ISSN 1977-091X

# Official Journal of the European Union

C 108

English edition

Volume 56

13 April 2013

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*(Notices)*

# NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

# COURT OF JUSTICE OF THE EUROPEAN UNION

(2013/C 108/01)

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

OJ C 101, 6.4.2013

**Past publications**

OJ C 86, 23.3.2013

OJ C 79, 16.3.2013

OJ C 71, 9.3.2013

OJ C 63, 2.3.2013

OJ C 55, 23.2.2013

OJ C 46, 16.2.2013

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 (First Chamber) of 7 February 2013 (request for a preliminary ruling from the Cour de cassation — France) — Refcomp SpA v Axa Corporate Solutions Assurance SA, Axa France IARD, Emerson Network, Climaveneta SpA

**(Case C-543/10)** [1]

***(Judicial cooperation in civil matters — Jurisdiction in civil and commercial matters — Regulation (EC) No 44/2001 — Interpretation of Article 23 — Jurisdiction clause in a contract concluded between the manufacturer and the initial buyer of goods — Contract forming part of a chain of contracts transferring ownership — Whether that clause may be relied on against the sub-buyer of the goods)***

(2013/C 108/02)

*Language of the case: French*

**Referring court**

Cour de cassation

**Parties to the main proceedings**

*Applicant:* Refcomp SpA

*Defendants:* Axa Corporate Solutions Assurance SA, Axa France IARD, Emerson Network, Climaveneta SpA

**Re:**

Request for a preliminary ruling — Cour de cassation — Interpretation of Article 5(1) and 23 of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1) — Special jurisdiction in matters relating to a contract — Dispute between the sub-buyer of goods and the manufacturer — Scope of the jurisdiction clause in a chain of contracts under Community law

**Operative part of the judgment**

*Article 23 of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that a jurisdiction clause agreed in the contract concluded between the manufacturer of goods and the buyer thereof cannot be relied on against a sub-buyer who, in the course of a succession of contracts transferring ownership concluded between parties established in different Member States, purchased the goods and wishes to bring an action for damages against the manufacturer, unless it is established that that third party has actually consented to that clause under the conditions laid down in that article.*

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[1] OJ C 46, 12.2.2011.

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## Judgment of the Court (Ninth Chamber) of 7 February 2013 — European Commission v Kingdom of Belgium

**(Case C-122/11)** [1]

***(Failure of a Member State to fulfil obligations — Regulation (EC) No 883/2004 — Coordination of social security systems — National rules precluding the indexation, during the period until 1 August 2004, of pensions of nationals of a Member State which has not concluded a reciprocal agreement or who do not satisfy the condition of residence in the European Union — Residence in a non-member State — Breach of the principle of non-discrimination on grounds of nationality — Inadmissible)***

(2013/C 108/03)

*Language of the case: French*

**Parties**

*Applicant:* European Commission (represented by: V. Kreushitz and G. Rozet, acting as Agents)

*Defendant:* Kingdom of Belgium (represented by: L. Van den Broeck and C. Pochet, acting as Agents)

*Intervener in support of the defendant: Hellenic Republic* (represented by: E.-M Mamouna, acting as Agent)

**Re:**

Failure of a Member State to fulfil obligations — Infringement of Articles 4 and 7 of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ 2004 L 166, p. 1) and Articles 18 and 45 TFEU — National rules precluding

the indexation, for the period until 1 August 2004, of pensions of nationals of a Member State which had not concluded a reciprocal agreement or who do not satisfy the condition of residence in the European Union — Residence in a non-member State — Infringement of the principle of non-discrimination on grounds of nationality — Lack of justification)

**Operative part of the judgment**

*The Court:*

1. *Dismisses the action as inadmissible.*

2. *Orders the European Commission to pay the costs.*

3. *Orders the Hellenic Republic to bear its own costs.*

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([1]) OJ C 160, 28.5.2011

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**Judgment of the Court (Third Chamber) of 7 February 2013 (request for a preliminary ruling from the Augstākās Tiesas Senāts — Latvia) — Gunārs Pusts v Lauku atbalsta dienests**

**(Case C-454/11)** ([1])

***(Agriculture — EAGGF — Regulations (EC) No 1257/1999 and No 817/2004 — Support for rural development — Recovery of undue payments — National rules making the grant of agri-environmental aid subject to an annual application accompanied by specific documents — Beneficiary who has complied with his obligations regarding use of the area concerned but who has not submitted an application in accordance with those rules — Withdrawal of the aid, without consulting the beneficiary, in the event of failure by the latter to comply with the provisions applicable to the submission of an application for agri-environmental aid)***

(2013/C 108/04)

*Language of the case: Latvian*

**Referring court**

Augstākās Tiesas Senāts

**Parties to the main proceedings**

*Appellant:* Gunārs Pusts

*Respondent:* Lauku atbalsta dienests

**Re:**

Request for a preliminary ruling — Augstākās tiesas Senāts — 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 Council Regulation (EC) No 1257/1999 (OJ 2004 L 153, p. 30) — Agri-environmental aid and area aid — Recovery of undue payments — National rule making the grant of area aid subject to an annual application accompanied by specific documents — Beneficiary who has fulfilled his obligations regarding use of the area concerned but has submitted incomplete applications — Withdrawal of aid, without consulting the beneficiary, in the event of failure by the latter to observe provisions applicable to the submission of an application

**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, as amended by Council Regulation (EC) No 1783/2003 of 29 September 2003, Commission Regulation (EC) No 817/2004 of 29 April 2004 laying down detailed rules for the application of Council Regulation (EC) No 1257/1999, and Commission Regulation (EC) No 796/2004 of 21 April 2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers must be interpreted as not precluding national rules according to which the beneficiary of aid granted in return for his agri-environmental commitments covering several years is required to repay all of the aid already received in respect of previous years on the ground that he did not submit an annual application in accordance with the applicable national provisions, where that beneficiary claims that he continued to fulfil his obligations regarding the use of the areas concerned, he was not given the opportunity to be heard by the competent authority, but it is no longer possible to carry out an on-the-spot check of the areas concerned because the year at issue has elapsed.*

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([1]) OJ C 331, 12.11.2011.

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**Judgment of the Court (Fourth Chamber) of 7 February 2013 — European Commission v Hellenic Republic**

**(Case C-517/11)** ([1])

***(Failure of a Member State to fulfil obligations — Directive 92/43/EEC — Conservation of natural habitats — Article 6(2) — Deterioration and pollution of Lake Koroneia — Protection — Inadequacy of the measures taken — Directive 91/271/EEC — Urban waste-water treatment — Articles 3 and 4(1) and (3) — Agglomeration of Langada — System for the collection and treatment of urban waste-water — 'Absence')***

(2013/C 108/05)

*Language of the case: Greek*

**Parties**

*Applicant:* European Commission (represented by: M. Patakia, S. Petrova, B.D. Simon and L. Banciella, acting as Agents)

*Defendant:* Hellenic Republic (represented by: E. Skandalou, acting as Agent)

**Re:**

Failure of a Member State to fulfil obligations — Breach of Article 6(2) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992 L 206, p. 7) — Breach of Articles 3 and 4(1) and (3) of Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment (OJ 1991 L 135, p. 40) — Failure to take the required steps to avoid the deterioration and pollution of Lake Koroneia (Prefecture of Thessalonika) — Failure to set up a system for the collection and treatment of urban waste water for the agglomeration of Langada

**Operative part of the judgment**

1. *By not having taken all the required steps to avoid the deterioration of the natural habitats and the habitats of species for which the special area of conservation GR 1220009 was designated and by not having set up a system for the collection and treatment of urban waste water for the agglomeration of Langada, the Hellenic Republic has failed to fulfil its obligations under Article 6(2) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, read in conjunction with Article 7 of that Directive, as well as its obligations under Articles 3 and 4(1) and (3) of Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment.*

2. *The Hellenic Republic is ordered to pay the costs.*

(1) OJ C 362, 10.12.2011.

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## Order of the Court (Fifth Chamber) of 8 November 2012 (request for a preliminary ruling from the Krajský súd v Prešove — Slovakia) — SKP k.s. v Kveta Polhošová

**(Case C-433/11)** (1)

***(Request for a preliminary ruling — Lack of adequate information on the factual and legal context of the dispute in the main proceedings — Questions submitted in a context which precludes any useful answer — Lack of information on the reasons justifying the need for a reply to the questions referred — Manifest inadmissibility)***

(2013/C 108/06)

*Language of the case: Slovak*

**Referring court**

Krajský súd v Prešove

**Parties to the main proceedings**

*Applicant:* SKP k.s.

*Defendant:* Kveta Polhošová

**Re:**

Reference for a preliminary ruling — Krajský súd v Prešove — Interpretation of Articles 5 to 9 of Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ 2005 L 149, p. 22), Articles 6(1) and 7(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29), and Article 47 of the Charter of Fundamental Rights of the European Union — Concept of unfair commercial practice — Contract for the sale of goods by hire purchase concluded with a consumer and containing an unfair term — Assignment by the undertaking of the claim under the contract to a bankrupt company, making it impossible for the consumer to recover the costs of legal proceedings if she wins the case

**Operative part of the order**

*The request for a preliminary ruling submitted by the Krajský súd v Prešove (Slovakia), by decision of 10 August 2011, is manifestly inadmissible.*

(1) OJ C 340, 19.11.2011.

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## Order of the Court of 13 December 2012 — Alliance One International Inc. v European Commission

**(Case C-593/11 P)** (1)

***(Appeal — Competition — Agreements, decisions or concerted practices — Italian market for the purchase and first processing of raw tobacco — Price-fixing and market-sharing — Attributability of unlawful conduct of subsidiaries to their parent companies — Presumption of innocence — Rights of defence — Obligation to state reasons)***

(2013/C 108/07)

*Language of the case: English*

**Parties**

*Appellant:* Alliance One International Inc. (represented by: G. Mastrantonio, avvocato)

*Other party to the proceedings:* European Commission (represented by: E. Gippini Fournier, Agent)

**Re:**

Appeal brought against the judgment of the General Court (Third Chamber) of 9 September 2011 in Case T-25/06 *Alliance One International* v *Commission* dismissing an action for annulment in part of Commission Decision 2006/901/EC of 20 October 2005 relating to a proceeding under Article 81(1) of the EC Treaty (Case COMP/C.38.281/B.2 — Raw tobacco — Italy) (notified under document number C(2005) 4012) (OJ 2006 L 353, p. 45) concerning a cartel designed to fix prices paid to producers and other intermediaries and to share suppliers in the Italian raw tobacco market, and reduction of the fine imposed on the appellant.

**Operative part of the order**

1. *The appeal is dismissed.*

2. *Alliance One International Inc. shall pay the costs.*

---

([1]) OJ C 25, 28.1.2012.

---

**Order of the Court (Sixth Chamber) of 21 November 2012 (request for a preliminary ruling from the Juridiction de Proximité, Chartres — France) — Hervé Fontaine v Mutuelle Générale de l'Éducation Nationale**

**(Case C-603/11)** ([1])

***(Competition — Articles 101 TFEU and 102 TFEU — Supplementary health insurance — Mutual companies entering into state health service agreements with the practitioners of their choice — Difference in treatment — Manifest inadmissibility)***

(2013/C 108/08)

*Language of the case: French*

**Referring court**

Juridiction de Proximité, Chartres

**Parties to the main proceedings**

*Applicant:* Hervé Fontaine

*Defendant:* Mutuelle Générale de l'Éducation Nationale

**Re:**

Reference for a preliminary ruling — Juridiction de Proximité, Chartres — Interpretation of Articles 101 and 102 TFEU — Competition — National legislation prohibiting mutual companies providing supplementary health insurance from varying their benefits according to the conditions for issuing certificates and the services provided — Prohibition on the mutual companies entering into state health service agreements with practitioners of their choice — Difference of treatment in relation to other health insurance companies and institutions governed by the Code des Assurances or the Code de la Sécurité Sociale — Restrictions

**Operative part of the order**

*The reference for a preliminary ruling submitted by the Juge de proximité, Chartres, by decision of 17 November 2011, is manifestly inadmissible.*

---

([1]) OJ C 39, 11.2.2012.

---

**Order of the Court (Ninth Chamber) of 27 November 2012 (request for a preliminary ruling from the Inalta Curte de Casație și Justiție (Romania)) — SC 'AUGUSTUS' Iași SRL v Agenția de Plăți pentru Dezvoltare Rurală și Pescuit**

**(Case C-627/11)** ([1])

***(Request for a preliminary ruling — Manifest inadmissibility)***

(2013/C 108/09)

*Language of the case: Romanian*

**Referring court**

Inalta Curte de Casație și Justiție

**Parties to the main proceedings**

*Applicant:* SC 'AUGUSTUS' Iași SRL

*Defendant:* Agenția de Plăți pentru Dezvoltare Rurală și Pescuit

**Re:**

Request for a preliminary ruling — Inalta Curte de Casație și Justiție — Interpretation of Council Regulation (EC) No 1268/1999 of 21 June 1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern Europe in the pre-accession period (OJ 1999 L 161, p. 87) and Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds (OJ 1999 L 161, p. 1) — Cancellation and recovery, in the event of improper conduct, of Community funding granted under the SAPARD programme — Eligibility of expenditure — Cases of force majeure — Justification — Notions of 'economic efficiency' and 'profitability'

**Operative part of the order**

*The reference for a preliminary ruling made by the Inalta Curte de Casație și Justiție — Secția de contencios administrativ și fiscal (Romania), by decision of 3 November 2011, is manifestly inadmissible.*

---

([1]) OJ C 65, 3.3.2012.

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**Order of the Court of 29 November 2012 — Dimos Peramatos v European Commission**

**(Case C-647/11 P)** ([1])

***(Appeal — Funding granted to a project in the environmental field — 'LIFE' — Decision for partial recovery of the amount paid — Determination of the obligations on the recipient — Legitimate expectations — Obligation to state reasons — Errors of law)***

(2013/C 108/10)

*Language of the case: Greek*

**Parties**

*Appellant:* Dimos Peramatos (represented by: G. Gerapetritis, Δικηγόρος)

*Other party to the proceedings:* European Commission (represented by: M. Condou-Durande and A.-M. Rouchaud-Joët, Agents, assisted by A. Somou, Δικηγόρος)

**Re:**

Appeal brought against the judgment of the General Court (First Chamber) of 12 October 2011 in Case T-312/07 *Dimos Peramatos* v *Commission* dismissing an action for annulment of the Commission decision of 7 December 2005, served on the appellant by bailiff on 17 May 2007, seeking recovery of sums paid in implementation of Commission Decision C/1997/29 final of 17 July 1997 relating to a project falling within the framework of a reforestation programme or, in the alternative, for amendment of the contested decision

**Operative part of the order**

1. *The appeal is dismissed.*

2. *The Dimos Peramatos is ordered to pay the costs.*

---

([1]) OJ C 49, 18.2.2012.

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**Order of the Court of 10 January 2013 (request for a preliminary ruling from the Augstākās tiesas Senāts) — Ilgvars Brunovskis v Lauku atbalsta dienests**

**(Case C-650/11)** ([1])

***(Common agricultural policy — Regulation (EC) No 1782/2003 — Implementation of support schemes in the new Member States — Complementary national direct payments — Conditions for grant — Regulation (EC) No 1973/2004 — Inapplicable)***

(2013/C 108/11)

*Language of the case: Latvian*

**Referring court**

Augstākās tiesas Senāts

**Parties to the main proceedings**

*Applicant:* Ilgvars Brunovskis

*Defendant:* Lauku atbalsta dienests

**Re:**

Request for a preliminary ruling — Augstākās tiesas Senāts — Interpretation of Article 125(1) of Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 (OJ 2003 L 270, p. 1) and Article 102(2) of Commission Regulation (EC) No 1973/2004 of 29 October 2004 laying down detailed rules for the application of Council Regulation (EC) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials (OJ 2003 L 345, p. 1) — Suckler cow premium — National rules providing for the grant of the premium by full calendar year only for suckler cows and heffers registered as eligible for the premium by 1 July at the latest in the relevant calendar year — Whether or not all suckler cows taken into consideration in the calendar year concerned

**Operative part of the order**

*European Union law and, in particular, Article 143(c) of Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers*

*and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 must be interpreted as meaning that they do not preclude national rules, such as those at issue in the main proceedings, governing certain complementary national direct payments linked to the presence of suckler cows in a herd and making the grant of those payments conditional on a declaration made before 1 July of the year concerned, even though cows which become suckler cows after that date cannot be taken into account.*

---

([1]) OJ C 49, 18.2.2012.

---

**Order of the Court of 6 December 2012 — GS Gesellschaft für Umwelt- und Energie-Serviceleistungen mbH v European Parliament, Council of the European Union**

**(Case C-682/11 P)** ([1])

***(Appeal — Regulation (EU) No 1210/2010 — Authentication of euro coins — Handling of euro coins unfit for circulation — Article 8(2) — Right of Member States to refuse to reimburse euro coins unfit for circulation — Action for annulment — Admissibility — Person directly concerned)***

(2013/C 108/12)

*Language of the case: German*

**Parties**

*Appellant:* GS Gesellschaft für Umwelt- und Energie-Serviceleistungen mbH (represented by: J. Schmidt, Rechtsanwalt)

*Other parties to the proceedings:* European Parliament (represented by: U. Rösslein and A. Neergaard, agents), Council of the European Union (represented by: J. Monteiro and M. Simm, agents)

**Re:**

Appeal against order of the General Court (Sixth Chamber) of 12 October 2011 in Case T-149/11 *GS* v *Parliament and Council*, by which the General Court dismissed as inadmissible the appellant's action seeking annulment of the second sentence of Article 8(2) of Regulation (EU) No 1210/2010 of the European Parliament and of the Council of 15 December 2010 concerning authentication of euro coins and handling of euro coins unfit for circulation (OJ 2010 L 339, p. 1) — Acts of direct and individual concern to natural or legal persons — Condition of direct concern

**Operative part of the order**

1. *The appeal is dismissed.*

2. *GS Gesellschaft für Umwelt- und Energie-Serviceleistungen mbH is ordered to pay the costs.*

---

([1]) OJ C 65, 3.3.2012.

---

**Order of the Court (Tenth Chamber) of 17 January 2013 — Abbott Laboratories v Office for Harmonisation in the Internal Market (Trade Marks and Designs)**

**(Case C-21/12 P)** ([1])

***(Appeal — Community trade mark — Word mark 'RESTORE' — Refusal to register — Absolute grounds for refusal — Descriptive character — Lack of distinctiveness — Right to be heard — Regulation (EC) No 207/2009 — Articles 7 (1(b) and (c) and 75, second sentence — Equal treatment)***

(2013/C 108/13)

*Language of the case: German*

**Parties**

*Appellant:* Abbott Laboratories (represented by: R. Niebel, Rechtsanwalt)

*Other party to the proceedings:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: D. Walicka, agent)

**Re:**

Appeal brought against the judgment of the General Court (Sixth Chamber) of 15 November 2011 in Case T-363/10 *Abbott Laboratories* v *OHIM*, by which the General Court dismissed the appellant's action against the decision of the First Board of Appeal of OHIM of 9 June 2010 (Case R 1560/2009-1), concerning an application for registration of the word mark RESTORE as a Community trade mark — Infringement of Article 7(1)(b) and (c) and of Article 75 of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1) — Distinctiveness of the word mark RESTORE

**Operative part of the order**

1. *The appeal is dismissed.*

2. *Abbott Laboratories is ordered to pay the costs.*

---

([1]) OJ C 98, 31.3.2012.

**Order of the Court (Sixth Chamber) of 21 February 2013 — Saupiquet SAS v European Commission**

**(Case C-37/12 P)** ([1])

***(Appeal — Common customs tariff — Tariff quota — Sunday closure of customs offices — Infringement of the principle of equal treatment — Accountability)***

(2013/C 108/14)

*Language of the case: French*

**Parties**

*Appellant:* Saupiquet SAS (represented by: R. Ledru, avocat)

*Other party to the proceedings:* European Commission (represented by: B.-R. Killmann and L. Keppenne, Agents)

**Re:**

Appeal against the judgment of the General Court (Fifth Chamber) of 24 November 2011 in Case T-131/10 *Saupiquet* v *Commission* by which the General Court dismissed an application for annulment of Commission Decision C(2009) 10005 final of 16 December 2009, holding that refunding import duties on canned tuna fish originating in Thailand to the appellant is not justified — Closure of customs offices on Sundays in certain Member States — Infringement of the principle of equal treatment — Incorrect interpretation

**Operative part of the order**

1. *The appeal is dismissed.*

2. *Saupiquet SAS is ordered to pay the costs.*

([1]) OJ C 89, 24.3.2012.

---

**Order of the Court of 29 November 2012 — Václav Hrbek v Office for Harmonisation in the Internal Market (Trade Marks and Designs), Blacks Outdoor Retail Ltd, formerly The Outdoor Group Ltd**

**(Case C-42/12 P)** ([1])

***(Appeals — Community trade mark — Regulation (EC) No 207/2009 — Article 8(1)(b) — Relative ground for refusal — Likelihood of confusion — Figurative mark — Opposition by the proprietor of an earlier trade mark — Appeal clearly inadmissible and clearly unfounded)***

(2013/C 108/15)

*Language of the case: English*

**Parties**

*Appellant:* Václav Hrbek (represented by: M. Sabatier, avocat)

*Other parties to the proceedings:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (represented by: A. Folliard-Monguiral, acting as Agent), Blacks Outdoor Retail Ltd, formerly The Outdoor Group Ltd (represented by: M.S. Malynicz, Barrister)

**Re:**

Appeal brought against the judgment of the General Court (Sixth Chamber) of 15 November 2011 in Case T-434/10 *Hrbek* v *OHIM — Outdoor Group (ALPINE PRO SPORTSWEAR & EQUIPMENT)*, by which the General Court of the European Union dismissed the action brought by the appellant against Decision R 1441/2009-2 of the Second Board of Appeal of OHIM of 8 July 2010, rejecting the action brought against the decision of the opposition division partially refusing registration of the figurative mark comprising the word elements 'ALPINE PRO SPORTSWEAR & EQUIPMENT' for goods in Classes 18, 24, 25 and 28 in the context of the opposition made by the holder of the Community figurative mark comprising the word element 'alpine' for goods in Classes 18 and 25 — Interpretation and application of Article 8(1)(b) of Regulation No 207/2009 — Likelihood of confusion

**Operative part of the order**

1. *The appeal is dismissed.*

2. *Mr Václav Hrbek is ordered to pay the costs.*

([1]) OJ C 98, 31.3.2012.

---

**Order of the Court (Eighth Chamber) of 7 February 2013 (request for a preliminary ruling from the Audiencia Provincial de Burgos — Spain) — La Retoucherie de Manuela S. L. v La Retoucherie de Burgos S. C.**

**(Case C-117/12)** ([1])

***(Article 99 of the Rules of Procedure — Competition — Agreements between undertakings — Article 81 EC — Block exemption for vertical agreements — Regulation (EC) No 2790/1999 — Article 5(b) — Non-compete obligation imposed on the buyer upon expiry of a franchise agreement — Premises and land from which the buyer has operated during the contract period)***

(2013/C 108/16)

*Language of the case: Spanish*

**Referring court**

Audiencia Provincial de Burgos

**Parties to the main proceedings**

*Applicant:* La Retoucherie de Manuela S. L.

*Defendant:* La Retoucherie de Burgos S. C.

**Re:**

Request for a preliminary ruling — Audiencia Provincial de Burgos — Interpretation of Article 5(b) of Commission Regulation (EC) No 2790/1999 of 22 December 1999 on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices (OJ 1999 L 336, p. 21) — Block exemption — Distortions of competition not exempt — Conditions imposed on the buyer upon expiry of the franchise agreement — Concept of 'premises and land from which the buyer has operated during the contract period'

**Operative part of the order**

*Article 5(b) of Commission Regulation (EC) No 2790/1999 of 22 December 1999 on the application of Article 81(3) [EC] to categories of vertical agreements and concerted practices, must be interpreted as meaning that the words 'premises and land from which the buyer has operated during the contract period' refers only to the place from which the contract goods or services are offered for sale and not to the whole of the territory in which those goods or services may be sold under a franchise agreement.*

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([1]) OJ C 151, 26.5.2012.

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## Order of the Court of 24 January 2013 — Enviro Tech Europe Ltd v European Commission, Enviro Tech International Inc.

**(Case C-118/12 P)** ([1])

***(Appeal — Directives 67/548/EEC and 2004/73/EC — Classification, packaging and labelling of dangerous substances — Classification of n-propyl-bromide)***

(2013/C 108/17)

*Language of the case: English*

**Parties**

*Appellant:* Enviro Tech Europe Ltd (represented by: C. Mereu and K. Van Maldegem, avocats)

*Other parties to the proceedings:* European Commission (represented by: P. Oliver and E. Manhaeve, Agents), Enviro Tech International Inc.

**Re:**

Appeal brought against the judgment of the General Court (First Chamber) of 16 December 2011 in Case T-291/04 *Enviro Tech Europe Ltd and Enviro Tech International, Inc.* v *European Commission* by which the General Court dismissed an action for (i) annulment in part of Commission Directive 2004/73/EC of 29 April 2004 adapting to technical progress for the twenty-ninth time Council Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ 2004 L 152, p. 1), in so far as it classifies n-propyl-bromide as a 'highly flammable' substance, and for (ii) damages for the loss which the applicants claim they had sustained — Legal interest in bringing proceedings — Lack of individual concern

**Operative part of the order**

1. *The appeal is dismissed.*

2. *Enviro Tech Europe Ltd is ordered to pay the costs.*

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([1]) OJ C 227, 28.7.2012.

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## Order of the Court of 15 November 2012 — Neubrandenburger Wohnungsgesellschaft mbH v European Commission, Bavaria Immobilien Beteiligungsgesellschaft mbH & Co. Objekte Neubrandenburg KG, Bavaria Immobilien Trading GmbH & Co. Immobilien Leasing Objekt Neubrandenburg KG

**(Case C-145/12 P)** ([1])

***(Appeals — State aid — Legal interest in bringing proceedings — Opening of the formal investigation procedure — No need to adjudicate)***

(2013/C 108/18)

*Language of the case: German*

**Parties**

*Appellant:* Neubrandenburger Wohnungsgesellschaft mbH (represented by: M. Núñez-Müller, Rechtsanwalt, and J. Dammann de Chapto, Rechtsanwältin)

*Other parties to the proceedings:* European Commission (represented by: B. Martenczuk and T. Maxian Rusche, acting as Agents), Bavaria Immobilien Beteiligungsgesellschaft mbH & Co. Objekte Neubrandenburg KG, Bavaria Immobilien Trading GmbH & Co. Immobilien Leasing Objekt Neubrandenburg KG (represented by: C. von Donat, Rechtsanwalt)

**Re:**

Appeal brought against the order of the General Court (Fifth Chamber) of 9 January 2012 in Case T-407/09 *Neubrandenburger Wohnungsgesellschaft* v *Commission*, by which the General Court dismissed as inadmissible the applicant's action seeking, firstly, annulment of the Commission's alleged decision contained in the letter of 29 July 2009 declaring that certain contracts concluded by the applicant concerning the sale of dwellings as part of the privatisation of public dwellings in Neubrandenburg do not come within the scope of Article 87(1) EC and, secondly, judgment establishing the Commission's failure to act for the purposes of Article 232 EC in that the Commission failed to state its position on those contracts on the basis of Article 4 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article [88 EC] (OJ 1999 L 83, p. 1) — Infringement of Articles 263(4) and 265 TFEU and the right to an effective judicial remedy — Insufficient statement of reasons by the General Court

**Operative part of the order**

1. *There is no need to adjudicate on the appeal.*

2. *Neubrandenburger Wohnungsgesellschaft mbH, la Commission européenne, Bavaria Immobilien Beteiligungsgesellschaft mbH & Co. Objekte Neubrandenburg KG et Bavaria Immobilien Trading GmbH & Co. Immobilien Leasing Objekt Neubrandenburg KG shall each bear their own costs relating to the present appeal proceedings.*

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([1]) OJ C 138, 12.5.2012.

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**Order of the Court (Ninth Chamber) of 21 February 2013 (request for a preliminary ruling from the Tribunal de première instance de Bruxelles (Belgium) — Isera & Scaldis Sugar SA, Philippe Bedoret and Co SPRL, Jean Rigot, Mathieu Vrancken v Bureau d'intervention et de restitution belge (BIRB)**

**(Case C-154/12)** ([1])

***(Article 99 of the Rules of Procedure — Agriculture — Common organisation of markets — Sugar — Regulation (EC) No 318/2006 — Article 16 — Regulation (EC) No 1234/2007 — Article 51 — Imposition of a charge on production — Validity — Lack of legal basis — Failure to state clear and unequivocal reasons — Infringement of the principle of non-discrimination — Infringement of the principle of proportionality)***

(2013/C 108/19)

*Language of the case: French*

**Referring court**

Tribunal de première instance de Bruxelles

**Parties to the main proceedings**

*Applicants:* Isera & Scaldis Sugar SA, Philippe Bedoret and Co SPRL, Jean Rigot, Mathieu Vrancken

*Defendant:* Bureau d'intervention et de restitution belge (BIRB)

*Other parties to proceedings*: Joseph Cockx and Others.

**Re:**

Request for a preliminary ruling — Tribunal de première instance de Bruxelles — Validity of Article 16 of Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector (OJ 2006 L 58, p. 1) — Interpretation of Articles 37(2) EC and 253 EC — Imposition of a charge on production in the 'beet sugar' sector — Lack of legal basis — Failure to state clear and unequivocal reasons — Discrimination as compared with other industries and as compared with other agricultural and non-agricultural sectors — Infringement of the principle of proportionality

**Operative part of the order**

*Consideration of the question referred for a preliminary ruling has disclosed nothing capable of affecting the validity of Article 16 of Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector and Article 51 of Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).*

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([1]) OJ C 174, 16.6.2012.

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**Order of the Court of 17 January 2013 — Verenigde Douaneagenten BVv European Commission**

**(Case C-173/12 P)** ([1])

***(Appeal — Article 220(2) of the Customs Code — Post-clearance recovery of import duties — Incorrect presentation of the facts — Import of raw cane sugar)***

(2013/C 108/20)

*Language of the case: Dutch*

**Parties**

*Appellant:* Verenigde Douaneagenten BV (represented by: S. Moolenaar, advocaat)

*Other party to the proceedings:* European Commission (represented by: B. Burggraaf and L. Keppenne, Agents)

**Re:**

Appeal against the judgment of the General Court (Seventh Chamber) of 10 February 2012 in Case T-32/11 *Verenigde Douaneagenten* v *Commission*, by which the General Court dismissed in part the application for annulment of Commission Decision C(2010) 6754 final of 1 October 2010 finding that there should be post clearance recovery of import duties and that remission of those duties is not justified in a particular case (REC 02/09)

**Operative part of the order**

1. *The appeal is dismissed.*

2. *Verenigde Douaneagenten BV are ordered to pay costs.*

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([1]) OJ C 184, 23.6.2012.

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**Order of the Court (Sixth Chamber) of 21 February 2013 (request for a preliminary ruling from the Juzgado de lo Social de Benidorm — Spain) — Concepción Maestre García v Centros Comerciales Carrefour SA**

**(Case C-194/12)** ([1])

***(Article 99 of the Rules of Procedure — Directive 2003/88/EC — Organisation of working time — Entitlement to paid annual leave — Annual leave scheduled by the undertaking coinciding with sick leave — Entitlement to take annual leave at another time — Allowance in lieu of annual leave not taken)***

(2013/C 108/21)

*Language of the case: Spanish*

**Referring court**

Juzgado de lo Social de Benidorm

**Parties to the main proceedings**

*Applicant:* Concepción Maestre García

*Defendant:* Centros Comerciales Carrefour SA

**Re:**

Request for a preliminary ruling — Juzgado de lo Social de Benidorm — Interpretation of Article 7(1) of Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ 2003 L 299, p. 9) — Entitlement to paid annual leave — Worker on sick leave during the annual leave period fixed by the company — Entitlement of the worker to take leave at another time.

**Operative part of the order**

1. *Article 7(1) of Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time must be interpreted as precluding an interpretation of the national legislation according to which a worker who is on sick leave during a period of annual leave scheduled unilaterally in the annual leave planning schedule of the undertaking which employs him does not have the right, following the end of his sick leave, to take his annual leave at a time other than that originally scheduled, if necessary outside the corresponding reference period, for reasons connected with production or organisation of the undertaking.*

2. *Article 7 of Directive 2003/88 must be interpreted as precluding an interpretation of the national legislation that permits, while the contract of employment is in force, the payment of an allowance in lieu of the period of annual leave which the worker was not able to take as a result of work incapacity.*

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([1]) OJ C 227, 28.7.2012.

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**Appeal brought on 7 June 2012 by Petrus Kerstens against the order of the General Court (Appeal Chamber) delivered on 23 March 2012 in Case T-498/09 P-DEP Petrus Kerstens v European Commission**

**(Case C-304/12 P)**

(2013/C 108/22)

*Language of the case: French*

**Parties**

*Appellant:* Petrus Kerstens (represented by: C. Mourato, avocat)

*Other party to the proceedings:* European Commission

By order of 7 February 2013 the Court (Seventh Chamber) dismissed the appeal and ordered Mr Kerstens to bear his own costs.

**Order of the Court (Sixth Chamber) of 21 February 2013 (request for a preliminary ruling from the Labour Court, Huy — Belgium) — Agim Ajdini v Belgian State**

**(Case C-312/12)** [1]

***(Rules of Procedure — Articles 53(2), 93(a) and 99 — Request for a preliminary ruling — Examination of the conformity of a national provision with both European Union law and the national constitution — National legislation granting priority to an interlocutory procedure for the review of constitutionality — Charter of Fundamental Rights of the European Union — Failure to implement European Union law — Clear absence of jurisdiction of the Court)***

(2013/C 108/23)

*Language of the case: French*

**Referring court**

Labour Court, Huy

**Parties to the main proceedings**

*Applicant:* Agim Ajdini

*Defendant:* Belgian State

**Re:**

Request for a preliminary ruling — Labour Court, Huy — Interpretation of Articles 20, 21 and 26 of the Charter of Fundamental Rights of the European Union and of Article 234 EC — Fundamental rights — Principle of non-discrimination — Serbian national with a disability — Admissibility of national legislation excluding certain persons from entitlement to disability benefits on grounds of nationality — National of a third country which is an official candidate for accession to the European Union — Power of a national court to refer a matter to the Court of Justice — Admissibility of national legislation requiring the national court to bring a matter to the Constitutional Court at the outset

**Operative part of the order**

*It is clear that the Court of Justice of the European Union has no jurisdiction to answer the questions referred for a preliminary ruling by the Labour Court, Huy (Belgium).*

[1] OJ C 287, 22.9.2012.

**Order of the Court of 15 November 2012 (request for a preliminary ruling from the Curtea de Apel, Brașov — Romania) — Corpul Național al Polițiștilor — Biroul Executiv Central, reprezentant al reclamanților Chițea Constantin și alții v Ministerul Administrației și Internelor, Inspectoratul General al Poliției Române, Inspectoratul de Poliție al Județului Brașov**

**(Case C-369/12)** [1]

***(Request for a preliminary ruling — Charter of Fundamental Rights of the European Union — Validity of national legislation imposing salary reductions on a number of categories of civil servants — Failure to implement European Union law — Clear lack of jurisdiction of the Court of Justice)***

(2013/C 108/24)

*Language of the case: Romanian*

**Referring court**

Curtea de Apel Brașov

**Parties to the main proceedings**

*Applicant:* Corpul Național al Polițiștilor — Biroul Executiv Central

*Defendant:* Ministerul Administrației și Internelor, Inspectoratul General al Poliției Române, Inspectoratul de Poliție al Județului Brașov

**Re:**

Request for a preliminary ruling — Curtea de Apel, Brașov — Interpretation of Articles 17(1), 20, 21(1) and 51(1) of the Charter of Fundamental Rights of the European Union — Admissibility of national legislation imposing salary reductions on a number of categories of civil servants — Infringement of the principles of equal treatment and non-discrimination and of the right of property

**Operative part of the order**

*The Court of Justice of the European Union clearly has no jurisdiction with regard to the request for a preliminary ruling from the Curtea de Apel, Brașov (Romania), made by decision of 27 June 2012.*

[1] OJ C 343, 10.11.2012.

**Action brought on 19 October 2012 — Christophe Gassiat v Ordre des avocats de Paris**

**(Case C-467/12)**

(2013/C 108/25)

*Language of the case: French*

**Parties**

*Applicant:* Christophe Gassiat

*Defendant:* Ordre des avocats de Paris

By order of 21 February 2013, the Court (Seventh Chamber) declared that it clearly has no jurisdiction to rule on the present action. Consequently the action is declared inadmissible. The Court ordered Mr Christophe Gassiat to bear his own costs.

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**Order of the Court (Tenth Chamber) of 7 February 2013 (request for a preliminary ruling from the Tribunale di Tivoli — Italy) — Antonella Pedone v N**

**(Case C-498/12)** [1]

***(Preliminary references — Charter of Fundamental Rights of the European Union — Requirement of link with European Union law — Clear lack of jurisdiction of the Court)***

(2013/C 108/26)

*Language of the case: Italian*

**Referring court**

Tribunale di Tivoli

**Parties to the main proceedings**

*Applicant:* Antonella Pedone

*Defendant:* N

**Re:**

Request for a preliminary ruling — Tribunale di Tivoli — Interpretation of Article 47(3) of the Charter of Fundamental Rights of the European Union and of Article 6 of the European Convention on Human Rights, read in conjunction with Article 6 TEU and Article 52(3) of the Charter of Fundamental Rights — Legal aid — National legislation providing that consultancy fees are to be reduced by half where the client has been granted legal aid

**Operative part of the order**

*The Court of Justice of the European Union clearly has no jurisdiction to answer the questions referred for a preliminary ruling by the Tribunale di Tivoli (Italy).*

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[1] OJ C 26, 26.1.2013.

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**Order of the Court (Tenth Chamber) of 7 February 2013 (request for a preliminary ruling from the Tribunale di Tivoli, Italy) — Elisabetta Gentile v Ufficio Finanziario della Direzione Ufficio Territoriale di Tivoli and Others**

**(Case C-499/12)** [1]

***(Request for a preliminary ruling — Charter of Fundamental Rights of the European Union — Need for a link with European Union law — Clear lack of jurisdiction of the Court)***

(2013/C 108/27)

*Language of the case: Italian*

**Referring court**

Tribunale di Tivoli

**Parties to the main proceedings**

*Applicant:* Elisabetta Gentile

*Defendants:* Ufficio Finanziario della Direzione Ufficio Territoriale di Tivoli, Fabrizio Penna, Gianfranco Di Nicola

**Re:**

Request for a preliminary ruling — Tribunale di Tivoli — Interpretation of Article 47 (3) of the Charter of Fundamental Rights of the European Union and of Article 6 of the European Convention on Human Rights, read in conjunction with Article 6 TEU and Article 52(3) of the Charter of Fundamental Rights — Legal aid — National legislation providing that lawyers' fees are to be halved where the client is awarded legal aid

**Operative part of the order**

*The Court of Justice of the European Union clearly has no jurisdiction to reply to the questions asked by the Tribunal di Tivoli (Italy).*

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[1] OJ C 26, 26.1.2013.

**Request for a preliminary ruling from the Conseil régional d'expression française de l'ordre des médecins vétérinaires (Belgium) lodged on 28 June 2012 — Disciplinary proceedings against Jean Devillers**

**(Case C-318/12)**

(2013/C 108/28)

*Language of the case: French*

**Referring court**

Conseil régional d'expression française de l'ordre des médecins vétérinaires (Belgium)

**Party to the main proceedings**

Jean Devillers

The request for a preliminary ruling made by the Conseil régional d'expression française de l'ordre des médecins vétérinaires (Belgium), by decision of 12 May 2012 (Case C-318/12), is manifestly inadmissible.

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**Appeal brought on 4 January 2013 by IDT Biologika GmbH against the judgment delivered by the General Court (Second Chamber) on 25 October 2012 in Case T-503/10 IDT Biologika GmbH v European Commission**

**(Case C-6/13 P)**

(2013/C 108/29)

*Language of the case: German*

**Parties**

*Appellant:* IDT Biologika GmbH (represented by: R. Gross and T. Kroupa, Rechtsanwälte)

*Other party to the proceedings:* European Commission

**Form of order sought**

— Set aside the judgment of the General Court of 25 October 2012, served on the applicant/appellant by fax on 26 October 2012;

— annul the decision of the Delegation of the European Union to the Republic of Serbia of 1 September 2010 rejecting the tender submitted in respect of Lot No 1 by IDT Biologika GmbH in response to the call for tenders (reference EuropeAid/129809/C/SUP/RS) for the supply of rabies vaccines to the Ministry of Agriculture, Forestry and Water Supply of the Republic of Serbia, and awarding the contract to a consortium of various firms led by 'Bioveta a.s.';

— order the respondent to pay the costs of the proceedings.

**Pleas in law and main arguments**

By the judgment under appeal, the General Court erred in law in dismissing the appellant's application.

The discretion to be exercised by the respondent European Commission in the context of the tendering procedure at issue was — from a factual and technical aspect — not exercised in such a way as to be unimpeachable.

In particular, the General Court erroneously assumed that Bioveta a.s. had, in the tendering procedure, furnished proof of the safety of the product offered by means of corresponding national authorisations, and that separate tests on primates in order to prove the non-virulence to humans of the product offered were not required.

Moreover, Bioveta a.s. has not provided proof that its vaccine is based not on the original but on a modified SAD-Bern virus strain.

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**Request for a preliminary ruling from the Landgericht Frankfurt am Main (Germany) lodged on 14 January 2013 — Jürgen Langenbächer and Others v Condor Flugdienst GmbH**

**(Case C-16/13)**

(2013/C 108/30)

*Language of the case: German*

**Referring court**

Landgericht Frankfurt am Main

**Parties to the main proceedings**

*Applicants:* Jürgen Langenbächer, Janet Langenbächer, Jaqueline Langenbächer

*Defendant:* Condor Flugdienst GmbH

The case was removed from the register by order of the Court of Justice of 30 January 2013.

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**Request for a preliminary ruling from the Juzgado de lo Contencioso-Administrativo No 17, Barcelona (Spain) lodged on 21 January 2013 — France Telecom España, S.A. v Diputación de Barcelona**

**(Case C-25/13)**

(2013/C 108/31)

*Language of the case: Spanish*

**Referring court**

Juzgado de lo Contencioso-Administrativo No 17, Barcelona

**Parties to the main proceedings**

*Applicant:* France Telecom España, S.A.

*Defendant:* Diputación de Barcelona

**Questions referred**

1. May the restriction of the applicability of the fees referred to in Article 13 of the Authorisation Directive [1] to the proprietors of telecommunications networks alone, as held in the judgment of 12 July 2012, [2] be extended to cover any other remuneration or consideration that the owners of public or private property may receive as consideration for the installation on their land or property of facilities associated with telecommunications networks?

2. Is such remuneration, and the question of who is liable to pay it, to be determined by the domestic law of the Member State?

[1] Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) OJ 2002 L 108, p. 21.

[2] Judgment of the Court of Justice (Fourth Chamber) in Joined Cases C-55/11, C-57/11 and C-58/11, not yet published in the ECR.

**Request for a preliminary ruling from the Administrativen sad Sofia-grad (Bulgaria) lodged on 21 January 2013 — Global Trans Lodzhistik OOD v Nachalnik na Mitnitsa Stolichna**

**(Case C-29/13)**

(2013/C 108/32)

*Language of the case: Bulgarian*

**Referring court**

Administrativen sad Sofia-grad

**Parties to the main proceedings**

*Applicant:* Global Trans Lodzhistik OOD

*Defendant:* Nachalnik na Mitnitsa Stolichna

**Questions referred**

1. Does Article 243(1) of Council Regulation (EEC) No 2913/92 [1] of 12 October 1992 establishing the Community Customs Code, if it is interpreted in conjunction with Article 245 of that regulation and the principles of the right of defence and *res judicata*, permit a national provision like Article 220 and Article 211a of the Zakon za mitnitsite (Law on customs) under which more than one decision of a customs authority, which fixes an additional customs debt with a view to its subsequent recovery, may be challenged, even where, under the circumstances of the main proceedings, a final decision within the meaning of Article 181a(2) of Commission Regulation (EEC) No 2454/93 [2] of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 could be adopted in order to fix that customs debt?

2. Is Article 243(2) of Regulation No 2913/92 on the right of appeal to be interpreted to the effect that it does not provide that a final decision within the meaning of Article 181a(2) of Regulation No 2454/93 must first be the subject of an administrative review in order for judicial proceedings to be permitted?

3. Is Article 181a(2) of Regulation No 2454/93 to be interpreted, under the circumstances of the main proceedings, to the effect that, if the procedure laid down in that provision in relation to the right to be heard and the right to raise objections was not observed, the decision of the customs authority adopted in contravention of those rules does not constitute a final decision within the meaning of that provision, but is merely part of the procedure for the adoption of the final decision? Failing that, is that provision to be interpreted, under the circumstances of the main proceedings, to the effect that the decision adopted with the abovementioned procedural defects is directly subject to judicial review and the court must give final judgment on the action brought against it?

4. Is Article 181a(2) of Regulation No 2454/93 to be interpreted, under the circumstances of the main proceedings and having regard to the principle of legality, to the effect that, if the procedure laid down in that provision in relation to the right to be heard and the right to raise objections was not observed, the decision of the customs authority adopted in contravention of those rules is null and void on account of a material procedural defect which is comparable to an infringement of an essential procedural requirement, non-compliance with which results in the nullity of the act

irrespective of the actual consequences of the infringement, with the result that the court is required to rule on an action brought against that act, without being able to consider referring the case back to the administrative authority for the proper termination of the procedure?

(1) OJ 1992 L 302, p. 1.
(2) OJ 1993 L 253, p. 1.

**Request for a preliminary ruling from the Administrativen sad Sofie-grad (Bulgaria) lodged on 21 January 2013 — Global Trans Lodzhistik OOD v Nachalnik na Mitnitsa Stolichna**

**(Case C-30/13)**

(2013/C 108/33)

*Language of the case: Bulgarian*

**Referring court**

Administrativen sad Sofie-grad

**Parties to the main proceedings**

*Applicant:* Global Trans Lodzhistik OOD

*Defendant:* Nachalnik na Mitnitsa Stolichna

**Questions referred**

1. Does Article 243(1) of Council Regulation (EEC) No 2913/92 (1) of 12 October 1992 establishing the Community Customs Code, if it is interpreted in conjunction with Article 245 of that regulation and the principles of the right of defence and *res judicata,* permit a national provision like Article 220 and Article 211a of the Zakon za mitnitsite (Law on customs) under which more than one decision of a customs authority, which fixes an additional customs debt with a view to its subsequent recovery, may be challenged, even where, under the circumstances of the main proceedings, a final decision within the meaning of Article 181a(2) of Commission Regulation (EEC) No 2454/93 (2) of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 could be adopted in order to fix that customs debt?

2. Is Article 243(2) of Regulation No 2913/92 on the right of appeal to be interpreted to the effect that it does not provide that a final decision within the meaning of Article 181a(2) of Regulation No 2454/93 must first be the subject of an administrative review in order for judicial proceedings to be permitted?

3. Is Article 181a(2) of Regulation No 2454/93 to be interpreted, under the circumstances of the main proceedings, to the effect that, if the procedure laid down in that provision in relation to the right to be heard and the right to raise objections was not observed, the decision of the customs authority adopted in contravention of those rules does not constitute a final decision within the meaning of that provision, but is merely part of the procedure for the adoption of the final decision? Failing that, is that provision to be interpreted, under the circumstances of the main proceedings, to the effect that the decision adopted with the abovementioned procedural defects is directly subject to judicial review and the court must give final judgment on the action brought against it?

4. Is Article 181a(2) of Regulation No 2454/93 to be interpreted, under the circumstances of the main proceedings and having regard to the principle of legality, to the effect that, if the procedure laid down in that provision in relation to the right to be heard and the right to raise objections was not observed, the decision of the customs authority adopted in contravention of those rules is null and void on account of a material procedural defect which is comparable to an infringement of an essential procedural requirement, non-compliance with which results in the nullity of the act irrespective of the actual consequences of the infringement, with the result that the court is required to rule on an action brought against that act, without being able to consider referring the case back to the administrative authority for the proper termination of the procedure?

(1) OJ 1992 L 302, p. 1.
(2) OJ 1993 L 253, p. 1.

**Request for a preliminary ruling from the Bundesverwaltungsgericht (Germany) lodged on 29 January 2013 — Martin Grund v Landesamt für Landwirtschaft, Umwelt und ländliche Räume des Landes Schleswig-Holstein**

**(Case C-47/13)**

(2013/C 108/34)

*Language of the case: German*

**Referring court**

Bundesverwaltungsgericht

**Parties to the main proceedings**

*Applicant:* Martin Grund

*Defendant:* Landesamt für Landwirtschaft, Umwelt und ländliche Räume des Landes Schleswig-Holstein

*Interested party:* Vertreter des Bundesinteresses beim Bundesverwaltungsgericht

**Question referred**

Is agricultural land permanent pasture within the meaning of Article 2(2) of the regulation [1] if used currently and for at least five years for the cultivation of grass or other herbaceous forage but during this period the area has been ploughed and instead of the previous herbaceous forage (in this case clover) another herbaceous forage (in this case field grass) sown, or do such cases constitute a crop rotation precluding the creation of permanent pasture?

[1] Council Regulation (EC) No 796/2004 of 21 April 2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers (OJ 2004 L 141, p. 18).

**Request for a preliminary ruling from the Tribunal Central Administrativo Norte (Portugal) lodged on 4 February 2013 — Marina da Conceição Pacheco Almeida v Fundo de Garantia Salarial, IP, Instituto da Segurança Social, IP**

**(Case C-57/13)**

(2013/C 108/35)

*Language of the case: Portuguese*

**Referring court**

Tribunal Central Administrativo Norte

**Parties to the main proceedings**

*Appellant:* Marina da Conceição Pacheco Almeida

*Respondent:* Fundo de Garantia Salarial, IP, Instituto da Segurança Social, IP

**Question referred**

Is European Union law, in the specific context of a guarantee covering wage claims in the event of the employer's insolvency, in particular Articles 4 and 10 of Directive 80/987/EEC, [1] to be interpreted as precluding a provision of national law which guarantees only claims falling due in the six months preceding the initiation of insolvency proceedings against the employer, even where the employee has brought an action against that employer before the Tribunal do Trabalho (Labour Court) with a view to obtaining a judicial determination of the amount outstanding and an enforcement order to recover those sums?

[1] Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer. (OJ 1980 L 283 p. 23).

**Action brought on 7 February 2013 — European Parliament v European Commission**

**(Case C-65/13)**

(2013/C 108/36)

*Language of the case: French*

**Parties**

*Applicant:* European Parliament (represented by: A. Tamás and J. Rodrigues, acting as Agents)

*Defendant:* European Commission

**Form of order sought**

— Annul Commission Implementing Decision [2012/733/EU] of 26 November 2013 implementing Regulation (EU) No 492/2011 of the European Parliament and of the Council as regards the clearance of vacancies and applications for employment and the re-establishment of EURES;

— order the European Commission to pay the costs.

**Pleas in law and main arguments**

In support of its action for annulment, the European Parliament raises a single plea in law, alleging infringement of Article 38 of Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union. [1] By adopting the contested decision, the Commission has misused the powers conferred upon it by the European Union legislature.

Article 38 of that regulation confers only implementing powers on the Commission, the limits of which are set out in Article 291 TFEU. In the view of the Parliament, that article must be interpreted as meaning that it precludes the adoption of acts of general application which supplement certain non-essential elements of the legislative act. Only legislative acts or delegated acts within the meaning of Article 290 TFEU may supplement non-essential elements of a basic act.

The act adopted by the Commission, being an implementing act within the meaning of Article 291 TFEU, also supplements certain non-essential elements of Regulation (EU) No 492/2011. Accordingly, the Parliament submits that, if it is necessary to supplement non-essential elements of Regulation (EU) No 492/2011, the Commission, in the absence of powers to adopt delegated acts within the meaning of Article 290 TFEU, ought to have made a proposal to the legislature supplementing or amending the basic act.

[1] Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union (OJ 2011 L 141, p. 1).

**Order of the President of the Court of 17 January 2013 (request for a preliminary ruling from the Rechtbank Breda — Netherlands) — Adrianus Theodorus Gerardus Martines van de Ven, Michaele Anna Harriet Tiny can de Ven-Janssen v Koninklijke Luchtvaart Maatschappij NV**

**(Case C-315/11)** ([1])

(2013/C 108/37)

*Language of the case: Dutch*

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

([1]) OJ C 269, 10.9.2011.

**Order of the President of the Third Chamber of the Court of 8 February 2013 (request for a preliminary ruling from the Tribunale di Palermo — Sezione di Bagheria — Italy) — Paola Galioto v Maria Guccione, Maria Savona and Fabio Savona**

**(Case C-464/11)** ([1])

(2013/C 108/38)

*Language of the case: Italian*

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

([1]) OJ C 340, 19.11.2011.

**Order of the President of the Eighth Chamber of the Court of 16 November 2012 (reference for a preliminary ruling from the Tribunalul Comercial Cluj — Romania) — SC Volksbank România SA v Andreia Câmpan, Ioan Dan Câmpan**

**(Case C-571/11)** ([1])

(2013/C 108/39)

*Language of the case: Romanian*

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

([1]) OJ C 25, 28.1.2012.

**Order of the President of the Court of 21 January 2013 — European Commission v Italian Republic**

**(Case C-641/11)** ([1])

(2013/C 108/40)

*Language of the case: Italian*

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

([1]) OJ C 58, 25.2.2012.

**Order of the President of the Court of 21 November 2012 — European Commission v Republic of Cyprus**

**(Case C-662/11)** ([1])

(2013/C 108/41)

*Language of the case: Greek*

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

([1]) OJ C 73, 10.3.2012.

**Order of the President of the Ninth Chamber of the Court of 14 November 2012 (request for a preliminary ruling from the Upper Tribunal — United Kingdom) — Anita Chieza v Secretary of State for Work and Pensions**

**(Case C-680/11)** ([1])

(2013/C 108/42)

*Language of the case: English*

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

([1]) OJ C 65, 3.3.2012.

**Order of the President of the Court of 16 November 2012 (request for a preliminary ruling from the Court of Session in Scotland — United Kingdom) — Andrius Kulikauskas v Macduff Shellfish Limited, Duncan Watt**

**(Case C-44/12)** ([1])

(2013/C 108/43)

*Language of the case: English*

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

([1]) OJ C 109, 14.4.2012.

**Order of the President of the Court of 8 January 2013 — European Commission v Republic of Poland**

**(Case C-48/12)** ([1])

(2013/C 108/44)

*Language of the case: Polish*

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

([1]) OJ C 80, 17.3.2012.

**Order of the President of the Court of 6 February 2013 (requests for a preliminary ruling from the Giudice di Pace di Revere — Italy) — Procura della Repubblica v Xiamie Zhu, Guo Huo Xia, Xie Fmr Ye, Jian Hui Luo, Ua Zh Th**

**(Joined Cases C-51/12 to C-54/12)** ([1])

(2013/C 108/45)

*Language of the case: Italian*

The President of the Court has ordered that the cases be removed from the register.

([1]) OJ C 98, 31.3.2012.

**Order of the President of the Court of 14 November 2012 — European Commission v Portuguese Republic**

**(Case C-130/12)** ([1])

(2013/C 108/46)

*Language of the case: Portuguese*

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

([1]) OJ C 133, 5.5.2012.

**Order of the President of the Court of 28 January 2013 — European Commission v Slovak Republic**

**(Case C-305/12)** ([1])

(2013/C 108/47)

*Language of the case: Slovak*

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

([1]) OJ C 273, 8.9.2012.

**Order of the President of the Court of 7 February 2013 (request for a preliminary ruling from the Arbeitsgericht Nienburg — Germany) — Heinz Kassner v Mittelweser-Tiefbau GmbH & Co KG**

**(Case C-311/12)** ([1])

(2013/C 108/48)

*Language of the case: German*

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

([1]) OJ C 287, 22.9.2012.

**Order of the President of the Court of 5 November 2012 — European Commission v Portuguese Republic**

**(Case C-325/12)** ([1])

(2013/C 108/49)

*Language of the case: Portuguese*

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

([1]) OJ C 287, 22.9.2012.

**Order of the President of the Court of 4 January 2013 — European Commission v Republic of Poland**

**(Case C-332/12)** ([1])

(2013/C 108/50)

*Language of the case: Polish*

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

([1]) OJ C 287, 22.9.2012.

**Order of the President of the Court of 5 February 2013 (request for a preliminary ruling from the Audiencia Provincial de Barcelona — Spain) — Miguel Fradera Torredemer, Maria Teresa Torredemer Marcet, Enrique Fradera Ohlsen, Alicia Fradera Torredemer v Corporación Uniland S.A.**

**(Case C-364/12)** ([1])

(2013/C 108/51)

*Language of the case: Spanish*

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

([1]) OJ C 303, 6.10.2012.

**Order of the President of the Court of 9 November 2012 (request for a preliminary ruling from the Cour d'appel — Luxembourg) — État du Grand-duché de Luxembourg, Administration de l'enregistrement et des domaines v Edenred Luxembourg SA**

**(Case C-395/12)** ([1])

(2013/C 108/52)

*Language of the case: French*

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

([1]) OJ C 366, 24.11.2012.

# GENERAL COURT

## Judgment of the General Court of 21 February 2013 — Evropaïki Dynamiki v Commission

**(Case T-9/10)** [1]

***(Public service contracts — Tender procedure — Supply of external services relating to the provision of electronic publications — Rejection of a tenderer's bid — Award of the contract to another tenderer — Selection and award criteria — Obligation to state reasons — Manifest error of assessment)***

(2013/C 108/53)

*Language of the case: English*

**Parties**

*Applicant:* Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece) (represented by: N. Korogiannakis and M. Dermitzakis, lawyers)

*Defendant:* European Commission (represented: initially by E. Manhaeve and N. Bambara, Agents, assisted initially by E. Petritsi, lawyer, and subsequently by E. Petritsi and O. Graber-Soudry, Solicitor, and subsequently represented by E. Manhaeve, assisted by O. Graber-Soudry)

**Re:**

First, application for annulment of the decision of the Publications Office of the European Union of 29 October 2009 in that it rejects the tender submitted by the applicant for Lot 2, entitled 'Electronic publishing based on Microsoft SharePoint Server', and, inter alia, awards the contracts to the successful tenderers, and in that it awards two contracts from Lot 3, entitled 'Electronic publishing based on open-source platforms', to an undertaking belonging to two different consortia, within the framework of the call for tenders AO 10224 for the provision of electronic publications (OJ 2009/S 109-156511), and, secondly, a claim for damages pursuant to Articles 268 TFEU and 340 TFEU.

**Operative part of the judgment**

*The Court:*

1. *Dismisses the action;*

2. *Orders Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE to bear its own costs and to pay the costs incurred by the European Commission.*

[1] OJ C 80, 27.3.2010.

## Judgment of the General Court of 26 February 2013 — Spain v Commission

**(Case T-65/10)** [1]

***(ERDF — Reduction of financial assistance — Operational Programmes for 'Andalusia' and 'Comunidad Valenciana' Objective 1 (1994-1999) — Operational Programme for 'Basque Country' Objective 2 (1997-1999) — Extrapolation)***

(2013/C 108/54)

*Language of the case: Spanish*

**Parties**

*Applicant:* Kingdom of Spain (represented by: initially by J. Rodríguez Cárcamo, and subsequently by A. Rubio González, abogados del Estado)

*Defendant:* European Commission (represented by: A. Steiblytė and J. Baquero Cruz, acting as Agents)

**Re:**

Application for annulment of Commission Decisions C(2009) 9270 of 30 November 2009, C(2009) 10678 of 23 December 2009 and C(2010) 337 of 28 January 2010 reducing the aid from the European Regional Development Fund (ERDF) granted under, respectively, the operational programme 'Andalusia' Objective 1 (1994-1999) under Commission Decision C(94) 3456 of 9 December 1994, the operational programme 'Basque Country' Objective 2 (1997-1999) under Commission Decision C(1998) 121 of 5 February 1998, and the operational programme 'Comunidad Valenciana' Objective 1 (1994-1999) under Commission Decision C(1994) 3043/6 of 25 November 1994

**Operative part of the judgment**

*The Court:*

1. *Dismisses the action;*

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

[1] OJ C 100, 17.4.2010.

## Judgment of the General Court of 27 February 2013 — Poland v Commission

**(Case T-241/10)** [1]

***(EAGGF, EAGF and EAFRD — 'Guarantee' Section — Expenditure excluded from financing — Direct payments — Identification system for agricultural parcels — Article 20 of Regulation (EC) No 1782/2003 — Lack of effectiveness and reliability — Intentional irregularities — Article 53 of Regulation (EC) No 796/2004)***

(2013/C 108/55)

*Language of the case: Polish*

### Parties

*Applicant:* Republic of Poland (represented by: M. Szpunar, B. Majczyna and D. Krawczyk, Agents)

*Defendant:* European Commission (represented by: P. Rossi, A. Szmytkowska and A. Stobiecka-Kuik, Agents)

### Re:

Application for the annulment of Commission Decision 2010/152/EU of 11 March 2010 excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2010 L 63, p. 7), in so far as it excludes certain expenditure incurred by the Republic of Poland.

### Operative part of the judgment

*The Court:*

1. *Dismisses the action;*

2. *Orders the Republic of Poland to bear its own costs and to pay those incurred by the European Commission.*

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[1] OJ C 209, 31.7.2010.

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## Judgment of the General Court of 27 February 2013 — Bloufin Touna Ellas Naftiki Etaireia and Others v European Commission

**(Case T-367/10)** [1]

***(Fisheries — Conservation of fish stocks — Recovery plan for bluefin tuna — Measures prohibiting fishing activities of purse seiners flying the flag of France or Greece — Actions for annulment — Regulatory act not entailing implementing measures — Whether directly concerned — Admissibility — Rate of exhaustion of quotas per State and per purse seiner — True catch capacity)***

(2013/C 108/56)

*Language of the case: English*

### Parties

*Applicants:* Bloufin Touna Ellas Naftiki Etaireia (Athens, Greece); Chrisderic (Saint-Cyprien, France); André Sébastien Fortassier (Grau-d'Agde, France) (represented: initially by V. Akritidis and E. Petritsi, lawyers, and subsequently by V. Akritidis and F. Crespo, lawyers)

*Defendant:* European Commission (represented by: K. Banks, A. Bouquet and D. Nardi, Agents)

### Re:

Annulment of Commission Regulation (EU) No 498/2010 of 9 June 2010 prohibiting fishing activities for purse seiners flying the flag of France or Greece or registered in France or Greece, fishing for bluefin tuna in the Atlantic Ocean, east of longitude 45° W, and in the Mediterranean Sea (OJ 2010 L 142, p. 1).

### Operative part of the judgment

*The Court:*

1. *Dismisses the action;*

2. *Orders Bloufin Touna Ellas Naftiki Etaireia, Chrisderic and André Sébastien Fortassier to pay the costs.*

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[1] OJ C 301, 6.11.2010.

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## Judgment of the General Court of 21 February 2013 — Esge v OHIM — De'Longhi Benelux (KMIX)

**(Case T-444/10)** [1]

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

(2013/C 108/57)

*Language of the case: English*

### Parties

*Applicant:* Esge AG (Bussnang, Switzerland) (represented by: J. Klink, 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:* De'Longhi Benelux SA, formerly Kenwood Appliances Luxembourg SA (Luxembourg, Luxembourg) (represented by: P. Strickland, Solicitor, and L. St. Ville, Barrister)

**Re:**

Action brought against the decision of the Second Board of Appeal of OHIM of 14 July 2010 (Case R 1249/2009-2), concerning opposition proceedings between Esge AG and Kenwood Appliances Luxembourg SA.

**Operative part of the judgment**

*The Court:*

1. *Dismisses the action;*

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

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([1]) OJ C 317, 20.11.2010.

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## Judgment of the General Court of 20 February 2013 — Caventa v OHIM — Anson's Herrenhaus (BERG)

**(Case T-224/11)** ([1])

***(Community trade mark — Opposition proceedings — Application for the Community word mark BERG — Earlier Community word mark Christian Berg — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)***

(2013/C 108/58)

*Language of the case: German*

**Parties**

*Applicant:* Caventa AG (Rekingen, Switzerland) (represented initially by: J. Krenzel, then by T. Stein and A. Segler, lawyers)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented initially by: R. Manea, then by D. Walicka, acting as Agents)

*Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court:* Anson's Herrenhaus KG (Düsseldorf, Germany) (represented by: O Löffel and P. Lange, lawyers)

**Re:**

Action brought against the decision of the First Board of Appeal of OHIM of 10 February 2011 (Case R 1494/2010-1), relating to opposition proceedings between Anson's Herrenhaus KG and Caventa AG.

**Operative part of the judgment**

*The Court:*

1. *Dismisses the action;*

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

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([1]) OJ C 194, 2.7.2011.

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## Judgment of the General Court of 20 February 2013 — Caventa v OHIM — Anson's Herrenhaus (BERG)

**(Case T-225/11)** ([1])

***(Community trade mark — Opposition proceedings — Application for the Community figurative mark BERG — Earlier Community word mark Christian Berg — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)***

(2013/C 108/59)

*Language of the case: German*

**Parties**

*Applicant:* Caventa AG (Rekingen, Switzerland) (represented initially by: J. Krenzel, then by T. Stein and A. Segler, lawyers)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented initially by: R. Manea, then by D. Walicka, acting as Agents)

*Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court:* Anson's Herrenhaus KG (Düsseldorf, Germany) (represented by: O Löffel and P. Lange, lawyers)

**Re:**

Action brought against the decision of the First Board of Appeal of OHIM of 10 February 2011 (Case R 740/2010-1), relating to opposition proceedings between Anson's Herrenhaus KG and Caventa AG.

**Operative part of the judgment**

*The Court:*

1. *Dismisses the action;*

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

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([1]) OJ C 194, 2.7.2011.

**Judgment of the General Court of 20 February 2013 — Langguth Erben v OHIM (MEDINET)**

**(Case T-378/11)** ([1])

***(Community trade mark — Application for the Community figurative mark MEDINET — Earlier national and international figurative marks MEDINET — Claim of seniority of the earlier national and international marks — Earlier marks in colour and Community trade mark applied for not designating any specific colour — Signs not identical — Article 34 of Regulation (EC) No 207/2009 — Obligation to state reasons — Article 75 of Regulation (EC) No 207/2009 — Expediency of oral proceedings — Article 77 of Regulation (EC) No 207/2009)***

(2013/C 108/60)

*Language of the case: German*

**Parties**

*Applicant:* Franz Wilhelm Langguth Erben GmbH & Co. KG (Traben-Trarbach, Germany) (represented by: R. Kunze and G. Würtenberger, lawyers)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: K. Klüpfel and G. Schneider, acting as Agents)

**Re:**

Action brought against the decision of the Fourth Board of Appeal of OHIM of 10 May 2011 (Case R 1598/2010-4) relating to a claim of seniority of earlier marks in an application for registration of the figurative sign MEDINET as a Community trade mark.

**Operative part of the judgment**

*The Court:*

1. *Dismisses the action;*

2. *Orders Franz Wilhelm Langguth Erben GmbH & Co. KG to pay the costs.*

([1]) OJ C 269, 10.9.2011.

**Judgment of the General Court of 27 February 2013 — Nitrogénművek Vegyipari v Commission**

**(Case T-387/11)** ([1])

***(State aid — Banking sector — Loans guaranteed by Hungary and granted by a development bank — Decision declaring the aid measures partly incompatible and ordering their recovery — Private investor test)***

(2013/C 108/61)

*Language of the case: English*

**Parties**

*Applicant:* Nitrogénművek Vegyipari Zrt. (Pétfürdő, Hungary) (represented by: Z. Tamás and M. Le Berre, lawyers)

*Defendant:* European Commission (represented by: T. Maxian Rusche, P. Němečková and C. Urraca Caviedes, Agents)

**Re:**

Application for annulment of Commission Decision 2011/269/EU of 27 October 2010 on State aid C-14/09 (ex NN 17/09) granted by Hungary to Péti Nitrogénművek Zrt. (OJ 2011 L 118, p. 9).

**Operative part of the judgment**

*The Court:*

1. *Dismisses the action;*

2. *Orders Nitrogénművek Vegyipari Zrt. to pay the costs.*

([1]) OJ C 282, 24.9.2011.

**Judgment of the General Court of 21 February 2013 — Laboratoire Bioderma v OHIM — Cabinet Continental (BIODERMA)**

**(Case T-427/11)** ([1])

***(Community trade mark — Invalidity proceedings — Community word mark BIODERMA — No infringement of the rights of the defence — Article 75 of Regulation (EC) No 207/2009 — Absolute grounds for refusal — Descriptive character — No distinctive character — Article 7(1)(b) and (c) of Regulation No 207/2009)***

(2013/C 108/62)

*Language of the case: French*

**Parties**

*Applicant:* Laboratoire Bioderma (Lyon, France) (represented by: A. Teston, lawyer)

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

*Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court:* Cabinet Continental (Paris, France) (represented by: J.-C. Brun, lawyer)

**Re:**

Action brought against the decision of the First Board of Appeal of OHIM of 28 February 2011 (Case R 861/2009-1), relating to invalidity proceedings between Cabinet Continental and Laboratoire Bioderma

**Operative part of the judgment**

*The Court:*

1. *Annuls the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 28 February 2011 (Case R 861/2009-1) in so far as concerns dietetic substances adapted for medical use, in Class 5;*

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

3. *Orders Laboratoire Bioderma to bear its own costs and half of those incurred by OHIM and Cabinet Continental;*

4. *Orders OHIM and Cabinet Continental to bear half of their own costs.*

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([1]) OJ C 298, 8.10.2011.

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## Judgment of the General Court of 20 February 2013 — Caventa v OHIM — Anson's Herrenhaus (B BERG)

**(Case T-631/11)** ([1])

***(Community trade mark — Opposition proceedings — Application for the Community figurative mark B BERG — Earlier Community word mark Christian Berg — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)***

(2013/C 108/63)

*Language of the case: German*

**Parties**

*Applicant:* Caventa AG (Rekingen, Switzerland) (represented initially by: J. Krenzel, then by T. Stein and A. Segler, lawyers)

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

*Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court:* Anson's Herrenhaus KG (Düsseldorf, Germany) (represented by: O Löffel and P. Lange, lawyers)

**Re:**

Action brought against the decision of the First Board of Appeal of OHIM of 15 September 2011 (Case R 2014/2010-1), relating to opposition proceedings between Anson's Herrenhaus KG and Caventa AG.

**Operative part of the judgment**

*The Court:*

1. *Dismisses the action;*

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

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([1]) OJ C 32, 4.2.2012.

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## Order of the General Court of 20 February 2013 — Albergo Quattro Fontane and Others v Commission

**(Joined Cases T-278/00 to T-280/00, T-282/00 to T-286/00 and T-288/00 to T-295/00)** ([1])

***(Action for annulment — State aid — Relief from social security contributions for firms in Venice and Chioggia — Decision declaring the aid scheme incompatible with the common market and requiring recovery of the aid paid out — Action manifestly lacking any foundation in law)***

(2013/C 108/64)

*Language of the case: Italian*

**Parties**

*Applicants:* Albergo Quattro Fontane Snc (Venezia Lido, Italy) (Case T-278/00); Comitato 'Venezia vuole vivere' (Marghera, Italy) (Cases T-278/00 to T-280/00, T-282/00 to T-286/00 and T-289/00 to T-295/00); Hotel Gabrielli Sandwirth SpA (Venice, Italy) (Case T-279/00); Astrocoop — Universale — Pulizie, manutenzioni e trasporti Soc. coop. rl (Marghera) (Case T-280/00); GE.AL.VE. Srl (Venice) (Case T-282/00); Metropolitan Srl (Venice) (Case T-283/00); Hotel Concordia Snc (Venice) (Case T-284/00); Manutencoop Soc. coop. rl (Bologna, Italy) (Case T-285/00); Società per l'industria alberghiera (SPLIA) (Venice) (Case T-286/00); Principessa Srl (Venice) (Case T-288/00); Albergo ristorante 'All'Angelo' Snc (Venice) (Case T-289/00); Albergo Saturnia Internazionale SpA (Venice) (Case T-290/00); Savoia e Jolanda Srl (Venice) (Case T-291/00); Hotels Biasutti Snc (Venezia Lido) (Case T-292/00); Ge.A.P. Srl (Venice) (Case T-293/00); Rialto Inn Srl (Venice) (Case T-294/00); and Bonvecchiati Srl (Venice) (represented by: A. Bianchini) (Case T-295/00)

*Defendant:* European Commission (represented by: V. Di Bucci, Agent, and A. Dal Ferro, lawyer)

**Re:**

Application for the annulment of Commission Decision 2000/394/EC of 25 November 1999 on aid to firms in Venice and Chioggia by way of relief from social security contributions under Laws Nos 30/1997 and 206/1995 (OJ 2000 L 150, p. 50).

**Operative part of the order**

1. *Cases T-278/00 to T-280/00, T-282/00 to T-286/00 and T-288/00 to T-295/00 are joined for the purposes of this order.*

2. *The objections of inadmissibility raised by the European Commission are joined to the substance.*

3. *The actions are dismissed as manifestly lacking any foundation in law.*

4. *Albergo Quattro Fontane Snc, Comitato 'Venezia vuole vivere', Hotel Gabrielli Sandwirth SpA, Astrocoop — Universale — Pulizie, manutenzioni e trasporti Soc. coop. rl, GE.AL.VE. Srl, Metropolitan Srl, Hotel Concordia Snc, Manutencoop Soc. coop. rl, Società per l'industria alberghiera (SPLIA), Principessa Srl, Albergo ristorante 'All'Angelo' Snc, Albergo Saturnia Internazionale SpA, Savoia e Jolanda Srl, Hotels Biasutti Snc, Ge.A.P. Srl, Rialto Inn Srl and Bonvecchiati Srl shall bear their own costs and pay those incurred by the Commission.*

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([1]) OJ C 372, 23.12.2000.

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## Order of the General Court of 20 February 2013 — Département du Loiret v Commission

**(Case T-369/00)** ([1])

***(State aid — Land sale price — Decision ordering the recovery of aid incompatible with the common market — Agreement by which all the assets of the recipient of the aid were transferred to the authorities which granted the aid — No need to adjudicate)***

(2013/C 108/65)

*Language of the case: French*

**Parties**

*Applicant:* Département du Loiret (France) (represented by: A. Carnelutti, lawyer)

*Defendant:* European Commission (represented by: B. Stromsky and J. Flett, acting as Agents)

**Re:**

Action for the partial annulment of Commission Decision 2002/14/EC of 12 July 2000 on the state aid granted by France to Scott Paper SA Kimberly-Clark (OJ 2002 L 12, p. 1)

**Operative part of the order**

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

2. *The Département du Loiret shall pay the costs before the Court of Justice and the General Court.*

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([1]) OJ C 61, 24.2.2001.

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## Order of the General Court of 21 February 2013 — Marucccio v Commission

**(Case T-85/11 P)** ([1])

***(Appeal — Civil service — Officials — Social security — Serious illness — Reimbursement of medical expenses — Commission decision refusing to reimburse medical expenses incurred by the appellant at the rate of 100 % — Obligation to state reasons — Article 72 of the Staff Regulations — Criteria adopted by the medical council — Opinion of the medical officer produced during the proceedings — Competence of the head of the settlements office — Appeal manifestly unfounded)***

(2013/C 108/66)

*Language of the case: Italian*

**Parties**

*Applicant:* Luigi Marcuccio (Tricase, Italy) (represented by: G. Cipressa, lawyer)

*Defendant:* European Commission (represented by: J. Currall and C. Berardis-Kayser, Agents, and A. Dal Ferro, lawyer)

**Re:**

Appeal against the judgment of the Civil Service Tribunal of the European Union (First Chamber) of 23 November 2010 in Case F-65/09 *Marcuccio* v *Commission*, not published in the ECR, seeking to have that judgment set aside.

**Operative part of the order**

1. *The appeal is dismissed.*

2. *Mr Luigi Marcuccio is to bear his own costs and to pay the costs incurred by the European Commission in the appeal proceedings.*

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([1]) OJ C 103, 2.4.2011.

## Order of the General Court of 19 February 2013 — Provincie Groningen and Others v Commission

**(Joined Cases T-15/12 and T-16/12)** [1]

***(Action for annulment — State aid — Subsidy scheme for the acquisition of natural areas for environmental protection — Decision declaring the aid compatible with the internal market — No interest in bringing proceedings — Inadmissibility)***

(2013/C 108/67)

*Language of the case: Dutch*

**Parties**

*Applicants:* Provincie Groningen (Netherlands) and the eleven other applicants whose names are mentioned in the annex to the order (represented by: P. Kuypers and N. van Nuland, lawyers) (Case T-15/12); Stichting Het Groninger Landschap (Haren, Netherlands) and the twelve other applicants whose names are mentioned in the annex to the order (represented by: P. Kuypers and N. van Nuland) (Case T-16/12)

*Defendant:* European Commission (represented by: H. van Vliet and P.J. Loewenthal, Agents)

*Interveners in support of the applicants:* Federal Republic of Germany (represented by: T. Henze, K. Petersen and A. Wiedmann, Agents); and the Kingdom of the Netherlands (represented by: C. Wissels, J. Langer and M. Bulterman, Agents)

**Re:**

Application for the annulment of Commission decision C(2011) 4945 final of 13 July 2011 concerning the State aid granted by the Netherlands in the form of subsidies applicable to the acquisition of land for environmental protection (N 308/2010 — Netherlands).

**Operative part of the order**

1. *The actions are dismissed as inadmissible.*

2. *There is no need to adjudicate on the applications for leave to intervene by Landgoed Den Alerdinck II, Vereniging Gelijkberechtiging Grondbezitters, Landgoed Welna and Heerlijkheid Mariënwaerdt.*

3. *Provincie Groningen, Provincie Friesland, Provincie Drenthe, Provincie Overijssel, Provincie Gelderland, Provincie Flevoland, Provincie Utrecht, Provincie Noord-Holland, Provincie Zuid-Holland, Provincie Zeeland, Provincie Noord-Brabant, Provincie Limburg, Stichting Het Groninger Landschap, It Fryske Gea, Stichting Het Drentse Landschap, Stichting Landschap Overijssel, Stichting Het Geldersch Landschap, Stichting Flevo-landschap, Stichting Het Utrechts Landschap, Stichting Landschap Noord-Holland, Stichting Het Zuid-Hollands Landschap, Stichting Het Zeeuwse Landschap, Stichting Het Noordbrabants Landschap, Stichting Het Limburgs Landschap and Vereniging tot behoud van Natuurmonumenten in Nederland shall bear their own costs and pay those incurred by the European Commission.*

4. *The Federal Republic of Germany and the Kingdom of the Netherlands shall bear their own costs.*

5. *Landgoed Den Alerdinck II, Vereniging Gelijkberechtiging Grondbezitters, Landgoed Welna and Heerlijkheid Mariënwaerdt, applicants for leave to intervene, shall bear their own costs.*

[1] OJ C 109, 14.4.2012.

## Order of the General Court of 18 February 2013 — Klizli v Council

**(Case T-336/12)** [1]

***(Common foreign and security policy — Restrictive measures adopted against Syria — Withdrawal from the list of persons concerned — No need to adjudicate)***

(2013/C 108/68)

*Language of the case: English*

**Parties**

*Applicant:* Yousef Klizli (Damascus, Syria) (represented by: Z. Garkova-Lyutskanova, lawyer)

*Defendant:* Council of the European Union (represented by: A. Vitro and M. Bishop, acting as Agents)

**Re:**

Application for annulment of Council Implementing Decision 2012/256/CFSP of 14 May 2012 implementing Decision 2011/782/CFSP concerning restrictive measures against Syria (OJ 2012 L 126, p. 9) and of Council Implementing Regulation (EU) No 410/2012 of 14 May 2012 implementing Article 32(1) of Regulation No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2012 L 126, p. 3), in so far as those acts concern the applicant.

**Operative part of the order**

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

2. *The Council of the European Union shall pay the costs.*

[1] OJ C 287, 22.9.2012.

## Order of the General Court of 19 February 2013 — Beninca v Commission

**(Case T-418/12)** [1]

***(Access to documents — Regulation (EC) No 1049/2001 — Implied refusal of access — Interest in bringing proceedings — Express decision adopted after the action had been brought — No need to adjudicate)***

(2013/C 108/69)

*Language of the case: English*

**Parties**

*Applicant:* Jürgen Beninca (Frankfurt am Main, Germany) (represented by: C. Zschocke, lawyer)

*Defendant:* European Commission (represented by: F. Clotuche-Duvieusart, acting as Agent)

**Re:**

Application for annulment of the Commission's implied decision of 27 July 2012 refusing access to a document.

**Operative part of the order**

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

2. *The European Commission shall bear its own costs and pay those incurred by Mr Jürgen Beninca.*

[1] OJ C 366, 24.11.2012.

## Order of the President of the General Court of 17 January 2013 — Slovenia v Commission

**(Case T-507/12 R)**

***(Interim measures — State aid — Decision declaring the aid incompatible with the internal market and ordering its recovery from the recipient — Application for stay of execution — Lack of urgency)***

(2013/C 108/70)

*Language of the case: Slovenian*

**Parties**

*Applicant:* Republic of Slovenia (represented by: V. Klemenc and A. Grum, acting as Agents)

*Defendant:* European Commission (represented by: É. Gippini Fournier, D. Kukovec and T. Maxian Rusche, acting as Agents)

**Re:**

Application for a stay of execution of Commission Decision C(2012) 6345 final of 19 September 2012 on measures in favour of the undertaking ELAN d.o.o. [SA.26379 (C-13/2010) (ex NN 17/2010)].

**Operative part of the order**

1. *The application for interim measures is rejected.*

2. *The costs are reserved.*

## Action brought on 31 December 2012 — Łaszkiewicz v OHIM — Capital Safety Group EMEA (PROTEKT)

**(Case T-576/12)**

(2013/C 108/71)

*Language in which the application was lodged: Polish*

**Parties**

*Applicant:* Grzegorz Łaszkiewicz (Łódź, Poland) (represented by: J. Gwiazdowska, legal adviser)

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

*Other party to the proceedings before the Board of Appeal:* Capital Safety Group EMEA, SAS (Carros Cedex, France)

**Form of order sought**

The applicant claims that the Court should:

— set aside in its entirety the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 24 October 2012 in Case R 700/2011-4;

— deliver final judgment — if the state of the proceedings so allows — by allowing registration of the Community trade mark applied for (Registration No 8478331);

— if necessary — should the state of the proceedings so allow — refer the case back for reconsideration by the Fourth Board of Appeal, in accordance with the binding criteria laid down by the Court of Justice;

— order OHIM to pay the costs of the proceedings, including the costs incurred by the applicant in his action before the Board of Appeal and before the Opposition Division of the Office for Harmonisation in the Internal Market;

— collect the evidence indicated in the content of the application;

— conduct the written procedure, with Polish as the language of the case.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* The applicant

*Community trade mark concerned:* The figurative mark containing the word element 'protekt' for goods in Classes 6, 7, 9, 22 and 25 — Registration No 008478331

*Proprietor of the mark or sign cited in the opposition proceedings:* Capital Safety Group EMEA, SAS

*Mark or sign cited in opposition:* The Community word mark Protecta, registered for goods in Classes 6, 7 and 9

*Decision of the Opposition Division:* Opposition upheld in part

*Decision of the Board of Appeal:* Appeal dismissed

*Pleas in law:*

— Breach of Article 8(1)(b) of Regulation No 207/2009;

— Breach of Articles 75 and 76 of Regulation No 207/2009 and of Rules 50 and 52 of Commission Regulation No 2868/95.

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## Action brought on 7 January 2013 — Group Nivelles v OHIM — Easy Sanitairy Solutions (Representation of a shower drainage pipe)

**(Case T-15/13)**

(2013/C 108/72)

*Language in which the application was lodged: Dutch*

**Parties**

*Applicant:* Group Nivelles (Gingelom, Belgium) (represented by: H. Jonkhout, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Easy Sanitairy Solutions BV (Losser, Netherlands)

**Form of order sought**

— Annul the decision of the Third Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 4 October 2012 in Case 2004/2010-3 and, correcting the grounds as necessary, uphold the decision of the Cancellation Division of OHIM of 23 September 2010 in Case ICD 000007024, notification of the latter decision having been received on 1 October 2010.

**Pleas in law and main arguments**

*Registered Community trade mark in respect of which a declaration of invalidity has been sought:* Design representing a shower drainage pipe — Community design No 107834-0025

*Proprietor of the Community trade mark:* Easy Sanitairy Solutions BV

*Applicant for the declaration of invalidity of the Community trade mark:* Group Nivelles

*Grounds for the application for a declaration of invalidity:* Articles 4 to 9 of Regulation No 6/2002

*Decision of the Cancellation Division:* Design declared invalid.

*Decision of the Board of Appeal:* Annulment of the decision of the Cancellation Division

*Pleas in law:* The Board of Appeal's decision is based on incorrect grounds and, in factual terms, on a false point of comparison.

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## Action brought on 11 January 2013 — Łaszkiewicz v OHIM — CABLES Y ESLINGAS (PROTEKT)

**(Case T-18/13)**

(2013/C 108/73)

*Language in which the application was lodged: Polish*

**Parties**

*Applicant:* Grzegorz Łaszkiewicz (Łódź, Poland) (represented by: J. Gwiazdowska, legal adviser)

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

*Other party to the proceedings before the Board of Appeal:* CABLES Y ESLINGAS, S.A. (Cerdanyola del Valles, Barcelona, Spain)

**Form of order sought**

The applicant claims that the Court should:

— set aside in its entirety the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 24 October 2012 in Case R 701/2011-4;

— deliver final judgment — if the state of the proceedings so allows — by allowing registration of the Community trade mark applied for (Registration No 8478331);

— if necessary — should the state of the proceedings so allow — refer the case back for reconsideration by the Fourth Board of Appeal, in accordance with the binding criteria laid down by the Court of Justice;

— order OHIM to pay the costs of the proceedings, including the costs incurred by the applicant in his action before the Board of Appeal and before the Opposition Division of the Office for Harmonisation in the Internal Market;

— examine the evidence indicated in the content of the application;

— conduct the written procedure, with Polish as the language of the case.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* The applicant

*Community trade mark concerned:* The figurative mark containing the word element 'protekt' for goods in Classes 6, 7, 9, 22 and 25 — Registration No 008478331

*Proprietor of the mark or sign cited in the opposition proceedings:* CABLES Y ESLINGAS, S.A.

*Mark or sign cited in opposition:* The word mark PROTEK, registered in Spain for goods in Classes 6 and 9

*Decision of the Opposition Division:* Opposition upheld

*Decision of the Board of Appeal:* Appeal dismissed

*Pleas in law:*

— Breach of Article 8(1)(b) of Regulation No 207/2009;

— Breach of the principle of legality, including breach of Article 3(1)(a) to (d) of Directive 2008/95;

— Breach of Articles 75 and 76 of Regulation No 207/2009 and of Rules 50 and 52 of Commission Regulation No 2868/95.

## Action brought on 6 February 2013 — *Melt Water v OHIM (NUEVA)*

**(Case T-61/13)**

(2013/C 108/74)

*Language of the case: Lithuanian*

**Parties**

*Applicant:* Research and Production Company 'Melt Water' UAB (Klaipėda, Lithuania) (represented by V. Viešiūnaitė, lawyer)

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

**Form of order sought**

— annul the decision of the Fourth Board of Appeal of OHIM of 3 December 2012 in Case R 1794/2012-4 and treat the applicant's appeal relating to the trade mark NUEVA (Application No 010573541) as having been filed;

— award costs in favour of the applicant.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* the applicant

*Community trade mark in respect of which registration is sought:* the figurative mark NUEVA for goods in Class 32 — Application No 010573541 for a Community trade mark

*Decision of the Examiner:* application rejected

*Decision of the Board of Appeal:* appeal deemed not to have been filed

*Pleas in law:* in the contested decision of 3 December 2012, the defendant wrongly held that the appeal lodged by the applicant had to be deemed not to have been filed, pursuant to Article 60 of Regulation No 207/2009 ([1]) and Rule 49(3) of Regulation No 2868/95, ([2]) on the ground that the fee for the appeal had not been paid within the prescribed period. The applicant takes issue with the defendant's position, according to which that fee had to be paid within the two-month period prescribed for filing a notice of appeal. The applicant submits that it is evident both from the examiner's decision to reject the application for a trade mark and from the official translation into Lithuanian of Article 60 of Regulation No 207/2009 that the fee for the appeal has to be linked to the filing of the statement setting out the grounds of the appeal, and not to the filing of the notice of appeal. The applicant was therefore justified in linking payment of the appeal fee to the period for filing the statement setting out the grounds of the appeal, and it made that payment within that period.

In the applicant's view, the Lithuanian translation of Regulation No 207/2009 must be regarded as authentic and the determination as to whether the appeal fee paid by the applicant to the defendant was received in time has to be based on the Lithuanian text of that regulation. The applicant also points out that in the case where an authentic text in the language of a specific Member State — in this case, the Lithuanian text — is ambiguous and its translation does not correspond to the texts in other languages, the measure must, with a view to ensuring legal certainty and accuracy, be interpreted in such a way that it corresponds as closely as possible to the interests of the person to whom it is addressed, in particular if a contrary interpretation might give rise to negative consequences for that person.

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([1]) Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1).

([2]) Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 40/94 on the Community trade mark (OJ 1995 L 303, p. 1).

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## Action brought on 4 February 2013 — Langguth Erben v OHIM (Representation of a bottle)

**(Case T-66/13)**

(2013/C 108/75)

*Language of the case: German*

### Parties

*Applicant:* Franz Wilhelm Langguth Erben GmbH & Co. KG (Traben-Trarbach, Germany) (represented by R. Kunze and G. Würtenberger, lawyers)

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

### 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 22 November 2012 in Case R 129/2012-1;

— Order OHIM to pay the costs.

### Pleas in law and main arguments

*Community trade mark concerned:* the figurative mark, representing a bottle, for goods in Class 33 — Community trade mark application No 10 005 866

*Decision of the Examiner:* the application was rejected

*Decision of the Board of Appeal:* the appeal was dismissed

*Pleas in law:* Infringement of Articles 7(1)(b), 7(2), 75, 76(1) and 77 of Regulation No 207/2009

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## Action brought on 5 February 2013 — Novartis/OHMI (CARE TO CARE)

**(Case T-68/13)**

(2013/C 108/76)

*Language of the case: English*

### Parties

*Applicant:* Novartis AG (Basel, Switzerland) (represented by: M. Douglas, lawyer)

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

### Form of order sought

The applicant claims that the Court should:

— Annul the decision of the First Board of Appeal of 29 November 2012 — R 953/2012-1;

— Order the Office for Harmonisation in the Internal Market (Trade Marks and Design) to bear the costs of the proceedings.

### Pleas in law and main arguments

*Community trade mark concerned:* The word mark 'CARE TO CARE' for services in classes 41 and 42 — Community trade mark application No 10 224 657

*Decision of the Examiner:* Rejected the CTM application

*Decision of the Board of Appeal:* Dismissed the appeal

*Pleas in law:* Infringement of Article 7(1)(b) of Council Regulation No 207/2009.

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## Action brought on 11 February 2013 — Compagnie des montres Longines, Francillon/OHIM — Staccata (QUARTODIMIGLIO)

**(Case T-76/13)**

(2013/C 108/77)

*Language in which the application was lodged: English*

### Parties

*Applicant:* Compagnie des montres Longines, Francillon SA (Saint-Imier, Switzerland) (represented by: P. González-Bueno Catalán de Ocón, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Staccata Srl (Como, Italy)

**Form of order sought**

The applicant claims that the Court should:

— Annul the decision issued on 26 November 2012 (Case R 62/2012-5) on the grounds that articles 8(1)(b) and (5) of Council Regulation (EC) No 207/2009 have indeed been fulfilled;

— Order the OHIM and STACCATA S.r.l. to pay the costs of the proceedings.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* The other party to the proceedings before the Board of Appeal

*Community trade mark concerned:* The figurative mark containing a device of extended wings and the word element 'QUARTODI-MIGLIO' for goods in classes 9, 14, 16, 18 and 25 — Community trade mark application No 9 260 597

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

*Mark or sign cited in opposition:* Figurative marks containing a device of extended wings and some of them the word element 'LONGINES' — Community trade mark registration No 225 714, International registrations No 401 319, No 529 334, No 610 902 and No 298 063 for goods in classes 9 and 14

*Decision of the Opposition Division:* Rejected the opposition

*Decision of the Board of Appeal:* Dismissed the appeal

*Pleas in law:* Infringement of Articles 8(1)(b) and (5) of Council Regulation No 207/2009.

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## Action brought on 31 January 2013 — Laboratoires Polive/OHIM — Arbora & Ausonia (DODIE)

**(Case T-77/13)**

(2013/C 108/78)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Laboratoires Polive (Levallois Perret, France) (represented by: A. Sion, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Arbora & Ausonia, SL (Barcelona, Spain)

**Form of order sought**

The applicant claims that the Court should:

— Annul the contested decision rendered by the second Board of Appeal which has annulled the decision from the Opposition Division,

— Reject the opposition in its entirety, and

— Order the 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 'DODIE', for goods in classes 3, 5 and 10 — Community trade mark application No 5 665 104

*Proprietor of the mark or sign cited in the opposition proceedings:* The other party to the proceedings before the Board of Appeal

*Mark or sign cited in opposition:* Community trade marks and national trade marks of figurative and word marks containing the word element 'DODIS', 'DODIES' or 'DODOT' for goods and services in classes 3, 5, 10, 12, 16, 18, 20, 21, 24, 25, 28, 35, and 44

*Decision of the Opposition Division:* Rejected the opposition in its entirety

*Decision of the Board of Appeal:* Upheld the appeal partly and annulled the contested decision with respect to certain goods of classes 3, 5 and 10

*Pleas in law:* Infringement of Articles 8(1)(b) Council Regulation No 207/2009.

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## Action brought on 7 February 2013 — Red Bull/OHIM — Sun Mark (BULLDOG)

**(Case T-78/13)**

(2013/C 108/79)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Red Bull GmbH (Fuschl am See, Austria) (represented by: A. Renck and I. Fowler, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* Sun Mark Ltd (Middlesex, United Kingdom)

**Form of order sought**

The applicant claims that the Court should:

— Annul the decision of the Second Board of Appeal of OHIM of 16 November 2012 in Case R 0107/2012-2; and

— Order that the costs of the proceedings be borne by the defendant and by the other party to the proceedings before the Board of Appeal if they join as intervener.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* The other party to the proceedings before the Board of Appeal

*Community trade mark concerned:* The word mark 'BULLDOG', for goods in classes 32 and 33 — Community trade mark application No 9 215 567

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

*Mark or sign cited in opposition:* National and international trade mark registrations of the word mark 'BULL' and 'RED BULL' for goods in classes 32 and 33

*Decision of the Opposition Division:* Upheld the opposition

*Decision of the Board of Appeal:* Annulled the contested decision

*Pleas in law:* Infringement of Articles 8(1)(b) and (5) of Council Regulation No 207/2009.

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## Action brought on 12 February 2013 — FTI Touristik v OHIM (BigXtra)

**(Case T-81/13)**

(2013/C 108/80)

*Language of the case: German*

**Parties**

*Applicant:* FTI Touristik GmbH (Munich, Germany) (represented by A. Parr, lawyer)

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

**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 29 November 2012 in Case R 2521/12011-1;

— Order the defendant to pay the costs.

**Pleas in law and main arguments**

*Community trade mark concerned:* the word mark 'BigXtra' for goods and services in Classes 16, 35, 39, 41, 42 and 43 — Community trade mark application No 9 925 868

*Decision of the Examiner:* the application was rejected

*Decision of the Board of Appeal:* the appeal was dismissed

*Pleas in law:* Infringement of Article 7(1)(b) of Regulation No 207/2009

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## Action brought on 14 February 2013 — Samsung SDI and Others v Commission

**(Case T-84/13)**

(2013/C 108/81)

*Language of the case: English*

**Parties**

*Applicants:* Samsung SDI Co. Ltd (Gyeonggi-do, Republic of Korea); Samsung SDI Germany GmbH (Berlin, Germany); and Samsung SDI (Malaysia) Bhd (Negeri Sembilan Darul Khusus, Malaysia) (represented by: G. Berrisch, lawyer, D. Hull, Solicitor, and L.-A. Grelier, lawyer)

*Defendant:* European Commission

**Form of order sought**

The applicants claim that the Court should:

— Annul Article 1(2) and 2(2) of Commission Decision C(2012) 8839 final of 5 December 2012 in case COMP/39.437 — TV and Computer Monitor Tubes (contested decision) insofar as it affects the applicants;

— In the alternative: partially annul Article 1(2) of the decision insofar as it concerns the starting and end dates of the applicants' participation in the colour picture tubes used in televisions ('CPT') infringement, and reduce the fine imposed on the applicants by Article 2(2) of the contested decision;

— Order the defendant to bear the costs of the proceedings.

**Pleas in law and main arguments**

In support of the action, the applicants rely, with respect to the CPT infringement, on three pleas in law. With respect to the colour display tubes used in computer monitors (CDT) infringement, the applicants rely on three pleas in law.

With respect to the CPT infringement, the applicants rely on the following pleas in law:

1. First plea in law, alleging that the Commission erred in applying Article 101 TFEU to find that there was a single and continuous infringement covering all types of CPTs during the entire duration of the infringement and the entire arrangements that took place in Asia.

2. Second plea in law, in the alternative, alleging that the Commission erred in determining both the starting date and the end date of the applicants' participation in the CPT infringement, which led to extend the total duration of the cartel by at least sixteen months.

3. Third plea in law, in the alternative, alleging that the Commission's decision not to grant the applicants the maximum 50 % leniency reduction is based on incorrect facts and manifestly erroneous.

With respect to the CDT infringement, the applicants rely on the following pleas in law:

1. First plea, alleging that the Commission violated its Fining Guidelines [1] by including the sales of CDTs delivered to Samsung Electronics in Europe in the value of sales for the fine calculation, notwithstanding the fact that the competition for these sales entirely took place in Korea.

2. Second plea, alleging that the Commission violated its Fining Guidelines by taking the average annual turnover over the entire period of the infringement for the calculation of the fine, thereby deviating from the rule of taking the last full business year of the infringement.

3. Third plea, alleging that the Commission's decision not to grant the applicants the maximum 50 % leniency reduction is based on incorrect facts and manifestly erroneous.

[1] Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003 (OJ 2006 C 210, p. 2)

## Action brought on 18 February 2013 — Calestep v ECHA

**(Case T-89/13)**

(2013/C 108/82)

*Language of the case: Spanish*

**Parties**

*Applicant:* Calestep, SL (Estepa, Espana) (represented by: E. Cabezos Mateos, lawyer)

*Defendant:* European Chemicals Agency (ECHA)

**Form of order sought**

The applicant claims that the Court should, applying all the steps of the procedure, uphold the application and annul the decision of the European Chemicals Agency (ECHA) to which the application relates.

**Pleas in law and main arguments**

The applicant in the present proceedings, as a result of its classification as a small company, has been paying the reduced fee referred to in Article 74(3) of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ 2006 L 396, p. 1), and in Commission Regulation (EC) No 340/2008 of 16 April 2008 on the fees and charges payable to the European Chemicals Agency (OJ 2008 L 107, p. 6), which in turn refer to Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ 2003 L 124, p. 36).

Having made checks, the ECHA considered that the applicant cannot be considered to be a small company, as it is part of a group. Upon finding that that company did not fulfil the requirements, the defendant ordered the applicant to pay the balance of the full fee due for a medium-sized company, as well as an administrative charge.

In support of its action, the applicant invokes a single plea in law based on failure to comply with two of the requirements of Article 2(2) of the Annex to the above Recommendation.

It is suggested in that regard that in order to prevent a company from being considered a small company, it is not enough that that company has more than 50 employees; it is necessary also to show that one of the other requirements under that provision is satisfied, as the provision contains the conjunction 'and'. This has not been done in the present case.

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## Action brought on 14 February 2013 — LG Electronics v Commission

**(Case T-91/13)**

(2013/C 108/83)

*Language of the case: English*

### Parties

*Applicant:* LG Electronics, Inc. (Seoul, Korea) (represented by: G. van Gerven and T. Franchoo, lawyers)

*Defendant:* European Commission

### Form of order sought

The applicant claims that the Court should:

— Annul, in whole or in part, Articles 1.1(d) and 1.2(g), Articles 2.1(d) and 2.1(e), and Articles 2.2(d) and 2.2(e) of the European Commission's decision C(2012) 8839 final of 5 December 2012 in Case COMP/39.437 — TV and Computer Monitor Tubes, insofar as they concern the applicant; and/or

— Reduce the fines imposed on the applicant in Articles 2.1(d) and (e) and Articles 2.2(d) and (e) of the contested decision;

— Order the defendant to pay the costs.

### Pleas in law and main arguments

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

Plea pursuant to Article 263 TFEU, seeking the annulment of Articles 1 and 2 of the contested decision insofar as they concern the applicant:

1. First plea in law, alleging violation of the applicant's rights of defence (breach of an essential procedural requirement), in that LG Philips Displays ('LPD') was kept outside the proceedings as a defendant.

   Pleas seeking the (partial) annulment of Articles 1 and 2 of the contested decision pursuant to Article 263 TFEU and a corresponding reduction of applicant's fines pursuant to Article 261 TFEU:

2. Second plea in law, alleging violation of Article 101 TFEU and Article 23.2 of Regulation (EC) No 1/2003 ([1]), violation of the principle of personal liability, and manifest error of assessment, in that the applicant is held liable for infringements committed by LPD.

3. Third plea in law, alleging violation of Article 25 of Regulation (EC) No 1/2003, in that the contested decision holds the applicant liable for any conduct prior to 1 July 2001.

4. Fourth plea in law, alleging violation of Article 101 TFEU and Article 23.2 of Regulation (EC) No 1/2003, violation of Article 296 TFEU, and violation of the principle of equal treatment, in that the contested decision includes Direct EEA Sales Through Transformed Products ("TPDS") in calculating the fine imposed on the applicant.

5. Fifth plea in law, alleging violation of Article 101 TFEU, Article 23.2 of Regulation (EC) No 1/2003, violation of the principle of personal liability, manifest error of assessment, violation of the applicant's rights of defence, in that the contested decision holds the applicant liable for the fine based on TPDS made by Philips.

6. Sixth plea in law, alleging violation of Article 296 TFEU, manifest error of assessment and violation of the principles of equal treatment and sound administration, in that the contested decision (i) fails to state sufficient reasons for not including TPDS for Samsung, and/or (ii) arbitrarily includes or excludes TPDS causing unequal treatment between the applicant and Samsung.

7. Seventh plea in law, alleging violation of Article 101 TFEU, Article 23.2 of Regulation (EC) No 1/2003 and the principles of equal treatment and sound administration, in that (i) the contested decision is not addressed to LPD and the LPD subsidiaries that participated in the infringements while another joint venture was addressed alongside its parents, and (ii) in that other parent companies in the same situation as the applicant were not addressed in the contested decision.

Plea based on the Court's unlimited jurisdiction pursuant to Article 261 TFEU and Article 31 of Regulation (EC) No 1/2003:

8. Eighth plea in law, requesting that the Court exercise its unlimited jurisdiction to reduce the applicant's fine as it is excessive and disproportionate.

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([1]) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ 2003 L 1, p. 1)

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## Action brought on 15 February 2013 — Philips v Commission

**(Case T-92/13)**

(2013/C 108/84)

*Language of the case: English*

### Parties

*Applicant:* Koninklijke Philips Electronics NV (Eindhoven, Netherlands) (represented by: J. de Pree and S. Molin, lawyers)

*Defendant:* European Commission

### Form of order sought

The applicant claims that the Court should:

— Annul the decision of the European Commission of 5 December 2012 relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement in Case COMP/39.437 — TV and Computer Monitor Tubes, in so far as it concerns Koninklijke Philips Electronics N.V.;

— In the alternative, annul or reduce the fines imposed on Koninklijke Philips Electronics N.V. in Article 2 of the contested decision, and

— Order the defendant to pay the costs.

### Pleas in law and main arguments

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

1. First plea in law, alleging breach of Article 101 TFEU and Article 53 EEA Agreement, and violation of the principle of legal certainty, in that the Commission established infringements of the Philips Group and attributed liability to the applicant.

2. Second plea in law, alleging breach of Article 101 TFEU, Article 53 EEA Agreement and Article 27(1) Regulation (EC) No 1/2003 ([1]), violation of the rights of defence, including the right to be heard and the principle of sound administration, in that the Commission did not attribute liability to LG Philips Displays ('LPD') for its own alleged infringements.

3. Third plea in law, alleging violation of the principle of equal treatment, manifest error of assessment, breach of the obligation to state reasons, breach of Article 27 Regulation (EC) No 1/2003 and Article 15 Regulation (EC) No 773/2004 ([2]), and violation of the rights of defence including the principle of sound administration and the right to be heard, in that the Commission, applied different standards to undertakings subject to the same proceedings when attributing liability for the alleged infringements and in that the Commission applied different standards when setting the fine for undertakings subject to the same proceedings.

4. Fourth plea in law, alleging breach of Article 101 TFEU and Article 53 EEA Agreement, breach of Article 23 Regulation (EC) No 1/2003 and the Fining Guidelines ([3]), and violation of the principle of equal treatment, in that the Commission included sales made outside the EEA in the relevant turnover for calculating the basic amount of the fines.

5. Fifth plea in law, alleging breach of Article 23 Regulation (EC) No 1/2003 and the Fining Guidelines, in that the Commission did not calculate the relevant turnover on the basis of the last full business year of participation in the alleged infringements.

6. Sixth plea in law, alleging breach of Article 23 Regulation (EC) No 1/2003 by not applying the 10 % turnover limit to the LPD Group's turnover for fines imposed for alleged the infringements of the LPD Group.

7. Seventh plea in law, alleging violation of the principle of reasonable time, Article 41 and 47 Charter of Fundamental Rights of the European Union and Article 6 European Convention on Human Rights.

8. Eighth plea in law, alleging violation of the principle of proportionality; request that the Court exercise its unlimited jurisdiction pursuant to Article 261 TFEU and Article 31 Regulation (EC) No 1/2003 to reduce the fines imposed on the applicant.

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([1]) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ 2003 L 1, p. 1)

([2]) Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty (OJ 2004 L 123, p. 18)

([3]) Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003 (OJ 2006 C 210, p. 2)

## Action brought on 13 February 2013 — Walcher Meßtechnik v OHIM (HIPERDRIVE)

**(Case T-95/13)**

(2013/C 108/85)

*Language of the case: German*

### Parties

*Applicant:* Walcher Meßtechnik GmbH (Kirchzarten, Germany) (represented by S. Walter, lawyer)

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

### 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 13 December 2012 in Case R 1779/2012-1;

— Order OHIM to pay the costs including those incurred in the course of the appeal proceedings.

### Pleas in law and main arguments

*Community trade mark concerned:* the word mark 'HIPERDRIVE' for goods in Classes 7 and 9

*Decision of the Examiner:* the application was rejected

*Decision of the Board of Appeal:* the appeal was dismissed in part

*Pleas in law:*

— Infringement of Article 7(1)(c) of Regulation No 207/2009

— Infringement of Article 7(1)(b) of Regulation No 207/2009

## Action brought on 19 February 2013 — Ludwig Schokolade v OHIM — Immergut (TrinkFix)

**(Case T-105/13)**

(2013/C 108/86)

*Language in which the application was lodged: German*

### Parties

*Applicant:* Ludwig Schokolade GmbH & Co. KG (Bergisch Gladbach, Germany) (represented by: S. Fischer and A. Brodkorb, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* Immergut GmbH & Co. KG (Elsdorf, Germany)

### 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 13 December 2012 in Case R 34/2012-1;

— order OHIM to pay the costs of the proceedings, including those incurred during the appeal proceedings before it.

### Pleas in law and main arguments

*Applicant for a Community trade mark:* The applicant

*Community trade mark concerned:* Word mark 'TrinkFix' for goods in Classes 29, 30 and 32 — Community trade mark application No 9 045 634

*Proprietor of the mark or sign cited in the opposition proceedings:* Immergut GmbH & Co. KG

*Mark or sign cited in opposition:* National and Community word mark 'Drinkfit' for goods in Classes 29 and 32

*Decision of the Opposition Division:* opposition upheld in part

*Decision of the Board of Appeal:* appeal dismissed

*Pleas in law:* infringement of Article 42(2) and (3) of Regulation No 207/2009 and of Article 8(1)(b) of Regulation No 207/2009.

**Order of the General Court of 18 February 2013 — Clasado v Commission**

**(Case T-322/10)** [1]

(2013/C 108/87)

*Language of the case: English*

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

[1] OJ C 260, 25.9.2010.

**Order of the General Court of 20 February 2013 — Luxembourg Patent Co. v OHIM — DETEC (FIREDETEC)**

**(Case T-527/11)** [1]

(2013/C 108/88)

*Language of the case: English*

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

[1] OJ C 370, 17.12.2011.

# EUROPEAN UNION CIVIL SERVICE TRIBUNAL

## Action brought on 14 December 2012 — ZZ v Commission

**(Case F-149/12)**

(2013/C 108/89)

*Language of the case: Italian*

**Parties**

*Applicant:* ZZ (represented by: G. Cipressa, lawyer)

*Defendant:* European Commission

**Subject-matter and description of the proceedings**

Application for annulment of the decision to recover the sum of EUR 500 per month by withholding that sum from the applicant's invalidity allowance during the period April to June 2012.

**Form of order sought**

— Annul the decision, contained in the applicant's pension statement for the month of April 2012, to withhold EUR 500 from the invalidity allowance to which the applicant was entitled in respect of that month;

— Annul the decision, contained in the applicant's pension statement for the month of May 2012, to withhold EUR 500 from the invalidity allowance to which the applicant was entitled in respect of that month;

— Annul the decision, contained in the applicant's pension statement for the month of June 2012, to withhold EUR 500 from the invalidity allowance to which the applicant was entitled in respect of that month;

— In so far as necessary, annul the decisions rejecting the complaints made against the decision referred to above;

— Order the Commission to pay to the applicant the following sums: EUR 500, together with interest on that sum at the rate of 10 % per annum and annual capitalisation, with effect from 1 May 2012 until actual payment of that sum; EUR 500, together with interest on that sum at the rate of 10 % per annum and annual capitalisation, with effect from 1 June 2012 until actual payment of that sum; EUR 500, together with interest on that sum at the rate of 10 % per annum and annual capitalisation, with effect from 1 July 2012 until actual payment of that sum;

— Order the Commission to pay the costs.

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## Action brought on 15 January 2013 — ZZ v Commission

**(Case F-4/13)**

(2013/C 108/90)

*Language of the case: French*

**Parties**

*Applicant:* ZZ (represented by: N. Lhoëst, lawyer)

*Defendant:* European Commission

**Subject-matter and description of the proceedings**

Annulment of the decision adopting the applicant's staff report for the period from 1995 to 1997 and the claim for damages.

**Form of order sought**

— Annul the decision of the Administrative Secretary-General of the European External Action Service of 12 March 2012, adopting the staff report of the applicant for the period from 1995 to 1997;

— insofar as it is necessary, annul the decision of the appointing authority of the Commission of 4 October 2012, rejecting the complaint lodged by the applicant on 20 June 2012 under Article 90(2) of the Staff Regulations;

— order the Commission to pay the sum of EUR 25 000 by way of compensation for non-material damage;

— order the Commission to pay the costs.

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**Action brought on 17 January 2013 — ZZ v Commission**

**(Case F-6/13)**

(2013/C 108/91)

*Language of the case: French*

**Parties**

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

*Defendant:* European Commission

**Subject-matter and description of the proceedings**

Annulment of the decision to apply the correction coefficient for the town of Varese in accordance with Council Regulation (EU) No 1239/2010 of 20 December 2010 to the remuneration of the applicant for the month of April 2012 and following months.

**Form of order sought**

— Declare illegal Article 1 of Annex XI to the Staff Regulations and the methodological manual referred to in Annex I to Regulation No 1445/2007 of 11 December 2007;

— declare illegal Article 3 of Council Regulation (EU) No 1239/2010 of 20 December 2010 fixing the correction coefficient for the calculation of the remuneration of staff assigned to Varese at 92.3

— annul the decisions establishing the applicant's salary statements on the basis of the correction coefficient for the town of Varese set out in Council Regulation (EC) No 1239/2010 of 20 December 2010 applicable with effect from 1 July 2010;

— annul the appointing authority's decision of 5 October 2012 rejecting the applicant's complaint concerning the correction coefficient applied in Varese;

— order the Commission to pay the costs.

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**Action brought on 28 January 2013 — ZZ v Parliament**

**(Case F-8/13)**

(2013/C 108/92)

*Language of the case: French*

**Parties**

*Applicant:* ZZ (represented by: L. Levi and A. Tymen, lawyers)

*Defendant:* European Parliament

**Subject-matter and description of the proceedings**

Annulment of the decision not to confirm the applicant in his post as Head of Unit and to transfer him to the Directorate General for Internal Policies.

**Form of order sought**

— Annul the decision of 23 March 2012 not to confirm the applicant in his post as Head of Unit and to transfer him with his post to the Directorate General for Internal Policies;

— so far as necessary, annul the decision of the President of the Bureau of the European Parliament of 15 October 2012, rejecting the applicant's complaint of 22 June 2012;

— order compensation for the material and non-material damage to the applicant resulting from those decisions;

— order the Parliament to pay the costs.

---

**Action brought on 3 February 2013 — ZZ v Commission**

**(Case F-10/13)**

(2013/C 108/93)

*Language of the case: French*

**Parties**

*Applicant:* ZZ (represented by S. Orlandi, J.-N. Louis and D. Abreu Caldas, lawyers)

*Defendant:* European Commission

**Subject-matter and description of the proceedings**

Annulment of the decision rejecting a request for compensation made by the applicant on the basis of Article 90(1) of the Staff Regulations because of errors made when establishing her entitlements when she took up her duties and for the delay in rectifying those errors.

**Form of order sought**

— Annul the decision of 28 March 2012 by which the Appointing Authority rejected the applicant's request for compensation of 13 January 2012;

— order the Commission to compensate the applicant in the amount of EUR 172 236,42;

— in the alternative, order the Commission to compensate the applicant in the amount of the sums overpaid, as from the day on which the irregularity was discovered but not corrected, or, in any event, at least in the amount of the sums overpaid from the month of November 2010, when the applicant's multiplication factor alone was corrected;

— order the Commission to pay the costs.

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**Action brought on 5 February 2013 — ZZ v Parliament**

**(Case F-12/13)**

(2013/C 108/94)

*Language of the case: English*

**Parties**

*Applicant:* ZZ (represented by: C. Bernard-Glanz)

*Defendant:* European Parliament

**Subject-matter and description of the proceedings**

Annulment of the decision of the Secretary-General of the European Parliament rejecting the applicant's claim of harassment.

**Form of order sought**

The applicant claims that the Tribunal should

— Annul the decision of the Secretary-General of the European Parliament of 8 May 2012, rejecting her complaint to the Advisory committee on harassment and its prevention at the workplace and concluding that she was not harassed by her former Head of Unit;

— annul the decision of the President of the European Parliament of 29 October 2012, rejecting the complaint lodged on 6 August 2012 pursuant to Article 90(2) SR;

— order the Parliament to pay the costs.

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**Action brought on 11 February 2013 — ZZ v Commission**

**(Case F-14/13)**

(2013/C 108/95)

*Language of the case: French*

**Parties**

*Applicant:* ZZ (represented by: S. Sagias, lawyer)

*Defendant:* European Commission

**Subject-matter and description of the proceedings**

Annulment of the decision of the selection board in competition EPSO/AST/117/11 not to admit the applicant to the assessment tests in the absence of the professional experience required.

**Form of order sought**

— Annul the decision of the selection board in competition EPSO/AST/117/11 not to admit the applicant to the assessment tests, a decision which was communicated to him by letter dated 18 April 2012 and subsequently confirmed, the confirmation having been communicated to him by letter dated 24 May 2012;

— annul the decision of 9 November 2012, rejecting the complaint brought against the decision of the selection board mentioned above;

— order the Commission to pay the costs.

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**Action brought on 10 February 2013 — ZZ v Commission**

**(Case F-16/13)**

(2013/C 108/96)

*Language of the case: French*

**Parties**

*Applicant:* ZZ (represented by: N. Lhoëst, lawyer)

*Defendant:* European Commission

**Subject-matter and description of the proceedings**

Annulment of the decision of the JSIS insofar as it confirms the terms of the draft decision rejecting the application for recognition of the occupational origin of the disease from which the wife of the applicant, a former staff member, died.

**Form of order sought**

— Annul the decision of the Joint Sickness Insurance Scheme of 23 March 2012 insofar as it confirms the terms of the draft decision of 23 June 1995;

— insofar as it is necessary, annul the decision of the appointing authority of the European Commission of 29 October 2012, rejecting the complaint lodged by the applicant on 6 July 2012 under Article 90(2) of the Staff Regulations;

— order the Commission to pay the costs.

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