([1]) OJ C 139, 7.5.2011.

Judgment of the General Court of 22 May 2012 — Sport Eybl & Sports Experts v OHIM — Seven (SEVEN SUMMITS)

(Case T-179/11) ([1])

(Community trade mark — Opposition proceedings — Application for Community figurative mark SEVEN SUMMITS — Earlier Community figurative mark Seven — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2012/C 200/32)

Language of the case: English

Parties

Applicant: Sport Eybl & Sports Experts GmbH (Wels, Austria) (represented by: S. Fürst, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Seven SpA (Leinì, Italy) (represented by: D. Sindico, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 17 January 2011 (Case R 364/2010-4), relating to opposition proceedings between Seven SpA and Sport Eybl & Sports Experts GmbH.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Sport Eybl & Sports Experts GmbH to pay its own costs and to bear those incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) and by Seven SpA.*

([1]) OJ C 152, 21.5.2011.

Judgment of the General Court of 22 May 2012 — Vakalis v Commission

(Case T-317/11 P) ([1])

(Appeal — Civil service — Officials — Pensions — Transfer of national pension rights — Calculation of years of pensionable service — General implementing provisions — Obligation to state reasons — Principle of the right to be heard — Equal treatment)

(2012/C 200/33)

Language of the case: French

Parties

Appellant: Ioannis Vakalis (Luvinate, Italy) (represented by: S. Pappas, lawyer)

Other party to the proceedings: European Commission (represented by: D. Martin and J. Baquero Cruz, agents

Re:

Appeal against the judgment of the European Union Civil Service Tribunal (First Chamber) of 13 April 2011, delivered in Case F-38/10 *Vakalis* v *Commission* (not yet published in the ECR), requesting that that judgment be set aside.

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Mr Ioannis Vakalis to bear his own costs and to pay those of the European Commission relating to these proceedings.*

([1]) OJ C 282, 24.9.2011.

Order of the General Court of 24 May 2012 — Fortress Participations v OHIM — FIG and Fortress Investment Group (FORTRESS)

(Case T-314/11) ([1])

(Community trade mark — Invalidity proceedings — Withdrawal of the application for a declaration of invalidity — No need to adjudicate)

(2012/C 200/34)

Language of the case: English

Parties

Applicant: Fortress Participations BV (Rotterdam, Netherlands) (represented, initially, by: L.J. van de Braak, avocat, B. Ladas, Solicitor, and S. Malynicz, Barrister, then, by: L.J. van de Braak, S. Malynicz, R. Black, Solicitor, and V. Baxter, Solicitor)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: V. Melgar, Agent)

Other parties to the proceedings before the Board of Appeal of OHIM intervening before the General Court: FIG LLC (New York, United States); and Fortress Investment Group (UK) Ltd (London, United Kingdom) (represented by: J. Gray and R. Mallinson, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 1 April 2011 (Case R 354/2009-2) relating to invalidity proceedings between FIG LLC and Fortress Investment Group (UK), on the one hand, and Fortress Participations BV, on the other.

Operative part of the order

1. *There is no longer any need to adjudicate on the present action.*

2. *The applicant is ordered to bear its own costs and those incurred by the defendant. The interveners are ordered to bear their own costs.*

([1]) OJ C 238, 13.8.2011.

Order of the General Court of 24 May 2012 — Fortress Participations v OHIM — FIG and Fortress Investment Group (FORTRESS)

(Case T-315/11) ([1])

(Community trade mark — Invalidity proceedings — Withdrawal of the application for a declaration of invalidity — No need to adjudicate)

(2012/C 200/35)

Language of the case: English

Parties

Applicant: Fortress Participations BV (Rotterdam, Netherlands) (represented, initially, by: L.J. van de Braak, avocat, B. Ladas, Solicitor, and S. Malynicz, Barrister, then, by: L.J. van de Braak, S. Malynicz, R. Black, Solicitor, and V. Baxter, Solicitor)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: V. Melgar, Agent)

Other parties to the proceedings before the Board of Appeal of OHIM intervening before the General Court: FIG LLC (New York, United States); and Fortress Investment Group (UK) Ltd (London, United Kingdom) (represented by: J. Gray and R. Mallinson, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 8 March 2011 (Case R 355/2009-2) relating to invalidity proceedings between FIG LLC and Fortress Investment Group (UK), on the one hand, and Fortress Participations BV, on the other.

Operative part of the order

1. *There is no longer any need to adjudicate on the present action.*

2. *The applicant is ordered to bear its own costs and those incurred by the defendant. The interveners are ordered to bear their own costs.*

([1]) OJ C 238, 13.8.2011.

Action brought on 25 April 2012 — European Dynamics Luxembourg and Evropaiki Dinamiki — Proigmena Sistimata Tilepikinonion Pliroforikis kai Tilematikis v European Police Office (Europol)

(Case T-183/12)

(2012/C 200/36)

Language of the case: Greek

Parties

Applicant: European Dynamics Luxembourg SA (Ettelbrück, Luxembourg) and Evropaiki Dinamiki — Proigmena Sistimata Tilepikinonion Pliroforikis kai Tilematikis AE (Athens, Greece) (represented by: V Christianos, lawyer)

Defendant: European Police Office (Europol).

Form of order sought

By this action the applicants claim that the General Court should:

— annul the decision dated 16 February 2012 of the European Police Office (Europol) whereby it awarded to the company Capgemini Nederland BV the framework contract in the open tendering procedure No D/C3/1104;

— order Europol to pay compensation to the applicants for the loss of opportunity which the award to them of framework contract would have brought, which they estimate at EUR 161 887, with interest from the date of delivery of the judgment; and

— order Europol to pay the entirety of the applicants' costs.

Pleas in law and main arguments

The applicants consider that the contested decision should be annulled, under Article 263 TFEU, because Europol altered in the course of the tendering procedure many of the award criteria in relation to the assessment both of the technical and financial offers of the tenderers, blatantly infringing the applicable provisions of the Financial Regulation 1605/2002 ([1]) and the Implementing Rules 2342/2002 ([2]) and settled case-law.

([1]) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities.

([2]) Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities.

Action brought on 26 April 2012 — Moonich Produktkonzepte & Realisierung v OHIM — Thermofilm Australia (HEATSTRIP)

(Case T-184/12)

(2012/C 200/37)

Language in which the application was lodged: German

Parties

Applicant: Moonich Produktkonzepte & Realisierung GmbH (Sauerlach/Lochhofen, Germany) (represented by: H. Pannen, lawyer)

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

Other party to the proceedings before the Board of Appeal: Thermofilm Australia Pty Ltd (Springvale, Australia)

Form of order sought

The applicant claims that the Court should:

— annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 26 January 2012 in Case R 1956/2010-1;

— order OHIM to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: the applicant

Community trade mark concerned: the word mark 'HEATSTRIP' for goods in Classes 9, 11 and 35 — application No 7 296 676

Proprietor of the mark or sign cited in the opposition proceedings: Thermofilm Australia Pty Ltd

Mark or sign cited in opposition: the unregistered word mark 'HEATSTRIP', which is protected in Australia, Canada, the United States of America and the United Kingdom for inter alia heaters

Decision of the Opposition Division: the opposition was rejected

Decision of the Board of Appeal: the appeal was upheld and the application was rejected

Pleas in law: Infringement of Article 8(3) of Regulation No 207/2009 and of Article 75 and the second part of Article 76(1) of that regulation

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Action brought on 26 April 2012 — Verus v OHIM — Maquet (LUCEA LED)

(Case T-186/12)

(2012/C 200/38)

Language in which the application was lodged: German

Parties

Applicant: Verus Eood (Sofia, Bulgaria) (represented by: S. Vykydal, lawyer)

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

Other party to the proceedings before the Board of Appeal: Maquet SAS (Ardon, France)

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 13 February 2012 in Case R 67/2011-4 and refer the case back to the Board of Appeal;

— order the defendant to pay the costs before the Court and the costs of the proceedings before the Board of Appeal.

Pleas in law and main arguments

Applicant for a Community trade mark: Maquet SAS

Community trade mark concerned: the word mark 'LUCEA LED' for goods in Class 10

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

Mark or sign cited in opposition: the word mark 'LUCEO' for goods in Classes 10, 12 and 28

Decision of the Opposition Division: the opposition was upheld

Decision of the Board of Appeal: the appeal was allowed and the opposition was rejected

Pleas in law:

— infringement of Article 8(1) of Regulation No 207/2009,

— infringement of Article 76(2) of Regulation No 207/2009,

— infringement of the second sentence of Article 75 of Regulation No 207/2009,

— infringement of Rule 6(4) of implementing Regulation (EC) 2868/95 in conjunction with decision No EX-05-5 of the President of OHIM,

— infringement of Article 42 of Regulation No 207/2009.

Action brought on 14 May 2012 — Germany v Commission

(Case T-198/12)

(2012/C 200/39)

Language of the case: German

Parties

Applicant: Federal Republic of Germany (represented by: T. Henze and A. Wiedmann)

Defendant: European Commission

Form of order sought

— Annul Commission Decision C(2012) 1348 final of 1 March 2012 on the national provisions notified by the Government of the Federal Republic of Germany maintaining the limit values for lead, barium, arsenic, antimony, mercury and nitrosamines and nitrosable substances in toys beyond the date of application of Directive 2009/48/EC on the safety of toys, notified on 2 March 2012,

  — in so far as the national provisions notified for maintenance of the limit values for antimony, arsenic and mercury are not approved (Article 1(1)); and

  — in so far as the national provisions notified for maintenance of the limit values for lead and barium are approved only until 21 July 2013 (Article 1(2) and (3));

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. Infringement of the Treaties under the second paragraph of Article 263 (third alternative), in conjunction with Article 114 TFEU, in that the time limitation of the approval granted in respect of lead and barium is unlawful

   The applicant submits that, in so far as the Commission's approval of the national provisions notified for maintenance of the limit values for lead and barium was limited in time until 21 July 2013 only, the contested decision infringes the Treaties within the meaning of the third alternative in the second paragraph of Article 263 TFEU in that the time limitation effectively circumvents the system of time-limits and deemed approval under Article 114 TFEU.

2. Infringement of essential procedural requirements under the second paragraph of Article 263 TFEU (second alternative) on account of the infringement of the obligation to state reasons, in accordance with the second paragraph of Article 296 TFEU, for the time limitation of the approval granted in respect of lead and barium

   The applicant submits that the Commission infringed the obligation to state reasons under the second paragraph of Article 296 TFEU, and thus an essential procedural requirement within the meaning of the second alternative in the second paragraph of Article 263 TFEU, in so far as the Commission's approval of the national provisions sought for maintenance of the limit values for lead and barium was limited in time until 21 July 2013 only.

3. Misuse of powers under the second paragraph of Article 263 TFEU (fourth alternative) as a result of the time limitation of the approval granted in respect of lead and barium

4. Infringement of the Treaties under the second paragraph of Article 263 TFEU (third alternative) on account of the disregard of the assessment criterion under Article 114(4) and (6) TFEU as regards antimony, arsenic and mercury

   The applicant submits that, in so far as the Commission took the view that the Federal Government had failed to establish that Directive 2009/48/EC [1] no longer offers an appropriate level of protection or is harmful to health, there has been an infringement of the Treaties under the third alternative in the second paragraph of Article 263 TFEU, in that the Commission disregarded the criterion provided for under Article 114(4) and (6) TFEU for assessment as to whether and to what extent the maintenance of national provisions beyond the adoption of a harmonisation measure should be approved on the grounds of major needs referred to in Article 36 TFEU.

   The applicant takes the view that — in accordance with the judgment of the Court in Case C-3/00 *Denmark* v *Commission* [[2003] ECR I-2643] — the test is whether the applicant Member State has proved that those national provisions ensure a level of health protection which is higher than the Community harmonisation measure and that those provisions do not go beyond what is necessary to attain that objective.

5. Infringement of the Treaties under the second paragraph of Article 263 TFEU (third alternative) on account of the erroneous application in fact and in law of Article 114(4) and (6) TFEU as regards antimony, arsenic and mercury

The applicant submits that, in so far as the Commission took the view that the Federal Government had failed to establish that the national provisions ensure a level of health protection which is higher than Directive 2009/48/EC, the contested decision also infringes Article 114(4) and (6) TFEU and thus the Treaties within the meaning of the third alternative in the second paragraph of Article 263 TFEU, in that the national provisions setting limit values for arsenic, antimony and mercury in connection with toys actually ensure a level of protection for children's health which is higher than Directive 2009/48/EC, do not go beyond what is necessary to attain that objective and, moreover, the Federal Government has proved this to the requisite legal standard within the meaning of the case-law of the Court of Justice.

(1) Directive 2009/48/EC of the European Parliament and of the Council of 18 June 2009 on the safety of toys (OJ 2009 L 170, p. 1).

Action brought on 23 May 2012 — Elitaliana v Eulex Kosovo and Starlite Aviation Operations

(Case T-213/12)

(2012/C 200/40)

Language of the case: Italian

Parties

Applicant: Elitaliana SpA (Rome, Italy) (represented by: R. Colagrande, lawyer)

Defendants: Eulex Kosovo — European Union Rule of Law Mission (Pristina, Republic of Kosovo) and Starlite Aviation Operations (Dublin, Ireland)

Form of order sought

The applicant claims that the Court should:

— Annul the measures adopted by Eulex — the content and date of which are unknown to the applicant — which resulted in the award of the contract in tendering procedure 'EuropeAid/131516/D/SER/XK — Helicopter Support to the EULEX Mission in Kosovo (PROC/272/11)' to the company Starlite Aviation Operations, communicated by Eulex by letter of 29 March 2012 (received on that date by e-mail), and all previous and subsequent measures, whether related or subordinate, in particular, if appropriate, Note 2012-DAS-0392 of 17 April 2012, by which Eulex refused to grant the applicant access to the tendering documents requested on 2 April 2012;

— Order Eulex to pay to the applicant compensation for the loss suffered (in a specific form or commensurate amount) as set out at paragraphs 37 et seq. [of the application];

— Order Eulex to pay the costs.

Pleas in law and main arguments

The present action is brought principally against the measures adopted by Eulex which resulted in the award of the contract in tendering procedure 'EuropeAid/131516/D/SER/XK — Helicopter Support to the EULEX Mission in Kosovo (PROC/272/11)' to the company Starlite Aviation Operations and all previous and subsequent measures, whether related or subordinate. The applicant claims compensation for the resulting loss.

The applicant relies on a single plea in law in support of its claim, alleging infringement and/or misapplication of the Notice published on 18 October 2011, with reference to Articles 46 et seq. of Directive 18/2004/EC; (1) infringement of the general principles of transparency, proportionality and equal treatment, laid down in the '*Practical Guide to contract procedures for EU external actions*' (Prag), to which the tendering procedure was subject; and infringement of the general principle that effective competition should be guaranteed with regard to the standards to be laid down for the service to be procured.

It is submitted in that regard that the contract was awarded to a tenderer that did not posses the technical requirements stipulated in the Notice.

(1) Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.

Order of the General Court of 10 May 2012 — Germany v Commission

(Case T-571/08 RENV) (1)

(2012/C 200/41)

Language of the case: German

The President of the Second Chamber has ordered that the case be removed from the register.

(1) OJ C 55, 7.3.2009.

Order of the General Court of 22 May 2012 — Timab Industries and CFPR v Commission

(Case T-211/11) (1)

(2012/C 200/42)

Language of the case: French

The President of the Sixth Chamber has ordered that the case be removed from the register.

(1) OJ C 179, 18.6.2011.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Action brought on 30 March 2012 — ZZ v EIGE

(Case F-43/12)

(2012/C 200/43)

Language of the case: French

Parties

Applicant: ZZ (represented by: T. Bontinck, S. Woog, lawyers)

Defendant: European Institute for Gender Equality

Subject-matter and description of the proceedings

Annulment of the decision of the EIGE refusing the applicant's request to be paid a management allowance for the period from 1 June 2010 to 30 September 2011.

Form of order sought

— Annul the decision of 12 January 2012 of the Director of the EIGE refusing the applicant's request to be paid a management allowance for the period from 1 June 2010 to 30 September 2011, confirmed, following the applicant's complaint, by the decision of 27 February 2012 of the human resources officer of the EIGE;

— order payment of the management allowance for the period from 1 June 2010 to 30 September 2011, together with interest on account of late payment the amount of which must be calculated at the rate laid down by the European Central Bank for its main refinancing operations, increased by two percentage points, with effect from 30 September 2011;

— order the European Institute for Gender Equality to pay the costs.

Action brought on 10th April 2012 — ZZ v Commission

(Case F-45/12)

(2012/C 200/44)

Language of the case: English

Parties

Applicant: ZZ (represented by: N. Visan, Lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

The annulment of the Commission's decision not to renew the Staff contract of the Applicant.

Form of order sought

— Annul the Decision of 27-28.07.2011 of the EU Delegation to the Republic of Moldova not to renew the employment contract of the applicant and, annul European Commission DG.HR.D.2's Decision dated 16.01.2011 to applicant's Complaint no. Rl687/11 filed under article 90(2).

— Order the European Commission to reintegrate the Applicant in another EU Delegation so that the Applicant maintains the rights obtained during the performance of the employment contract from 2008 to 2011 in the EU Delegation to Moldova [probation period passed; salary step appraisal points accumulated], and ensure that the new post will be compatible with the EPSO/CAST contest profile that the Applicant has passed in 2007.

— Order the Defendant to make a Public acknowledgement of the error made by the EU Delegation to the Republic of Moldova at the moment they offered the 'Charge de Mission Adjoint' post to the Applicant — an error that has led to the impossibility of ensuring article 4-paragraph 2/renewal clause since day-1 of contract, to the under-positioning of the Applicant and the assignment of tasks inferior to the Job of the Applicant's Description from 2008 until 2011;

— Order the Defendant to pay of damages for the moral prejudice caused from 2008 until 2011 by the irregularities mentioned above. Damages are to be calculated on a monthly basis as the salary difference between the Applicant and the Local Agent for the entire 2008-2011 period -the reasoning being that the Delegation (a) had willingly assigned to the Applicant identical tasks as given to the Local Agent despite of very different Job Descriptions, (b) had done its utmost to keep the Applicant from performing tasks/undertaking the correct position according to the Job Description, (c) constantly denied that Applicant's post involved deputing to the Head of the FCA.

— Order the Defendant to pay the damages for the period '10.11.2011 — until the reintegration into another EU Delegation — EU Institution' for the material and non-material losses suffered by the Applicant following the Decision of 27-28.07.2011 of the EU Delegation to the Republic of Moldova not to renew the Applicant's agent contract category 3a). Damages are to be calculated on the basis of the monthly salary of the Applicant for the entire period 10.11.2011- until reintegration into work.

— Order the European Commission to pay for all expenses generated with this trial.

Action brought on 7 May 2012 — ZZ v European Parliament

(Case F-52/12)

(2012/C 200/45)

Language of the case: French

Parties

Applicant: ZZ (represented by: A. Salerno, lawyer)

Defendant: European Parliament

Subject-matter and description of the proceedings

Annulment, first, of the decision fixing the applicant's main place of residence in Luxembourg; and, second, of the decision modifying the applicant's pension entitlements by withdrawing the correction coefficient for France as from 1 January 2010.

Form of order sought

— By way of principal claim:

— Annul the decision fixing the applicant's main place of residence in Luxembourg, and the decision of 28 June 2011 modifying the applicant's pension entitlements by withdrawing the correction coefficient for France as from 1 January 2010;

— Order the Parliament to repay the sums unduly paid;

— Order the Parliament to pay the resulting arrears of pension with default interest calculated from the date the arrears fell due at the rate fixed by the European Central Bank for principal refinancing operations applicable during the period concerned, plus two points;

— In the alternative:

— Annul the contested decisions in so far as they have retroactive effect to 1 January 2010;

— Order the Parliament to pay the resulting arrears of pension with default interest calculated from the date the arrears fell due at the rate fixed by the European Central Bank for principal refinancing operations applicable during the period concerned, plus two points;

— In any event:

— Order the Parliament to pay the costs.

Action brought on 7 May 2012 — ZZ and Others v European Economic and Social Committee

(Case F-53/12)

(2012/C 200/46)

Language of the case: French

Parties

Applicants: ZZ and Others (represented by: M.-A. Lucas, lawyer)

Defendant: European Economic and Social Committee

Subject-matter and description of the proceedings

Partial annulment of the decision of the European Economic and Social Committee to promote the applicants from grade AST 5 to grade AST 6, in the part fixing the multiplication factor.

Form of order sought

— Annul the decisions of 20 July 2011 of the Deputy Secretary General, General Affairs, Human Resources and Internal Affairs, in so far as the multiplication factor resulting from the applicants' promotion to grade AST 6/1 with effect from 1 April 2011 established by those decisions is the one that had been fixed for them on 1 April 2009 and not the one fixed for them on 24 March 2011 with effect from 1 April 2011;

— In the alternative, annul those decisions in so far as the multiplication factor resulting from the applicants' promotion does not take account of their seniority in step acquired between 1 April 2009 and 1 April 2011;

— In the alternative, annul the decisions of 20 July 2011 in so far as they enter into effect as from 1 April 2011 and not on the date immediately following that on which the decisions of 24 March 2011 entered into effect;

— Order the EESC to pay the costs.

Action brought on 22 May 2012 — ZZ and ZZ v European Commission

(Case F-55/12)

(2012/C 200/47)

Language of the case: French

Parties

Applicants: ZZ and ZZ (represented by: D. Abreu Caldas, A. Coolen, J.-N. Louis, E. Marchal and S. Orlandi, lawyers)

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the proposals for transfer of pension entitlements before the entry into service at the Commission, on the calculation basis which takes into account the new general implementing provisions which entered into effect after the applicants' applications for transfer.

Form of order sought

— Annul the decision containing the proposals for transfer of the applicants' pension entitlements in the context of their application under Article 11(2) of Annex VIII to the Staff Regulations, which contains a proposal calculated on the basis of the general implementing provisions adopted on 3 March 2011;

— Order the Commission to pay the costs.

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