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(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COURT OF JUSTICE OF THE EUROPEAN UNION

(2013/C 274/01)

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

OJ C 260, 7.9.2013

Past publications

OJ C 252, 31.8.2013

OJ C 245, 24.8.2013

OJ C 233, 10.8.2013

OJ C 226, 3.8.2013

OJ C 215, 27.7.2013

OJ C 207, 20.7.2013

These texts are available on:

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

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Request for a preliminary ruling from the Bayerisches Verwaltungsgericht München (Germany) lodged on 28 May 2013 — RWE AG v Freistaat Bayern

(Case C-296/13)

(2013/C 274/02)

Language of the case: German

Referring court

Bayerisches Verwaltungsgericht München

Parties to the main proceedings

Applicant: RWE AG

Defendant: Freistaat Bayern

By decision of the Court of 25 July 2013 the case was removed from the register.

Request for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 17 June 2013 — Österreichischer Gewerkschaftsbund v Wirtschaftskammer Österreich — Fachverband der Autobus-, Luftfahrt- und Schifffahrtsunternehmungen

(Case C-328/13)

(2013/C 274/03)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Applicant: Österreichischer Gewerkschaftsbund

Defendant: Wirtschaftskammer Österreich — Fachverband der Autobus-, Luftfahrt- und Schifffahrtsunternehmungen

Questions referred

(a) Is the wording of Article 3(3) of Directive 2001/23/EC, [1] according to which the 'terms and conditions' agreed in any collective agreement and applicable to the transferor must continue to be observed 'on the same terms' until the 'date of termination or expiry of the collective agreement', to be interpreted as also covering terms and conditions laid down by a collective agreement which have continuing effect indefinitely under national law, despite the termination of the collective agreement, until another collective agreement takes effect or the employees concerned have concluded new individual agreements?

(b) Is Article 3(3) of Directive 2001/23/EC to be interpreted to the effect that 'application of another collective agreement' of the transferee is to be understood as including the continuing effect of the likewise terminated collective agreement of the transferee in the abovementioned sense?

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[1] Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, OJ 2001 L 82, p. 16.

Request for a preliminary ruling from the Unabhängiger Verwaltungssenat Wien (Austria) lodged on 17 June 2013 — Ferdinand Stefan

(Case C-329/13)

(2013/C 274/04)

Language of the case: German

Referring court

Unabhängiger Verwaltungssenat Wien

Parties to the main proceedings

Applicant: Ferdinand Stefan

Defendant: Federal Minister for Agriculture, Forestry, the Environment and Water Management

Questions referred

1. As regards the validity of Environmental Information Directive 2003/4/EC: [1]

   Pursuant to subparagraph (b) of the first sentence of Article 267 TFEU, is Directive 2003/4/EC valid in its entirety and/or are all parts of Directive 2003/4/EC valid, in particular having regard to the requirements of the second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union?

2. As regards the interpretation of Environmental Information Directive 2003/4/EC:

   In the event that the Court of Justice of the European Union affirms the validity of Directive 2003/4/EC in its entirety or the validity of parts of Directive 2003/4/EC, the Court of Justice is requested, pursuant to subparagraphs (a) and (b) of the first sentence of Article 267 TFEU, to give a ruling on the extent to which, and the assumptions on the basis of which, the provisions of the Environmental Information Directive are compatible with the provisions of the Charter of Fundamental Rights of the European Union and the requirements of Article 6 TEU.

[1] Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ 2003 L 41, p. 26).

Request for a preliminary ruling from the Kúria (Hungary) lodged on 19 June 2013 — Ferenc Weigl v Nemzeti Innovációs Hivatal

(Case C-332/13)

(2013/C 274/05)

Language of the case: Hungarian

Referring court

Kúria

Parties to the main proceedings

Applicant: Ferenc Weigl

Defendant: Nemzeti Innovációs Hivatal

Questions referred

1. Must the Charter of Fundamental Rights of the European Union be considered applicable to the legal status of government officials and public officials?

2. Must Article 30 of the Charter of Fundamental Rights of the European Union be interpreted as meaning that the provision thereof concerning protection against unjustified termination of employment must be applied regardless of whether or not the Member State recognises Article 24 of the Revised European Social Charter as being binding upon it?

3. If that is the case, must Article 30 of the Charter of Fundamental Rights of the European Union be interpreted as meaning that a national provision under which, when the employment of a government official is terminated, it is not necessary to disclose to him the reasons for termination, corresponds to the concept of 'unjustified dismissal'?

4. Is it appropriate to interpret the expression 'in accordance with Union law and national laws and practices' contained in Article 30 of the Charter of Fundamental Rights of the European Union as meaning that the Member State may define by legislation a special category of persons to whom it is not necessary to apply Article 30 of the Charter if their legal relationship is brought to an end?

5. Having regard to the answer to questions 2 to 4, is it appropriate to interpret Article 51(1) of the Charter of Fundamental Rights of the European Union as meaning, with regard to government officials, that the national courts must disapply national provisions that are contrary to Article 30 of that Charter?

Request for a preliminary ruling from the Amtsgericht Rüsselsheim (Germany) lodged on 25 June 2013 — Erich Pickert v Condor Flugdienst GmbH

(Case C-347/13)

(2013/C 274/06)

Language of the case: German

Referring court

Amtsgericht Rüsselsheim

Parties to the main proceedings

Applicant: Erich Pickert

Defendant: Condor Flugdienst GmbH

Questions referred

1. Must the extraordinary circumstance within the meaning of Article 5(3) of Regulation No 261/2004 ([1]) relate directly to the booked flight?

2. If the first question is to be answered in the negative, how many earlier flights involving the aircraft to be used for the scheduled flight are relevant to the existence of an extraordinary circumstance? Is there a time-limit to the consideration of extraordinary circumstances which occur during earlier flights? If so, how is that time-limit to be calculated?

3. If extraordinary circumstances which occur during earlier flights are also relevant to a later flight, must the reasonable measures to be taken by the operating air carrier, in accordance with Article 5(3) of the regulation, relate only to preventing the extraordinary circumstance or also to avoiding a long delay?

([1]) Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ 2004 L 46, p. 1).

Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 25 June 2013 — Minister Finansów v Oil Trading Poland sp. z o.o.

(Case C-349/13)

(2013/C 274/07)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Applicant: Minister Finansów

Defendant: Oil Trading Poland sp. z o.o.

Question referred

Should Article 3(3) of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products ([1]) and correspondingly the current Article 1(3), point (a) of the first subparagraph and the [second] subparagraph, of Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC ([2]) be interpreted as not precluding the imposition by a Member State of excise duty on lubricating oils falling within CN codes 2710 19 71 to 2710 19 99 used for purposes other than as motor fuels or heating fuels, in accordance with the rules relating to the harmonised excise duty imposed on the consumption of energy products?

([1]) OJ 1992 L 76, p. 1.
([2]) OJ 2009 L 9, p. 12.

Request for a preliminary ruling from the Amtsgericht Rüsselsheim (Germany) lodged on 27 June 2013 — Jürgen Hein, Hjördis Hein v Condor Flugdienst GmbH

(Case C-353/13)

(2013/C 274/08)

Language of the case: German

Referring court

Amtsgericht Rüsselsheim

Parties to the main proceedings

Applicants: Jürgen Hein, Hjördis Hein

Defendant: Condor Flugdienst GmbH

Questions referred

1. Are adverse actions by third parties acting on their own responsibility and to whom certain tasks that constitute part of the operation of an air carrier have been entrusted to be deemed to be extraordinary circumstances within the meaning of Article 5(3) of Regulation No 261/2004? ([1])

2. If the answer to Question 1 is in the affirmative, does the assessment of the situation depend on who (airline, airport operator etc.) entrusted the tasks to the third party?

(1) Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91, OJ 2004 L 46, p. 1.

Request for a preliminary ruling from the Wojewódzki Sąd Administracyjny w Krakowie (Poland) lodged on 27 June 2013 — Drukarnia Multipress sp. z o. o. v Minister for Finance

(Case C-357/13)

(2013/C 274/09)

Language of the case: Polish

Referring court

Wojewódzki Sąd Administracyjny w Krakowie

Parties to the main proceedings

Applicant: Drukarnia Multipress sp. z o. o.

Defendant: Minister for Finance

Questions referred

1. Should Article 2(1)(b) and (c) of Council Directive 2008/7/EC of 12 February 2008 concerning indirect taxes on the raising of capital (1) (OJ L 46, 21.2.2008, p. 11) be interpreted to mean that a limited joint-stock partnership should be regarded as a capital company within the meaning of those provisions if it follows from the legal nature of that partnership that only part of its capital and partners are able to meet the requirements set out in Article 2(1)(b) and (c) of the Directive?

2. If the first question is answered in the negative, should Article 9 of Council Directive 2008/7/EC of 12 February 2008 concerning indirect taxes on the raising of capital (OJ L 46, 21.2.2008, p. 11), which allows a Member State to choose not to recognise the entities referred to in Article 2(2) of the Directive as capital companies, be interpreted to mean that the said Member State is also free to choose whether or not to levy capital duty on such entities?

(1) OJ 2008 L 46, p. 11.

Request for a preliminary ruling from the Centrale Raad van Beroep (Netherlands) lodged on 27 June 2013 — B. Martens v Minister van Onderwijs, Cultuur en Wetenschap

(Case C-359/13)

(2013/C 274/10)

Language of the case: Dutch

Referring court

Centrale Raad van Beroep

Parties to the main proceedings

Appellant: B. Martens

Respondent: Minister van Onderwijs, Cultuur en Wetenschap

Questions referred

1A. Must European Union law, in particular Article 45 TFEU and Article 7(2) of Regulation No 1612/68, (1) be interpreted as precluding the EU Member State — the Netherlands — from terminating the right to receive study finance for education or training outside the EU of an adult dependent child of a frontier worker with Netherlands nationality who lives in Belgium and works partly in the Netherlands and partly in Belgium, at the point in time at which the frontier work ceases and work is then performed exclusively in Belgium, on the ground that the child does not meet the requirement that she must have lived in the Netherlands for at least three of the six years preceding her enrolment at the educational institution concerned?

1B. If Question 1A must be answered in the affirmative: does European Union law preclude the granting of study finance for a period shorter than the duration of the education or training for which study finance was granted, it being assumed that the other requirements governing eligibility for study finance have been satisfied?

If, in answering Questions 1A and 1B, the Court of Justice should conclude that the legislation governing the right of freedom of movement for workers does not preclude a decision not to grant Ms Martens any study finance during the period from November 2008 to June 2011 or for part of that period:

2. Must Articles 20 TFEU and 21 TFEU be interpreted as precluding the EU Member State — the Netherlands — from not extending the study finance for education or training at an educational institution which is established in the Overseas Countries and Territories (Curaçao), to which there was an entitlement because the father of the person concerned worked in the Netherlands as a frontier worker, on the ground that the person concerned does not meet the requirement, applicable to all European Union citizens, including its own nationals, that she must have lived in the Netherlands for at least three of the six years preceding her enrolment for that education or training?

(1) Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community (OJ, English Special Edition 1968(II), p. 475).

Request for a preliminary ruling from the Conseil d'État (Belgium) lodged on 1 July 2013 — Ordre des architectes v Belgian State

(Case C-365/13)

(2013/C 274/11)

Language of the case: French

Referring court

Conseil d'État (Belgium)

Parties to the main proceedings

Applicant: Ordre des architectes

Defendant: Belgian State

Question referred

In so far as they oblige each Member State, for the purpose of access to and pursuit of professional activities, to give the same effect on its territory to the evidence of formal qualifications to which they refer as to the evidence of formal qualifications which it itself issues, must Articles 21 and 49 of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (1) be interpreted as preventing a State from requiring that, in order to be enrolled in a register of the Ordre des architectes, the holder of evidence of formal qualifications as an architect in accordance with Article 46 of that directive or the holder of evidence of formal qualifications referred to in Article 49(1) must also satisfy conditions concerning a professional traineeship or experience, equivalent to those required of the holders of diplomas issued on its territory after they have obtained those diplomas?

(1) OJ 2005 L 255, P.22.

Request for a preliminary ruling from the Handelsgericht Wien (Austria) lodged on 3 July 2013 — Harald Kolassa v Barclays Bank PLC

(Case C-375/13)

(2013/C 274/12)

Language of the case: German

Referring court

Handelsgericht Wien

Parties to the main proceedings

Applicant: Harald Kolassa

Defendant: Barclays Bank PLC

Questions referred

A. Article 15(1) of Regulation (EC) No 44/2001 (1) **(the Brussels I Regulation):**

1. Is the wording 'in matters relating to a contract concluded by a person, the consumer, for a purpose which can be regarded as being outside his trade or profession' in Article 15(1) of Regulation (EC) No 44/2001 to be interpreted as meaning that:

1.1. an applicant, who has acquired a bearer bond as a consumer on the secondary market and now makes claims against the issuer of the bond based on prospectus liability, for breach of information and control obligations, and based on the bond terms and conditions, can invoke that ground of jurisdiction, if, by purchasing the security from a third party, the applicant has entered derivatively into the contractual relationship between the issuer and the original subscriber of the bond?

1.2. (if question 1.1. is answered in the affirmative) the applicant can invoke the wording of Article 15 of

that regulation even if the third party from whom the consumer purchased the bearer bond acquired it for a purpose which can be regarded as being within his trade or profession, and the applicant therefore takes over the bond relationship from a non-consumer?

1.3. (if questions 1.1. and 1.2. are answered in the affirmative) the applicant consumer can invoke jurisdiction as a consumer under Article 15 of that regulation even if he himself is not the holder of the bond, but the third party, whom the applicant contracted to acquire the securities and who himself is not a consumer, holds it in his own name in trust for the applicant in accordance with their agreement, and owes the applicant only a contractual obligation of delivery?

2. (if question 1.1. is answered in the affirmative) Does Article 15(1) of Regulation (EC) No 44/2001 also provide the basis for accessory jurisdiction of the court seised of contractual claims arising from a bond purchase for claims in tort/delict arising from the same bond purchase?

B. Article 5(1)(a) of Regulation (EC) No 44/2001 (the Brussels I Regulation):

1. Is the wording 'in matters relating to a contract' in Article 5(1)(a) of Regulation (EC) No 44/2001 to be interpreted as meaning that:

1.1. an applicant, who has acquired a bearer bond as a consumer on the secondary market and now makes claims against the issuer of the bond based on prospectus liability, for breach of information and control obligations, and based on the bond terms and conditions, can invoke that ground of jurisdiction, if, by purchasing the security from a third party, the applicant has entered derivatively into the contractual relationship between the issuer and the original subscriber of the bond?

1.2. (if question 1.1. is answered in the affirmative) the applicant can invoke the wording of Article 5(1)(a) of that regulation even if he himself is not the holder of the bond, but the third party, whom the applicant contracted to acquire the securities, holds it in his own name in trust for the applicant in accordance with their agreement, and owes the applicant only a contractual obligation of delivery?

2. (if question 1.1. is answered in the affirmative) Does Article 5(1)(a) of Regulation (EC) No 44/2001 also provide the basis for accessory jurisdiction of the court seised of contractual claims arising from a bond purchase for claims in tort/delict arising from the same bond purchase?

C. Article 5(3) of Regulation (EC) No 44/2001 (the Brussels I Regulation):

1. Are capital market-related prospectus liability claims, and claims based on breach of obligations to protect and advise in connection with the issue of a bearer bond, claims in tort, delict or quasi-delict within the meaning of Article 5(3) of Regulation (EC) No 44/2001?

1.1. (if question 1. is answered in the affirmative) Does the same apply if a person who is not himself the holder of the bond, but has only a contractual claim for delivery against the holder who is holding the bond in trust for him, asserts such claims against the issuer of the bond?

2. Is the wording 'the place where the harmful event occurred or may occur' in Article 5(3) of Regulation (EC) No 44/2001 to be interpreted as meaning that, when a security is purchased on the basis of deliberately misleading information,

2.1. the place where the damage occurred is taken to be the domicile of the person suffering the loss, being the place where his assets are concentrated?

2.2. (if question 2.1. is answered in the affirmative) Does the same apply if the purchase order and the transfer of value can be revoked until settlement of the transaction, and settlement took place in another Member State sometime after the withdrawal from the account of the person suffering the loss?

D. Examination as to jurisdiction — 'doubly relevant' facts

1. Should the court, in the context of its examination as to jurisdiction in accordance with Articles 25 and 26 of Regulation (EC) No 44/2001, conduct a comprehensive taking of evidence in relation to disputed facts which are of relevance both for the question of jurisdiction and for the existence of the claim ('doubly relevant facts') or should it, when determining jurisdiction, start from the premise that the facts asserted by the applicant are correct?

([1]) 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.

Request for a preliminary ruling from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD) (Portugal) lodged on 3 July 2013 — Ascendi Beiras Litoral e Alta, Auto Estradas das Beiras Litoral e Alta, S.A. v Autoridade Tributária e Aduaneira

(Case C-377/13)

(2013/C 274/13)

Language of the case: Portuguese

Referring court

Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD)

Parties to the main proceedings

Applicant: Ascendi Beiras Litoral e Alta, Auto Estradas das Beiras Litoral e Alta, S.A.

Defendant: Autoridade Tributária e Aduaneira

Question referred

Do Article 4(1)(c) and (2)(a), Article 7(1) and Article 10(a) of Council Directive 69/335/EEC ([1]) of 17 July 1969 (as amended by Council Directive 85/303 EEC ([2]) of 10 June 1985) preclude national legislation, such as Decree-Law No 322-8/2001 of 14 December 2001, which subjected to stamp duty any increases in the capital of capital companies through the conversion into capital of the claims of shareholders in respect of ancillary services provided previously to the company, even if those ancillary services had been provided in cash, bearing in mind that, as at 1 July 1984, national legislation subjected those increases in capital, made in that way, to stamp duty at the rate of 2 %, and that, at the same date, it exempted from stamp duty capital increases made in cash?

([1]) Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital
OJ, English Special Edition 1969 (II), p. 412.

([2]) Council Directive 85/303/EEC of 10 June 1985 amending Directive 69/335/EEC concerning indirect taxes on the raising of capital
OJ 1985 L 156, p. 23.

Request for a preliminary ruling from the Centrale Raad van Beroep (Netherlands) lodged on 4 July 2013 — C.E. Franzen and Others v Raad van bestuur van de Sociale verzekeringsbank (Svb)

(Case C-382/13)

(2013/C 274/14)

Language of the case: Dutch

Referring court

Centrale Raad van Beroep

Parties to the main proceedings

Appellants: C.E. Franzen, H.D. Giesen, F. van den Berg

Respondent: Raad van bestuur van de Sociale verzekeringsbank (Svb)

Questions referred

1a. Must Article 13(2)(a) of Regulation No 1408/71 ([1]) be interpreted as meaning that a resident of a Member State who comes within the scope of that regulation and who for not more than two or three days per month is employed in the territory of another Member State on the basis of an on-call contract, is on that ground subject there to the social security legislation of the State of employment?

1b. If Question 1(a) is answered in the affirmative, does the subjection to the social security legislation of the State of employment apply both on the days on which the employment activities are performed and on the days on which those activities are not performed and, if so, how long does that subjection continue after the final employment activities have in fact been carried out?

2. Does Article 13(2)(a), in conjunction with Article 13(1), of Regulation No 1408/71 preclude a migrant worker to whom the social security legislation of the State of employment applies from being regarded, by virtue of national legislation of the State of residence, as an insured person under the AOW [Algemene ouderdomswet (Netherlands General Law on Old-Age Insurance)] in the latter State?

3a. Must European Union law, in particular the provisions concerning freedom of movement for workers and/or citizens of the Union, be interpreted as precluding, in the circumstances of the present cases, the application of a national provision such as Article 6a of the AOW and/or the AKW [Algemene kinderbijslagwet (Netherlands General Law on Child Benefits)], under which a migrant worker residing in the Netherlands is excluded there from insurance cover under the AOW and/or the AKW on the ground that he is subject exclusively to German social security legislation, even in circumstances where that worker, as a 'geringfügig Beschäftigte' (person in minor employment), is excluded in Germany from insurance

cover for purposes of the 'Altersrente' (old-age pension) and is not entitled to 'Kindergeld' (child allowance)?

3b. Is it significant, for purposes of the answer to Question 3(a), that it was possible to take out voluntary insurance under the AOW or to request the Svb (Netherlands Social Insurance Bank) to conclude an agreement as referred to in Article 17 of Regulation No 1408/71?

(1) Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (OJ, English Special Edition 1971(II), p. 416).

Request for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 5 July 2013 — Estación de Servicio Pozuelo 4, S.L. v GALP Energía España, S.A.U.

(Case C-384/13)

(2013/C 274/15)

Language of the case: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Appellant: Estación de Servicio Pozuelo 4, S.L.

Other party: GALP Energía España, S.A.U.

Questions referred

1. Can a contract such as that at issue in the main proceedings, under which a supplier of petroleum-based products is granted a right known as a 'surface right' for a period of 45 years for the purpose of building a service station and letting it to the owner of the land for a period equivalent to the duration of the right, and which contains an exclusive purchasing obligation for the same period, be regarded as being of negligible importance and as not being caught by the prohibition laid down in Article 81(1) EC (now Article 101(1) TFEU) on the grounds, principally, of the supplier's modest market share of less than 3 %, compared to the total market share of about 70 % held by three suppliers alone, even though the duration of this contract exceeds the average duration of contracts generally concluded on the relevant market?

2. If the reply were to be in the negative and the agreement were to fall to be examined under Regulation No 1984/83 (1) and Regulation No 2790/99, (2) may Article 12(2) of Regulation No 2790/99 in conjunction with Article 5(a) of the same regulation be interpreted as meaning that, in view of the reseller's not being the owner of the land and the remaining duration of the contract's being more than five years on 1 January 2002, the contract will become void on 31 December 2006?

(1) Commission Regulation (EEC) No 1984/83 of 22 June 1983 on the application of Article 85(3) of the Treaty to categories of exclusive purchasing agreements (OJ 1983 L 173, p. 5).
(2) 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).

Request for a preliminary ruling from the College van Beroep voor het Bedrijfsleven (Netherlands) lodged on 8 July 2013 — VAEX Varkens- en Veehandel BV v Productschap Vee en Vlees

(Case C-387/13)

(2013/C 274/16)

Language of the case: Dutch

Referring court

College van Beroep voor het Bedrijfsleven

Parties to the main proceedings

Appellant: VAEX Varkens- en Veehandel BV

Respondent: Productschap Vee en Vlees

Questions referred

1. Does the European legislative framework applicable here [(1) (2) (3) (4)] preclude, in a case such as the present [period of validity of an export licence]:

   (a) payment of the refund applied for;

   (b) release of the security lodged in connection with the licence application?

2. If one or both questions is/are answered in the affirmative, does that same framework then preclude *ex post facto* regularisation, in such a way that the exported quantity can still be entered on the licence and, on that basis, the refund still paid and/or, as the case may be, the security lodged still released?

3. If Question 2 is also answered in the affirmative: is that same framework then invalid in so far as it contains no provision for payment of a refund and/or, as the case may be, release of the security lodged to be granted in a case such as the present, in which use was made of a licence one day too early?

(1) 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) (OJ 2007 L 299, p. 1).
(2) Commission Regulation (EC) No 376/2008 of 23 April 2008 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products (Codified version) (OJ 2008 L 114, p. 3).
(3) Commission Regulation (EC) No 382/2008 of 21 April 2008 on rules of application for import and export licences in the beef and veal sector (Recast) (OJ 2008 L 115, p. 10).
(4) Commission Regulation (EC) No 612/2009 of 7 July 2009 on laying down common detailed rules for the application of the system of export refunds on agricultural products (Recast) (OJ 2009 L 186, p. 1).

Appeal brought on 11 July 2013 by the Council of the European Union against the judgment of the General Court (Second Chamber) delivered on 30 April 2013 in Case T-304/11 Alumina d.o.o. v Council and Commission

(Case C-393/13 P)

(2013/C 274/17)

Language of the case: French

Parties

Appellant: Council of the European Union (represented by: J.-P. Hix, Agent, and G. Berrisch, Rechtsanwalt)

Other parties to the proceedings: Alumina d.o.o., European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal;

— dismiss the action;

— order the applicant at first instance to pay the costs relating to the appeal and to the proceedings before the General Court

Grounds of appeal and main arguments

The Council relies on a sole ground of appeal against the judgment of 30 April 2013 in Case T-304/11, by which the General Court annulled Council Implementing Regulation (EU) No 464/2011 of 11 May 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of zeolite A powder originating in Bosnia and Herzegovina. (1)

The Council submits that the General Court misinterpreted the concept of 'sales carried out in the ordinary course of trade' as used in Article 2(1) and (6) of the Basic Regulation. (2) Specifically, the Council argues that sales may take place 'in the ordinary course of trade' even if the seller has increased its sale price by incorporating in that price a premium to cover the risk of non-payment or of late payment.

According to the Council, the contrary interpretation adopted by the General Court is, in addition, incompatible with the principle of legal certainty.

(1) OJ 2011 L 125, p. 1.
(2) Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ 2009 L 343, p. 51).

Action brought on 12 July 2013 — European Commission v Kingdom of Belgium

(Case C-395/13)

(2013/C 274/18)

Language of the case: French

Parties

Applicant: European Commission (represented by: O. Beynet and E. Manhaeve, acting as Agents)

Defendant: Kingdom of Belgium

Form of order sought

— declare that, by failing to make provision for the collection and treatment of urban waste water in 57 agglomerations with a population equivalent of more than 2 000 and less than 10 000, the Kingdom of Belgium has failed to fulfil its obligations under Articles 3 and 4 of Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment; ([1])

— order the Kingdom of Belgium to pay the costs.

Pleas in law and main arguments

By its application, the Commission claims that the Kingdom of Belgium has failed to implement correctly, in 57 agglomerations, Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment.

Article 3(1) and Article 4(1) of Directive 91/271/EEC required agglomerations with a population equivalent (p.e.) between 2 000 and 10 000 to be provided with collecting systems at the latest by 31 December 2005.

As regards urban waste water treatment obligations, Article 4(1) of the directive requires the Member States to ensure that waste water entering collecting systems is subject to secondary treatment or an equivalent treatment before being discharged.

Lastly, the control procedures laid down in Annex I D to the directive make it possible to ascertain whether discharges from urban waste water treatment plants comply with the requirements of the directive pertaining to the discharge of waste water.

([1]) OJ 1991 L 135, p. 40.

Appeal brought on 15 July 2013 by Simone Gbagbo against the judgment of the General Court (Fifth Chamber) delivered on 25 April 2013 in Case T-119/11 Gbagbo v Council

(Case C-397/13 P)

(2013/C 274/19)

Language of the case: French

Parties

Appellant: Simone Gbagbo (represented by: J.-C. Tchikaya, avocat)

Other parties to the proceedings: Council of the European Union, European Commission, Republic of Côte d'Ivoire

Form of order sought

The appellant claims that the Court should:

— declare the appeal brought by Ms Simone Gbagbo admissible and well founded;

— set aside the judgment under appeal;

— annul Council Decision 2011/18/CFSP of 14 January 2011 amending Council Decision 2010/656/CFSP; ([1]) Council Regulation (EU) No 25/2011 of 14 January 2011 amending Regulation (EC) No 560/2005; ([2]) Council Decision 2011/221/CFSP of 6 April 2011 amending Decision 2010/656/CFSP renewing the restrictive measures against Côte d'Ivoire; ([3]) and Council Regulation (EU) No 330/2011 of 6 April 2011 imposing certain specific restrictive measures directed against certain persons and entities in view of the situation in Côte d'Ivoire, ([4]) in so far as they concern the appellant;

— order the Council to pay the costs.

Grounds of appeal and main arguments

The appellant relies on two grounds of appeal.

First, the appellant criticises the General Court for rejecting her plea in law alleging breach of the obligation to state reasons. The appellant takes issue with the General Court for finding that the Council had provided sufficient information when the sole reason for the contested decision was, according to the appellant, her status as 'President of the FPI group in the National Assembly'.

Secondly, the appellant argues that the General Court made a manifest error of assessment in relation to the facts. She maintains that the facts construed as obstruction of the peace and reconciliation processes and as public incitement to hatred and violence are substantively inaccurate; moreover, there is not even any evidence to support them.

([1]) OJ 2011 L 11, p. 36.
([2]) OJ 2011 L 11, p. 1.
([3]) OJ 2011 L. 93, p. 20.
([4]) OJ 2011 L. 93, p. 10.

Appeal brought on 12 July 2013 by Inuit Tapiriit Kanatami and others against the judgment of the General Court (Seventh Chamber) delivered on 25 April 2013 in Case T-526/10: Inuit Tapiriit Kanatami and others v European Commission, Council of the European Union, European Parliament

(Case C-398/13 P)

(2013/C 274/20)

Language of the case: English

Parties

Appellants: Inuit Tapiriit Kanatami, Nattivak Hunters and Trappers Association, Pangnirtung Hunters' and Trappers' Association, Jaypootie Moesesie, Allen Kooneeliusie, Toomasie Newkingnak, David Kuptana, Karliin Aariak, Canadian Seal Marketing Group, Ta Ma Su Seal Products, Inc., Fur Institute of Canada, NuTan Furs, Inc., GC Rieber Skinn AS, Inuit Circumpolar Council, Johannes Egede, Kalaallit Nunaanni Aalisartut Piniartullu Kattuffiat (KNAPK), William E. Scott & Son, Association des chasseurs de phoques des Îles-de-la-Madeleine, Hatem Yavuz Deri Sanayi iç Ve Diş Ticaret Ltd Şirketi, Northeast Coast Sealers' Co-Operative Society, Ltd (represented by: H. Viaene, avocat, J. Bouckaert, advocaat)

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

Form of order sought

The appellants claim that the Court should:

— Annul the judgment under appeal of the General Court, declare Regulation 1007/2009 [1] illegal and inapplicable pursuant to Article 277 TFEU and annul Regulation 737/2010 [2] pursuant to Article 263 TFEU, should the Court of Justice consider that all elements required to decide on the substance of the action for annulment of the contested Regulation are present;

— In the alternative, annul the judgment under appeal and refer the case back to the General Court;

— Order the European Commission to pay the Appellants' costs.

Pleas in law and main arguments

The Appeal is based on two main grounds, namely the conviction that: 1) the General Court erred in law in the application of Article 95 of the EC Treaty, and 2) the General Court erred in law in the interpretation and application of fundamental rights principles.

In the First Ground of Appeal, the Appellants allege that the General Court erred in law by not assessing whether the conditions for recourse to Article 95 EC as a legal basis were fulfilled at the relevant time. The Appellants demonstrate that it is at the time of the Commission proposal that the conditions for recourse to Article 95 EC as a legal basis have to be met. The Appellants also consider that the non-fulfilment of the conditions for recourse to Article 95 EC as a legal basis cannot be remedied at the judicial review stage. The Appellants also maintain that the General Court erred in law by applying the wrong criterion when assessing whether existing differences between the national provisions governing trade in seal products were such as to justify the intervention of the Union legislature on the basis of Article 95 EC. In the contested judgment, the General Court applied a threshold based on the criterion of the non-negligible nature of the trade in the products concerned between the Member States. However, the non-negligible character of the trade in a given product is quite different from the 'relatively sizeable' character of that trade i.e., the criterion applied by the Court of Justice in its relevant case-law.

In the Second Ground of Appeal, the Appellants submit that the General Court erred in law by referring to the provisions of the Charter only. The Appellants consider that the mere fact that the protection conferred by the Articles of the ECHR relied on by the Appellants is implemented in Union law by articles 17, 7, 10 and 11 respectively of the Charter of Fundamental Rights of the European Union does not waive the General Court's obligation to take into account the ECHR provisions as general principles of law. The Appellants also submit that the General Court erred in law by excluding commercial interests from the scope of the right to property, by concluding that 'the right to property cannot be extended to protect mere commercial interests' and by depriving the Appellants from the guarantees laid down in Article 1 of Protocol No. 1 to the ECHR. The Appellants also allege that the General Court erred in law by not examining the Basic Regulation in the light of Article 19 of the United Nations Declaration on the Rights of Indigenous Peoples. Given that the Union must respect international law in the exercise of its powers and that the Basic Regulation must therefore be interpreted in the light of Article 19 of the UNDRIP, the General Court was obliged to examine whether the EU institutions had obtained the free, prior and informed consent of the Appellants before adopting the Basic Regulation.

[1] Regulation (EC) No 1007/2009 of the European Parliament and of the Council of 16 September 2009 on trade in seal products, OJ L 286, p. 36

[2] Commission Regulation (EU) NO 737/2010 of 10 August 2010 laying down detailed rules for the implementation of Regulation (EC) No 1007/2009 of the European Parliament and of the Council on trade in seal products, OJ L 216, p. 1

Appeal brought on 11 July 2013 by Stichting Corporate Europe Observatory against the judgment of the General Court (Eighth Chamber) delivered on 7 June 2013 in Case T-93/11: Stichting Corporate Europe Observatory v European Commission

(Case C-399/13 P)

(2013/C 274/21)

Language of the case: English

Parties

Appellant: Stichting Corporate Europe Observatory (represented by: S. Crosby, Solicitor)

Other parties to the proceedings: European Commission, Federal Republic of Germany

Form of order sought

The Appellant claims that the Court should:

— uphold the appeal, set aside the judgment of 7 June 2013 of the General Court, and annul the Commission's decision of 6 December 2010;

— order the Commission to pay the Appellant's costs for this appeal and for the action in annulment before the General Court.

Pleas in law and main arguments

The Appellant submits that the General Court made three errors in law.

1. An error in law in holding the DG Trade Vademecum on Access to Documents (the Vademecum) was not intended to produce external effects;

2. An error in law by disregarding the presumption that the documents were intended to be seen by a large number of people;

3. An error in law in holding in the circumstances that there was no implicit waiver of confidentiality.

Request for a preliminary ruling from the Amtsgericht Düsseldorf (Germany) lodged on 16 July 2013 — Sophia Marie Nicole Sanders legally represented by Marianne Sanders v David Verhaegen

(Case C-400/13)

(2013/C 274/22)

Language of the case: German

Referring court

Amtsgericht Düsseldorf

Parties to the main proceedings

Applicant: Sophia Marie Nicole Sanders legally represented by Marianne Sanders

Defendant: David Verhaegen

Question referred

Is Paragraph 28(1) of the Gesetzes zur Geltendmachung von Unterhaltsansprüchen im Verkehr mit ausländischen Staaten [Act on the Recovery of Maintenance in Relations with Foreign States] (Auslandsunterhaltsgesetz — AUG) of 23 May 2011, BGBl I S. 898, contrary to Article 3(a) and (b) of Council Regulation (EC) No 4/2009 of 18 December 2008? [1]

[1] Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations; OJ 2009 L 7, p. 1.

Request for a preliminary ruling from the Anotato Dikastirio Kiprou (Cyprus) lodged on 16 July 2013 — Cypra Limited v Republic of Cyprus

(Case C-402/13)

(2013/C 274/23)

Language of the case: Greek

Referring court

Anotato Dikastirio Kiprou

Parties to the main proceedings

Applicant: Cypra Limited

Defendant: Republic of Cyprus, represented by the Minister for Agriculture, Natural Resources and Environment and the Director of Veterinary Services

Questions referred

1. Do the provisions of Regulation (EC) No 854/2004 [1] confer upon the competent authority a discretion to determine the time at which a particular slaughter of animals takes place, in view of its obligation to appoint an official veterinarian for the purposes of carrying out supervision in relation to the slaughter of animals, or is it obliged to appoint such a veterinarian at the time that the slaughter will take place, as determined by the slaughterer?

2. Do the provisions of Regulation (EC) No 854/2004 confer upon the competent authority a discretion to refuse to appoint an official veterinarian for the carrying out of veterinary supervision of the lawful slaughter of animals when it is informed that the slaughter of animals will take place at a particular time, at a licensed slaughterhouse?

[1] Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption (OJ 2004 L 139, p. 206).

Reference for a preliminary ruling from High Court of Ireland (Ireland) made on 16 July 2013 — Lisa Kelly v Minister for Social Protection

(Case C-403/13)

(2013/C 274/24)

Language of the case: English

Referring court

High Court of Ireland

Parties to the main proceedings

Applicant: Lisa Kelly

Defendant: Minister for Social Protection

Questions referred

1. Where an employee resident in Member State A and who has been in insurable employment in that State for just short of three years spends the last six months of her insurable employment in Member State B, should that person's subsequent claim for social security payments on account of illness be governed by (i) the law of Member State B for the purposes of Article 11(3)(a) of Regulation 883/2004/EC [1]? or, (ii) by the law of the Member State A where she is resident for the purposes of Article 11(3)(e)?

2. Is it relevant to a consideration of Question 1 that if the law of Member State B is held to be the governing law, then the employee in question is ineligible for any social security payments, whereas this would not be the case if the law of the Member State where she is resident (Member State A) were held to apply?'

[1] 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 L 166, p. 1

Reference for a preliminary ruling from Supreme Court of the United Kingdom (United Kingdom) made on 16 July 2013 — R on the application of ClientEarth v Secretary of State for the Environment, Food and Rural Affairs

(Case C-404/13)

(2013/C 274/25)

Language of the case: English

Referring court

Supreme Court of the United Kingdom

Parties to the main proceedings

Applicant: ClientEarth

Defendant: Secretary of State for the Environment, Food and Rural Affairs

Questions referred

1. Where, under the Air Quality Directive (2008/50/EC) [1] ('the Directive'), in a given zone or agglomeration conformity with the limit values for nitrogen dioxide was not achieved by the deadline of 1 January 2010 specified in annex XI of the Directive, is a Member State obliged pursuant to the Directive and/or article 4 TEU to seek postponement of the deadline in accordance with article 22 of the Directive?

2. If so, in what circumstances (if any) may a Member State be relieved of that obligation?

3. To what extent (if at all) are the obligations of a Member State which has failed to comply with article 13 affected by article 23 (in particular its second paragraph)?

4. In the event of non-compliance with articles 13 or 22, what (if any) remedies must a national court provide as a matter of European law in order to comply with article 30 of the Directive and/or article 4 or 19 TEU?

(1) Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe
OJ L 152, p. 1

Request for a preliminary ruling from the Amtsgericht Karlsruhe (Germany) lodged on 18 July 2013 — Barbara Huber v Manfred Huber

(Case C-408/13)

(2013/C 274/26)

Language of the case: German

Referring court

Amtsgericht Karlsruhe

Parties to the main proceedings

Applicant: Barbara Huber

Defendant: Manfred Huber

Question referred

Whether it is compatible with Article 3(a) and (b) of Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, (1)

if it is provided in the first sentence of Paragraph 28(1) of the Gesetzes zur Geltendmachung von Unterhaltsansprüchen im Verkehr mit ausländischen Staaten (Auslandsunterhaltsgesetz — AUG),

that, if a party concerned does not have his or her habitual residence in Germany, the court which is to rule exclusively on applications in maintenance cases falling under Article 3(a) and (b) of Regulation (EC) No 4/2009 is the Local Court which has jurisdiction for the seat of the Higher Regional Court in whose area of jurisdiction the defendant or creditor has his or her habitual residence?

(1) OJ 2009 L 7, p. 1.

Action brought on 18 July 2013 — Council of the European Union v European Commission

(Case C-409/13)

(2013/C 274/27)

Language of the case: French

Parties

Applicant: Council of the European Union (represented by: G. Maganza, A. de Gregorio Merino and I. Gurov, acting as Agents)

Defendant: European Commission

Form of order sought

— annulment of the Commission decision of 8 May 2013 by which the Commission decided to withdraw its proposal for a Regulation of the European Parliament and of the Council laying down general provisions for macro-financial assistance to third countries;

— order the European Commission to pay the costs.

Pleas in law and main arguments

The Council raises three pleas in law in support of its action for annulment of the Commission decision to withdraw a proposal for a regulation at a late stage of the first reading in the ordinary legislative procedure.

First, the Council submits that the withdrawal of the proposal for a regulation constitutes a serious breach of the principle of the distribution of powers laid down in Article 13(2) TEU and the principle of institutional balance. According to the Council, there is no provision in the Treaties which expressly confers on the Commission a general prerogative right to withdraw a proposal which it has placed before the European Union legislature. However, while the Council does not dispute that a power of withdrawal exists on the basis of Article 293(2) TFEU, exercise of that power is not a matter for the Commission's discretion; nor may that power be exercised in an abusive manner. The Council argues that, if the withdrawal of a proposal at such an advanced stage in the legislative process were to be recognised as legitimate, it would be tantamount to granting the Commission a form of right of veto *vis-à-vis* the co-legislators of the European Union. The Commission would

thereby be placed on the same level as the co-legislators, which would constitute an abuse of the ordinary legislative procedure provided for under Article 294 TFEU, going above and beyond the Commission's right under Article 293(2) TFEU to initiate legislation and depriving of practical effect the Council's right of amendment under Article 293(1) TFEU. According to the Council, it would also be inconsistent with Article 10(1) and (2) TEU, because the Commission would no longer be an institution with an executive function but a participant in the legislative process at the same level as the institutions vested with democratic legitimacy.

Secondly, the Council submits that the withdrawal of the proposal for a regulation also constitutes a breach of the principle of sincere and mutual cooperation under Article 13(2) TEU: (i) the proposal was withdrawn very belatedly; after a great number of tripartite meetings ('trialogues') had taken place during the first reading stage, the Commission had nevertheless withdrawn its proposal on the day on which the Parliament and the Council were to initial the agreement which they had reached; and (ii) the Commission had not, before proceeding with the withdrawal, exhausted all the procedural possibilities under the Council's internal regulations.

Lastly, the Council submits that the contested withdrawal was in breach of the duty under the second paragraph of Article 296 TFEU to state the reasons on which that act of withdrawal was based. According to the Council, the Commission did not provide any explanation for its decision to withdraw; nor did it publish that decision.

Appeal brought on 22 July 2013 by Fabryka Łożysk Tocznych-Kraśnik S.A. against the judgment of the General Court (First Chamber) delivered on 14 May 2013 in Case T-19/12 Fabryka Łożysk Tocznych-Kraśnik v Office for Harmonisation in the Internal Market (Trade Marks and Designs) — Impexmetal

(Case C-415/13 P)

(2013/C 274/28)

Language of the case: Polish

Parties

Appellant: Fabryka Łożysk Tocznych-Kraśnik S.A. (represented by: P. Borowski, adwokat)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), Impexmetal S.A.

Form of order sought

The appellant claims that the Court should:

— set aside in its entirety the judgment of the General Court and allow in full the application of 9 January 2012 by annulling the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 27 October 2011;

— should that head of claim not be upheld, set aside the judgment of the General Court in its entirety and refer the case back to the General Court for reconsideration;

— order the other parties to the appeal to pay the costs of the proceedings, including the costs incurred by the appellant before the Board of Appeal and Opposition Division of the Office for Harmonisation in the Internal Market and those incurred in the proceedings before the General Court.

Pleas in law and main arguments

The appellant submits that the General Court breached Article 8(1)(b) of Regulation No 207/2009 [1] by applying it in a factual context to which that provision could not apply.

According to the appellant, the incorrect application of that provision was attributable to a mistaken finding by the General Court that the appellant's trade mark was similar to the trade mark of the intervener and that consequently there was a likelihood of confusion on the part of the public. The appellant maintains that the General Court failed to have regard for the following facts:

— goods coming under the designation 'machines and tool-making machines', which are covered by the appellant's mark, and goods coming under the designation 'bearings', which are covered by the intervener's mark, are characterised by the fact that they differ significantly and are certainly not complementary goods;

— the appellant's mark and that of the intervener differ significantly in visual terms;

— the appellant's mark contains within it a word element in the form of the noun 'Kraśnik', which has a crucial bearing on the differences, in visual, phonetic and conceptual terms, between the opposing marks;

— the appellant's mark and that of the intervener differ significantly in phonetic terms;

— the appellant's mark constitutes part of the name of his undertaking, and that name was in use long before the date of the trade-mark application;

— that mark is a historically established sign which distinguishes the appellant;

— the marks in question have for a long time peacefully co-existed on the one market;

— the similarity between the opposing marks does not justify any claim whatsoever that this might be the source of a likelihood of confusion.

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

Action brought on 24 July 2013 — European Commission v Council of the European Union

(Case C-425/13)

(2013/C 274/29)

Language of the case: English

Parties

Applicant: European Commission (represented by: G. Valero Jordana, F. Castillo de la Torre, Agents)

Defendant: Council of the European Union

The applicant claims that the Court should:

— annul Article 2, second sentence, and Section A of the Addendum/Annex to the Council Decision authorising the opening of negotiations on linking the EU emissions trading scheme with an emissions trading system in Australia, or, in the alternative,

— annul the Council Decision and to maintain the effects of the contested decision in case it is totally annulled, and

— order the Council of the European Union to pay the costs.

Pleas in law and main arguments

First plea: breach of Articles 13(2) TEU, 218(2) to (4) TFEU and 295 TFEU and the principle of institutional balance. The Commission submits that the Council infringed Article 218 TFEU by imposing unilaterally upon the Commission a detailed procedure that creates *ex novo* powers for the Council and obligations upon the Commission that are not based in that provision. The Council has also infringed Article 13(2) TEU, in conjunction with Article 218(4) TFEU, and the principle of institutional balance, because the Council has expanded its powers conferred on it by the Treaties to the detriment of the Commission and the European Parliament

Second plea: breach of Articles 13(2) TEU and 218 TFEU, and the principle of institutional balance, since the contested Decision provides that the detailed negotiating positions of the Union shall be established by the Special Committee or the Council. Article 218(4) TFEU gives only a consultative role to the Special Committee.

GENERAL COURT

Action brought on 10 July 2013 — Harper Hygienics v OHIM — Clinique Laboratories (CLEANIC intimate)

(Case T-363/13)

(2013/C 274/30)

Language in which the application was lodged: Polish

Parties

Applicant: Harper Hygienics S.A. (Warsaw, Poland) (represented by: R. Rumpel, legal adviser)

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

Other party to the proceedings before the Board of Appeal: Clinique Laboratories LLC (New York, United States of America)

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 29 April 2013 (Case R 606/2012-5) in so far as it refuses registration of 'CLEANIC intimate' as a Community trade mark for all goods in Classes 3 and 16 and for certain goods in Class 5;

— amend the contested decision by registering the trade mark for all goods and services applied for;

— order OHIM to pay the costs of the proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: the applicant

Community trade mark concerned: figurative trade mark containing the word elements 'CLEANIC intimate' for goods in Classes 3, 5 and 16 — Application No 009 217 531 for a Community trade mark

Proprietor of the mark or sign cited in the opposition proceedings: Clinique Laboratories LLC

Mark or sign cited in opposition: Community trade marks No 54 429 for goods in Classes 3, 14, 25 and 42 and No 2 294 429 for goods in Classes 35 and 42

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 [1] as regards establishment of the similarity of the trade marks and of the likelihood of confusion on the part of consumers, and breach of Article 8(5) of that regulation

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

Action brought on 17 July 2013 — Gemeente Eindhoven v Commission

(Case T-370/13)

(2013/C 274/31)

Language of the case: Dutch

Parties

Applicant: Gemeente Eindhoven (Eindhoven, Netherlands) (represented by: G. van der Wal, M. van Heezik and L. Parret, lawyers)

Defendant: European Commission

Form of order sought

— Annul the contested decision in so far as it concerns the transaction between the applicant and PSV; and

— order the Commission to pay the costs.

Pleas in law and main arguments

The applicant has brought an action under the fourth paragraph of Article 263 TFEU against the Commission's decision of 6 March 2013 (SA.33584 (2013/C) (ex 2011/NN) — State aid to certain professional Dutch football clubs in 2008 — 2011) (OJ 2013 C 116, p. 19).

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

1. First plea in law, alleging breach of the principle of good administration, including the principle of due care.

   The applicant submits that information was supplied to the Commission on 26 and 28 July 2011, following which no further questions were put to the Netherlands authorities. On 6 March 2013 the Commission decided to initiate the formal investigation procedure. Owing to the considerable period of time that had elapsed (19 months), and the failure to undertake any further (substantive) consultation, the Commission, as a result of its own acts and omissions, did not have a full picture of the relevant facts at the time when the formal procedure was initiated.

2. Second plea in law, alleging breach of the principles of protection of legitimate expectations and of legal certainty

   By this plea the applicant submits that it was entitled to proceed on the assumption that the transaction would be assessed within the framework of the Communication on State aid elements in sales of land and buildings by public authorities, ([1]) as had previously been the case when the Commission had assessed similar transactions.

3. Third plea in law, alleging a manifest error of assessment

   The Commission made a manifest error of assessment in that it initiated the formal investigation procedure in the absence of reasonable doubts within the meaning of Article 4(4) of Regulation No 659/1999 ([2]) and the case-law. In taking a view on the existence of State aid within the meaning of Article 107(1) TFEU, despite further questions arising, the Commission is also failing to have regard to the provisional nature of a decision under Article 6 of Regulation No 659/1999.

4. Fourth plea in law, alleging an insufficient and/or erroneous statement of reasons

   Further to the third plea in law concerning the existence of a manifest error of assessment, the applicant claims that the contested decision does not satisfy the Commission's obligation to state reasons, in accordance with Article 296 TFEU.

([1]) Commission Communication on State aid elements in sales of land and buildings by public authorities (OJ 1997 C 209, p. 3).

([2]) Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ 1999 L 83, p. 1).

Action brought on 17 July 2013 — Moonlight v OHIM — Lampenwelt (Moon)

(Case T-374/13)

(2013/C 274/32)

Language in which the application was lodged: German

Parties

Applicant: Moonlight GmbH (Wehr, Germany) (represented by: H. Börjes-Pestalozza and M. Nielen, lawyers)

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

Other party to the proceedings before the Board of Appeal: Lampenwelt GmbH & Co. KG (Schlitz, Germany)

Form of order sought

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 13 May 2013 in Case R 676/2012-4 and require OHIM to dismiss the application for a declaration of invalidity in respect of Community trade mark No 6 084 081;

— order OHIM to pay the costs.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: Word mark 'Moon' for goods in Class 11 — Community trade mark No 6 084 081

Proprietor of the Community trade mark: Moonlight GmbH

Applicant for the declaration of invalidity of the Community trade mark: Lampenwelt GmbH & Co. KG

Grounds for the application for a declaration of invalidity: Absolute grounds for invalidity under Article 52(1)(a) and (b) of Regulation No 207/2009

Decision of the Cancellation Division: Application for a declaration of invalidity granted

Decision of the Board of Appeal: Appeal dismissed

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

Action brought on 24 July 2013 — Perfetti Van Melle v OHIM (DAISY)

(Case T-381/13)

(2013/C 274/33)

Language of the case: Italian

Parties

Applicant: Perfetti Van Melle SpA (Lainate, Italy) (represented by P. Testa, 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 10 April 2013 in Case R 427/2012-1, in so far as it rejected the application for registration of the trade mark 'DAISY' for the following products: confectionery, pastry, sweets, caramels, wine gums, caramel, chewing-gum, gelatine (confectionery), liquorice, lollipops, toffee, pastilles, sugar, chocolate, cocoa.

— Order OHIM to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: Community word mark 'DAISY', for goods in Class 30 — Community trade mark application No 10 267 037

Decision of the Examiner: Application rejected

Decision of the Board of Appeal: Appeal dismissed

Pleas in law:

Infringement of Article 7(1)(c) of Regulation No 207/2009, since the word 'DAISY' is not descriptive;

Infringement of Article 7(1)(c) of Regulation No 207/2009, since the word 'DAISY' does not describe an essential characteristic of the product;

Infringement of Article 7(1)(b) of Regulation No 207/2009, since the term 'DAISY' has distinctive character with regard to confectionery products.

Action brought on 24 July 2013 — Perfetti Van Melli v OHIM (MARGARITAS)

(Case T-382/13)

(2013/C 274/34)

Language of the case: Italian

Parties

Applicant: Perfetti Van Melli SpA (Lainate, Italy) (represented by P. Testa, 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 10 April 2013 in Case R 430/2012-1, in so far as it rejected the application for registration of the trade mark 'MARGARITAS' for the following products: confectionery, pastry, sweets, caramels, wine gums, caramel, chewing-gum, gelatine (confectionery), liquorice, lollipops, toffee, pastilles, sugar, chocolate, cocoa.

Order OHIM to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: Community word mark 'MARGARITAS' for goods in Class 30 — Community trade mark application No 10 261 105

Decision of the Examiner: Application rejected

Decision of the Board of Appeal: Appeal dismissed

Pleas in law:

Infringement of Article 7(1)(c) of Regulation No 207/2009, since the word 'MARGARITA' is not descriptive;

Infringement of Article 7(1)(c) of Regulation No 207/2009, since the word 'MARGARITA' does not describe an essential characteristic of the product;

Infringement of Article 7(1)(b) of Regulation No 207/2009, since the term 'MARGARITAS' has distinctive character with regard to confectionery products.

Action brought on 26 July 2013 — Federación Nacional de Cafeteros de Colombia v OHIM — Hautrive (COLOMBIANO HOUSE)

(Case T-387/13)

(2013/C 274/35)

Language in which the application was lodged: Spanish

Parties

Applicant: Federación Nacional de Cafeteros de Colombia (Bogotá, Colombia) (represented by: A. Pomares Caballero and M. Pomares Caballero, lawyers)

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

Other party to the proceedings before the Board of Appeal: Nadine Helene Jeanne Hautrive (Chatou, France)

Form of order sought

The applicant claims that the General Court should:

— vary the Decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 17 May 2013 in Case R 757/2012-5, on the basis that, in the present case, the conditions for applying the relative ground for refusal of registration under Article 8(4) of Regulation No 207/2009 are met;

— or, failing which, annul the contested decision;

— and, in any event, order OHIM to pay its own costs and those of the applicant.

Pleas in law and main arguments

Applicant for a Community trade mark: Nadine Helene Jeanne Hautrive

Community trade mark concerned: Figurative mark with word elements 'COLOMBIANO HOUSE' for goods and services in Classes 16, 25 and 43 — Community trade mark application No 9 225 798

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

Mark or sign cited in opposition: Protected Geographical Indication with word elements 'Café de Colombia'

Decision of the Opposition Division: Opposition rejected

Decision of the Board of Appeal: Appeal dismissed

Pleas in law:

— Infringement of Article 14 of Regulation No 510/2006

— Infringement of Article 8(4) of Regulation No 207/2009, in conjunction with Article 13 of Regulation No 510/2006

— Breach of a procedural requirement through failure to state reasons

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Action brought on 1 August 2013 — SolarWorld and Solsonica v Commission

(Case T-393/13)

(2013/C 274/36)

Language of the case: English

Parties

Applicants: SolarWorld AG (Bonn, Germany) and Solsonica SpA (Cittaducale, Italy) (represented by: L. Ruessmann, lawyer, and J. Beck, Solicitor)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— Declare the application admissible and well-founded;

— Annul Article 1(2) of Commission Regulation (EU) No 513/2013 [1] to the extent it delays until 6 August 2013 the application of the full provisional anti-dumping duty on imports of crystalline silicon photovoltaic modules, cells and wafers originating in or consigned from China;

— Order the customs authorities of the Member States to apply the anti-dumping duty rates set out in Article 1(2)(ii) of Commission Regulation (EU) No 513/2013 as from 6 June 2013;

— Order the Commission to pay to the applicants damages to the extent the antidumping duty rates set out in Article 1(2)(ii) of Commission Regulation (EU) No 513/2013 have not been applied as from 6 June 2013; and

— Order the Commission to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicants rely on four pleas in law.

1. First plea in law, alleging that the adoption of Article 1(2)(i) of Commission Regulation (EU) No 513/2013 infringes Article 7(2) of Council Regulation (EC) No 1225/2009 [2].

2. Second plea in law, alleging that the Commission committed a manifest error of assessment of the facts when introducing the phasing-in period of the provisional anti-dumping measures by virtue of Article 1(2)(i) of Commission Regulation (EU) No 513/2013.

3. Third plea in law, alleging that the Commission manifestly and seriously violated its duties of care and good administration by adopting Article 1(2)(i) of Commission Regulation (EU) No 513/2013.

4. Fourth plea in law, alleging that the Commission acted unlawfully by adopting Article 1(2)(i) of Commission Regulation (EU) No 513/2013 and thereby caused damage to the applicants for which the EU is liable under Article 340(2) of the TFEU

[1] Commission Regulation (EU) No 513/2013 of 4 June 2013 imposing a provisional anti-dumping duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells and wafers) originating in or consigned from the People's Republic of China and amending Regulation (EU) No 182/2013 making these imports originating in or consigned from the People's Republic of China subject to registration (OJ 2013 L 152, p. 5)

[2] Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ 2009 L 343, p. 51)

Action brought on 2 August 2013 — Photo USA Electronic Graphic v Council

(Case T-394/13)

(2013/C 274/37)

Language of the case: English

Parties

Applicant: Photo USA Electronic Graphic, Inc. (Beijing, China) (represented by: K. Adamantopoulos, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

Annul Council Implementing Regulation (EU) No 412/2013 of 13 May 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of ceramic tableware and kitchenware originating in the People's Republic of China (OJ 2013 L 131, p. 1), insofar as it imposes an anti-dumping duty on the applicant, and

Order the defendant to pay the applicant's costs.

Pleas in law and main arguments

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

First plea in law, alleging that the Commission and the Council (hereafter, 'institutions') made a manifest error of assessment by including plain polyester coated ceramic mugs in the scope of the product under investigation.

Second plea in law, alleging that, by grouping coated ceramic mugs with other types of stoneware tableware and kitchenware, the institutions failed to make a fair comparison in violation of Article 2(10) of Council Regulation (EC) No. 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ 2009 L 343, p. 51) (hereafter, 'basic Regulation').

Third plea in law, alleging that the institutions infringed Article 3(7) of the basic Regulation by failing to properly analyze the effects on the situation of the Union industry of the anti-competitive practices investigated by the *Bundeskartellamt* (German Competition Authority). In this respect, the applicant submits that the institutions made a manifest error of assessment by concluding that anti-competitive practices did not have an effect on micro- and macro-economic indicators.

Fourth plea in law, alleging that the institutions infringed Article 3(2) of the basic Regulation by failing to make an objective examination of the situation of the Union industry. In this respect, the applicant submits that the institutions made a manifest error of assessment by concluding that anti-competitive practices did not have an effect on micro- and macro-economic indicators

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Action brought on 31 July 2013 — Miettinen v Council

(Case T-395/13)

(2013/C 274/38)

Language of the case: English

Parties

Applicant: Samuli Miettinen (Espoo, Finland) (represented by: O. Brouwer and E. Raedts, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

Annul the decision of the Council of 21 May 2013 refusing to grant full access to Document 12979/12 pursuant to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43), as communicated to the applicant on 21 May 2013 in a letter bearing the reference '06/c/02/1 3' (the contested decision) as well as its renewed refusal of 23 July 2013;

Order the defendant to pay the applicant's costs pursuant to Article 87 of the Rules of procedure of the General Court, including the costs of any intervening parties.

Pleas in law and main arguments

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

First plea in law, alleging breach of Article 4(2) 2nd indent and Article 4(3) 1st subparagraph of Regulation (EC) No 1049/2001, as the contested decision is based on a wrong interpretation and application of the said provisions, which relate to the protection of court proceedings and legal advice and to the protection of the on-going decision-making process respectively:

Firstly, the Council failed to demonstrate that disclosure of Document 12979/12 prejudices its legal service's ability to defend it in future legal proceedings, and undermines the legislative process;

Secondly, the Council failed to demonstrate that Document 12979/12 is particularly sensitive and/or of a wide scope justifying the setting aside of the presumption favouring disclosure of legal opinions in the legislative context;

Thirdly, the Council's theory of harm is purely hypothetical. It is factually, as well as legally, unfounded considering that the content of the advice contained in Document 12979/12 was already in the public domain when the contested decision was taken; and

Fourthly, the Council failed to apply the overriding public interest test when invoking Article 4(3) 1st subparagraph when it considered only the perceived risks to its decision-making process associated to disclosure and not the positive effects of such disclosure, inter alia, for the legitimacy of the decision-making process and failed to apply the test when invoking Article 4(2) 2nd indent.

Second plea in law, alleging breach of the obligation to state adequate reasons under Article 296 TFEU, as the Council did not fulfil its obligation to state sufficient and adequate reasons for the contested decision.

Action brought on 30 July 2013 — Dosen v OHIM — Gramm (Nano-Pad)

(Case T-396/13)

(2013/C 274/39)

Language in which the application was lodged: German

Parties

Applicant: Franko Dosen (Berlin, Germany) (represented by: H. Losert, lawyer)

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

Other party to the proceedings before the Board of Appeal: Thomas Gramm (Bremen, Germany)

Form of order sought

— Annul the decision of the Cancellation Division of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 21 September 2011 (Ref: 4204 C) in the form of the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 13 May 2013 in Case R 1981/2011-4.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: Word mark 'Nano-Pad' for goods in Class 17 — Community trade mark No 8 228 421

Proprietor of the Community trade mark: Franko Dosen

Applicant for the declaration of invalidity of the Community trade mark: Thomas Gramm

Grounds for the application for a declaration of invalidity: Absolute grounds for invalidity under Article 52(1)(a) and (b) of Regulation No 207/2009

Decision of the Cancellation Division: The application for a declaration of invalidity was granted in part

Decision of the Board of Appeal: Appeal dismissed

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

Action brought on 2 August 2013 — TVR Automotive v OHIM — TVR Italia (TVR)

(Case T-398/13)

(2013/C 274/40)

Language of the case: German

Parties

Applicant: TVR Automotive Ltd (Whiteley, United Kingdom) (represented by: A. von Mühlendahl and H. Hartwig, lawyers)

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

Other party to the proceedings before the Board of Appeal: TVR Italia Srl (Milan, Italy)

Form of order sought

— Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 14 May 2013 in Case R 823/2011-2;

— Dismiss the appeal of 14 April 2013 by TVR Italia Srl against the decision of the Opposition Division of OHIM of 14 February 2011, B 313 248;

— Order the defendant OHIM and TVR Italia Srl, if it joins the proceedings, to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: TVR Italia Srl

Community trade mark concerned: Figurative mark, containing the word elements 'TVR ITALIA', for goods and services in Classes 12, 25 and 37 — Community trade mark registration No 5 699 954

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

Mark or sign cited in opposition: National and Community word marks 'TVR' for goods and services in Classes 9, 11, 12, 25 and 41.

Decision of the Opposition Division: Opposition partially upheld

Decision of the Board of Appeal: Annulment of the decision of the Opposition Division and rejection of the opposition

Pleas in law:

— Infringement of Article 42(2) and (3) of Regulation No 207/2009;

— Infringement of the principle *res iudicata* or *ne bis in idem* and of Article 42(2) of Regulation No 207/2009, in conjunction with Article 15 of Regulation No 207/2009

Action brought on 8 August 2013 — NIIT Insurance Technologies v OHIM (SUBSCRIBE)

(Case T-404/13)

(2013/C 274/41)

Language of the case: German

Parties

Applicant: NIIT Insurance Technologies Ltd (London, United Kingdom) (represented by M. Wirtz, lawyer)

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

Form of order sought

— Annul the decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 4 June 2013 in Case R 1308/2012-5 concerning Community trade mark registration 010355527, Word: SUBSCRIBE and the preceding decision of the Trade Mark Department of OHIM of 22 May 2012, in so far as protection was denied to the mark;

— Order OHIM to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: Word mark 'SUBSCRIBE' for goods and services in Classes 9, 16 and 42 — Community trade mark registration No 10 355 527

Decision of the Examiner: Rejection of the application

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law:

— Infringement of Article 7(1)(b) and (2) of Regulation No 207/2009;

— Infringement of Article 83 of Regulation No 207/2009 in conjunction with the principle of equal treatment and Articles 6 and 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 in the version of Protocol No 11, which entered into force on 1 November 1998;

— Infringement of Article 56 of the Treaty on the Functioning of the European Union.

Action brought on 5 August 2013 — T & L Sugars and Sidul Açúcares v Commission

(Case T-411/13)

(2013/C 274/42)

Language of the case: English

Parties

Applicants: T & L Sugars Ltd (London, United Kingdom); and Sidul Açúcares, Unipessoal L[da] (Santa Iria de Azóia, Portugal) (represented by: D. Waelbroeck, lawyer, and D. Slater, Solicitor)

Defendant: European Commission and the European Union, represented in the present case by the European Commission

Form of order sought

The applicants claim that the Court should:

— Annul a number of Commission regulations putting cane sugar refiners at a competitive disadvantage, namely (i) Regulations 505/2013 ([1]) and 629/2013 ([2]) laying down exceptional measures as regards the release of out-of-quota sugar and isoglucose on the Union market at reduced surplus levy during marketing year 2012/2013; (ii) Regulations 574/2013 ([3]) and 677/2013 ([4]) fixing an allocation coefficient for available quantities of out-of-quota sugar to be sold on the Union market at reduced surplus levy; and (iii) Regulation 460/2013 ([5]) on the minimum customs duty to be fixed in response to the third partial invitation to tender and Regulation 542/2013 ([6]) on the minimum customs duty to be fixed in response to the fourth partial invitation to tender; and declare admissible and well founded the plea of illegality under Article 277 TFEU against Regulation 36/2013 ([7]) opening a standing invitation to tender for the 2012/2013 marketing year for imports of sugar of CN codes 1701 14 10 and 1701 99 10 at a reduced customs duty;

— In the alternative, declare the plea of illegality under Article 277 TFEU against Regulations 505/2013 and 629/2013 admissible and well founded;

— Declare Article 186(a) of Regulation 1234/2007 ([8]) (the Recast Regulation) illegal under Article 277 TFEU to the extent these do not correctly transpose the relevant provisions of Regulation 318/2006 ([9]);

— Condemn the EU as represented by the Commission to repair any damage suffered by the applicants as a result of the Commission's breach of its legal obligations and to set the amount of this compensation for the damage suffered by the Applicants during the period 1st April 2013 to 30th June 2013 at 42 261 036 EUR plus any ongoing losses suffered by the applicants after that date or any other amount reflecting the damage suffered or to be suffered by the applicants as further established by them in the course of this procedure especially to take due account of future damage, all the aforementioned amounts to be augmented by interest from the date of judgment by your Court until actual payment; and

— Order the Commission to pay all costs and expenses in these proceedings.

Pleas in law and main arguments

In support of the action, the applicants rely on eight pleas in law.

1. First plea in law, alleging a violation of the principle of non-discrimination, as on the one hand, Regulations 505/2013 and 629/2013 provide for fixed, generally applicable 177 EUR and 148 EUR per tonne Surplus Levy — i.e. less than half to the usual 500 EUR per tonne — applying to a specific quantities (a total of 300 000 tonnes) of sugar, divided equally only between beet producer applicants. On the other hand, Regulation 36/2013 provides for an unknown, unpredictable customs duty, applicable only to auction winners (who can be cane refiners, beet processors, or any other third party) and for an unspecified total amount.

2. Second plea in law, alleging a violation of the Recast Regulation/absence of an appropriate legal basis, since as regards Regulations 505/2013 and 629/2013, the Commission has no power whatsoever to increase quotas and is on the contrary required to impose high, dissuasive levies on the release of out-of-quota sugar on the EU market. As regards the tax auctions, the Commission clearly has no mandate or power to adopt this kind of measure, which was never envisaged in the basic legislation.

3. Third plea in law, alleging a violation of the principle of legal certainty, as the Commission created a system whereby customs duties are not predictable and fixed through the application of consistent, objective criteria, but are rather determined by subjective willingness to pay (moreover of actors that are subject to very different pressures and incentives in this regard) with no actual link with the actual products being imported.

4. Fourth plea in law, alleging a violation of the principle of proportionality, in so far as the Commission could easily have adopted less restrictive measures to tackle the supply shortage, which would have not been taken exclusively to the detriment of importing refiners.

5. Fifth plea in law, alleging a violation of legitimate expectations, as the applicants were legitimately led to expect that the Commission would use the tools available in Regulation 1234/2007 to restore the availability of supply of raw cane sugar for refining. The applicants were also legitimately led to expect that the Commission would preserve the balance between importing refiners and domestic sugar producers.

6. Sixth plea in law, alleging a violation of the principle of diligence, care and good administration, since in managing the sugar market, the Commission repeatedly committed fundamental errors and self-contradictions that demonstrate at best a lack of understanding about basic market mechanisms. For instance, its balance sheet — which constitutes one of the main tools for the content and timing of market intervention — was grossly incorrect and based on a flawed methodology. Moreover, the actions taken by the Commission were manifestly inappropriate in light of the supply shortage.

7. Seventh plea in law, alleging a violation of Article 39 TFEU since the Commission failed to achieve two of the objectives set out in this Treaty provision.

8. Eighth plea in law, alleging a violation of Council Regulation 1006/2011 ([10]). The duties applied to white sugar are indeed only fractionally higher than for raw sugar, the difference being as low as 20 EUR per tonne. This contrasts sharply with the 80 EUR difference between the standard import duty for refined sugar (419 EUR) and raw sugar for refining (339 EUR) which are set out in Council Regulation 1006/2011.

In addition, in support of their request for damages, the applicants allege that the Commission exceeded gravely and manifestly the margin of discretion conferred to it by Regulation 1234/2007, through its passivity and inappropriateness of action. Furthermore, the Commission failure to adopt adequate measures constitutes a manifest infringement of a rule of law '*intended to confer rights on individuals*'. The Commission violated in particular the EU general principles of legal certainty, non-discrimination, proportionality, legitimate expectations and the duty of diligence, care and good administration.

([1]) Commission Implementing Regulation (EU) No 505/2013 of 31 May 2013 laying down further exceptional measures as regards the release of out-of-quota sugar and isoglucose on the Union market at reduced surplus levy during the 2012/2013 marketing year (OJ 2013 L 147, p. 3)

([2]) Commission Implementing Regulation (EU) No 629/2013 of 28 June 2013 laying down further exceptional measures as regards the release of out-of-quota sugar and isoglucose on the Union market at reduced surplus levy during the 2012/13 marketing year (OJ 2013 L 179, p. 55)

([3]) Commission Implementing Regulation (EU) No 574/2013 of 19 June 2013 fixing an allocation coefficient for available quantities of out-of-quota sugar to be sold on the Union market at reduced surplus levy during the 2012/2013 marketing year (OJ 2013 L 168, p. 29)

([4]) Commission Implementing Regulation (EU) No 677/2013 of 16 July 2013 fixing an allocation coefficient for available quantities of out-of-quota sugar to be sold on the Union market at reduced surplus levy during the 2012/2013 marketing year (OJ 2013 L 194, p. 5)

([5]) Commission Implementing Regulation (EU) No 460/2013 of 16 May 2013 on the minimum customs duty for sugar to be fixed in response to the third partial invitation to tender within the tendering procedure opened by Implementing Regulation (EU) No 36/2013 (OJ 2013 L 133, p. 20)

(6) Commission Implementing Regulation (EU) No 542/2013 of 13 June 2013 on the minimum customs duty for sugar to be fixed in response to the fourth partial invitation to tender within the tendering procedure opened by Implementing Regulation (EU) No 36/2013 (OJ 2013 L 162, p. 7)
(7) Commission Implementing Regulation (EU) No 36/2013 of 18 January 2013 opening a standing invitation to tender for the 2012/2013 marketing year for imports of sugar of CN codes 1701 14 10 and 1701 99 10 at a reduced customs duty (OJ 2013 L 16, p. 7)
(8) 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 (OJ 2007 L 299, p. 1)
(9) 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)
(10) Commission Regulation (EU) No 1006/2011 of 27 September 2011 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 2011 L 282, p. 1)

Action brought on 9 August 2013 — Chin Haur Indonesia v Council

(Case T-412/13)

(2013/C 274/43)

Language of the case: English

Parties

Applicant: Chin Haur Indonesia, PT (Tangerang, Indonesia) (represented by: T. Müller-Ibold and F.-C. Laprévote, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— Partially annul Articles 1(1) and 1(3) of the Council Implementing Regulation (EU) No 501/2013 ([1]) as far as they extend the anti-dumping duty to the applicant and deny the applicant's exemption request;

— Order the Council to pay the applicant's legal and other costs and expenses in relation to this matter; and

— Take any other measures that the Court considers appropriate.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission and the Council failed to demonstrate circumvention with respect to Indonesian imports and thus committed a manifest error of assessment, as:

   — The conclusion that a change in the pattern of trade had occurred is manifestly erroneous;

   — The Council wrongly asserted that Indonesian producers, in particular the applicant, were transshipping bicycles from China to EU.

2. Second plea in law, alleging that the Council wrongly found that the applicant was non-cooperative and that such non-cooperation justified a denial of its exemption, as:

   — The applicant cooperated to the best of its ability;

   — The finding of non-cooperation is unwarranted;

   — The Council's finding of non-cooperation constitutes a failure to state reasons;

   — The Council failed to take into account additional information provided by the applicant.

3. Third plea in law, alleging that the applicant's due process rights have been violated in the investigation, as:

   — The Commission did not abide by its obligation to consider impartially the evidence before it;

   — The Commission's investigation contained procedural irregularities.

4. Fourth plea in law, alleging that the denial to grant the applicant an exemption constitutes a violation of the principle of equal treatment, as:

   — The Commission discriminated against the applicant by granting an exemption to similarly-placed exporters and by refusing the applicant's exemption request;

   — The applicant was wrongly granted the same treatment as completely non-cooperating producers.

5. Fifth plea in law, alleging that the Implementing Regulation's findings on injury and dumping are inconsistent with the basic anti-dumping regulation, as:

   — The finding of an undermining of the remedial effect of the anti-dumping duty is erroneous.

— The Commission established dumping through unreliable and unsuitable data and wrongly refused to consider data on prices submitted by the applicant.

(1) Council Implementing Regulation (EU) No 501/2013 of 29 May 2013 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 990/2011 on imports of bicycles originating in the People's Republic of China to imports of bicycles consigned from Indonesia, Malaysia, Sri Lanka and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not (OJ 2013 L 153, p. 1)

Action brought on 9 August 2013 — City Cycle Industries v Council

(Case T-413/13)

(2013/C 274/44)

Language of the case: English

Parties

Applicant: City Cycle Industries (Colombo, Sri Lanka) (represented by: T. Müller-Ibold and F.-C. Laprévote, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— Partially annul Articles 1(1) and 1(3) of the Council Implementing Regulation (EU) No 501/2013 (1) as far as they extend the anti-dumping duty to the applicant and deny the applicant's exemption request;

— Order the Council to pay the applicant's legal and other costs and expenses in relation to this matter; and

— Take any other measures that the Court considers appropriate.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission and the Council failed to demonstrate circumvention with respect to Sri Lanka imports and thus committed a manifest error of assessment, as:

   — The conclusion that a change in the pattern of trade had occurred is manifestly erroneous;

   — The Council wrongly asserted that Sri Lanka producers, in particular the applicant, were transshipping bicycles from China to EU.

2. Second plea in law, alleging that the Council wrongly found that the applicant was non-cooperative and that such non-cooperation justified a denial of its exemption, as:

   — The applicant cooperated to the best of its ability;

   — The finding of non-cooperation is unwarranted;

   — The Council's finding of non-cooperation constitutes a failure to state reasons;

   — The Council failed to take into account additional information provided by the applicant.

3. Third plea in law, alleging that the applicant's due process rights have been violated in the investigation, as:

   — The Implementing Regulation violates the principles of diligence and sound administration;

   — The incomplete file shared with the applicant amounts to a violation of the applicant's rights of defence.

4. Fourth plea in law, alleging that the denial to grant the applicant an exemption constitutes a violation of the principle of equal treatment, as:

   — The Commission discriminated against the applicant by granting an exemption to similarly-placed exporters and by refusing the applicant's exemption request;

   — The applicant was wrongly granted the same treatment as completely non-cooperating producers.

5. Fifth plea in law, alleging that the Implementing Regulation's findings on injury and dumping are inconsistent with the basic anti-dumping regulation, as:

   — The finding of an undermining of the remedial effect of the anti-dumping duty is erroneous.

   — The finding of dumping in the implementing regulation is also erroneous.

(1) Council Implementing Regulation (EU) No 501/2013 of 29 May 2013 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 990/2011 on imports of bicycles originating in the People's Republic of China to imports of bicycles consigned from Indonesia, Malaysia, Sri Lanka and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not (OJ 2013 L 153, p. 1)

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Action brought on 6 June 2013 — ZZ v Commission

(Case F-56/13)

(2013/C 274/45)

Language of the case: French

Parties

Applicant: ZZ (represented by: L. Vogel, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the decision concerning the transfer of the applicant's pension rights into the European Union pension scheme, which decision applies the new GIP relating to Articles 11 and 12 of Annex VIII to the Staff Regulations of Officials.

Form of order sought

— Annul the decision adopted by the appointing authority on 27 February 2013 rejecting the complaints made by the applicant on 7 January 2013 against the decisions of the PMO.4 of 10 October 2012;

— annul in addition those decisions of 10 October 2012 adopted by the PMO.4 against which the applicant's complaints were made;

— declare unlawful the general implementing provisions of Articles 11 and 12 of Annex VIII to the Staff Regulations, as adopted on 3 March 2011, particularly Article 9 thereof, and declare them inapplicable to the present case;

— order the Commission to pay the costs.

Action brought on 26 July 2013 — ZZ v Commission

(Case F-60/13)

(2013/C 274/46)

Language of the case: French

Parties

Applicant: ZZ (represented by: F. Frabetti, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the implied decision to reject the request, made by the applicant on the basis of Article 90(1) of the Staff Regulations, for adjustment of the entries in respect of the applicant's absences on account of sickness in the SysPer2 application.

Form of order sought

— Annul the implied decision to reject Request No D/299/12, made by the applicant on 13 April 2012 concerning the adjustment of the entries in respect of the applicant's absences on account of sickness in SysPer2, to take into account working days only, from 13 April 2009 to the date of the applicant's request;

— annul the express decision to reject Request No D/299/12, made by the applicant on 13 April 2012 concerning the five days deducted from the applicant's leave entitlements for 2012;

— order the Commission to pay the costs.

Action brought on 25 June 2013 — ZZ and Others v European Investment Bank

(Case F-61/13)

(2013/C 274/47)

Language of the case: French

Parties

Applicant: ZZ and Others (represented by: L. Levi, lawyer)

Defendant: European Investment Bank

Subject-matter and description of the proceedings

Annulment of the individual decisions to award a bonus to the applications in accordance with a new performance scheme and to annul the decisions to grant the bonuses to the applicants misapplying of the new performance scheme and the subsequent request to order the EIB to pay damages.

Form of order sought

— annul the individual decisions to apply a bonus to the applicants in so far as those decisions constitute the application of a new performance system;

— alternatively, annul the decisions to grant the bonus to 2 applicants in so far as those decisions misapply the new performance system;

— order the defendant to pay damages;

— in the event that the defendant does not produce documents on its own initiative, call on the defendant to produce them under the measure of organisation of procedure;

— order the EIB to pay the costs.

Action brought on 28 June 2013 — ZZ v Court of Justice

(Case F-64/13)

(2013/C 274/48)

Language of the case: French

Parties

Applicant: ZZ (represented by: F. Rollinger, lawyer)

Defendant: Court of Justice of the European Union

Subject-matter and description of the proceedings

Annulment of the applicant's staff report concerning the period from 1 January 2008 until 31 December 2008, and order that the defendant pay compensation for non-material damage.

Form of order sought

— annul the applicant's staff report for the period 1 January 2008 to 31 December 2008;

— annul the decision rejecting the complaint of 21 March 2013;

— order the defendant to pay EUR 58 000 for non-material damage

— order the Court of Justice to pay the costs.

Action brought on 4 July 2013 — ZZ v Europol

(Case F-66/13)

(2013/C 274/49)

Language of the case: French

Parties

Applicant: ZZ (represented by: J.-J. Ghosez, lawyer)

Defendant: European Police Office (Europol)

Subject-matter and description of the proceedings

Annulment of the decision not to renew the applicant's fixed-term contract.

Form of order sought

— Annul the decision taken by the defendant on 28 September 2012 by which the defendant informed the applicant that her fixed-term contract expiring on 31 December 2012 would not be renewed, as well as the confirmatory decision rejecting the applicant's complaint, taken on 9 April 2013;

— order the defendant to pay the applicant the difference between (i) the amount of the remuneration to which she would have been entitled had she remained in her post with the defendant and (ii) the amount of the remuneration, fees, unemployment benefits and any other compensation actually received by her since 1 January 2013 by way of replacement for the remuneration she was receiving as a temporary agent;

— order Europol to pay the costs.

Action brought on 8 July2013 — ZZ v Europol

(Case F-67/13)

(2013/C 274/50)

Language of the case: French

Parties

Applicant: ZZ (represented by: J.-J. Ghosez, lawyer)

Defendant: European Police Office (Europol)

Subject-matter and description of the proceedings

Annulment of the decision not to renew the applicant's fixed term contract.

Form of order sought

— annul the decisions taken by the defendant on 26 September and 7 December 2012 by which the defendant informed the applicant that it would not renew her fixed term contract which was to expire on 31 March 2013 and the decision rejecting the applicant's complaint of 9 April 2013;

— order the defendant to pay the applicant the difference between the amount of remuneration that she would have been entitled if she had remained in her post with the defendant and the amount of remuneration, fees, unemployment benefits or any other substituted payment which she has actually received since 1 April 2013 to replace the remuneration which she received as a temporary staff member;

— order Europol to pay the costs.

Action brought on 9 July 2013 — ZZ v ECB

(Case F-68/13)

(2013/C 274/51)

Language of the case: English

Parties

Applicant: ZZ (represented by: L. Levi, Lawyer)

Defendant: European Central Bank

Subject-matter and description of the proceedings

The annulment of the decision of the ECB to close the internal administrative inquiry as well as the inquiry report and the compensation of the moral prejudice the Applicant suffered.

Form of order sought

— Annul the decision of the Executive Board of 7th January 2013 taking note of the Final Report and deciding to close the internal administrative inquiry;

— as a consequence, annul the inquiry and the inquiry report and re-initiate a new inquiry with a regular assessment of facts;

— grant a compensation for the material damage suffered assessed *ex aequo et bono* at 50 000 euros;

— order the Defendant to pay the costs.

Action brought on 9 July 2013 — ZZ v Commission

(Case F-69/13)

(2013/C 274/52)

Language of the case: French

Parties

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

Defendant: Commission

Subject-matter and description of the proceedings

Annulment of the decision to calculate accredited pension rights acquired before entry into service on the basis of the new GIPs.

Form of order sought

— annul the decision to calculate the years of pensionable service recognised for the purposes of that transfer into the pension scheme of the institutions of the European Union on the basis of the new General Implementing Provisions ('GIPs') in Article 11(2) in Annex VIII to the Staff Regulations of 3 March 2011;

— order the Commission to pay the costs.

Action brought on 15 July 2013 — ZZ v EEA

(Case F-71/13)

(2013/C 274/53)

Language of the case: French

Parties

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

Defendant: European Environment Agency (EEA)

Subject-matter and description of the proceedings

Application for annulment of the decision to reject the applicant's request for an administrative inquiry to be opened to prove or clarify facts relating to harassment.

Form of order sought

— annul the decision of 20 September 2012 by the authority empowered to conclude contracts ('AECE') rejecting the applicant's request for an administrative inquiry to be opened to prove or clarify facts relating to harassment;

— order the EEA to pay the costs.

Action brought on 15 July 2013 — ZZ and Others v EIF

(Case F-72/13)

(2013/C 274/54)

Language of the case: French

Parties

Applicants: ZZ and Others (represented by: L. Levi, lawyer)

Defendant: European Investment Fund (EIF)

Subject-matter and description of the proceedings

Annulment of the decisions contained in salary slips to apply to the applicants the decision of the Board of Directors setting a salary progression capped at 2.3%, the decision of the EIF's Chief Executive setting a new merit grid entailing the loss of 1 to 2 % of salary, according to the applicants, and the decision of the EIB's Management Committee establishing a merit grid entailing the loss of 1 to 2 % of salary, according to the applicants, and the subsequent application for an order that the EIF pay the difference in remuneration together with damages.

Form of order sought

— Annulment of the decisions to apply to the applicants the decision of the EIF's Board of Directors of 4 February 2013 setting a salary progression capped at 2.3%, the decision of the EIF's Chief Executive setting a new merit grid entailing the loss of 1 to 2 % of salary, according to the applicants, which decisions derive from the decision of the EIB's Board of Directors of 18 December 2012 setting a salary progression capped at 2.3% and from a decision of the EIB's Management Committee of 29 January 2013 establishing a merit grid entailing the loss of 1 to 2 % of salary, according to the applicants (the abovementioned decisions of the EIF having been disclosed in the April 2013 salary slips), and the annulment, to the same extent, of all the decisions of the EIF contained in the subsequent salary slips;

— order the defendant to pay the difference between the remuneration resulting from the aforementioned decisions of the EIF's Board of Directors and the EIF's Chief Executive of 4 February 2013, the EIB's Board of Directors of 18 December 2012 and the EIB's Management Committee of 29 January 2013 and that payable in application of the '4-3-2-1-0' merit grid and the '5-4-3-1-0' 'young' grid, or, in the alternative, in respect of the applicants awarded a grade A, that payable in application of the '3-2-1-0-0' merit grid and, in respect of the applicants covered by the 'young' grid, under the '4-3-2-0-0' young grid; with interest on arrears to be added to that difference in remuneration with effect from 15 April 2013 and then on the 15th of each month until the difference has been completely made up, the rate of interest being the ECB rate, increased by three percentage points;

— order the defendant to pay damages for the loss suffered by reason of the loss of purchasing power, such loss being assessed equitably, and, on a provisional basis, at 1.5% of the monthly remuneration of each applicant;

— should the defendant not produce them voluntarily, request the defendant, by way of measures of organisation of procedure, to produce the following documents:

  — the decision of the EIF's Board of Directors relating to the alignment of the employment status of EIF staff of 24 September 2001;

— the decision of the EIF setting out the 'appropriate procedure' mentioned in the decision of the EIF's Board of Directors relating to the alignment of the employment status of EIF staff of 24 September 2001;

— the decision of the EIF's Board of Directors, thought to be of 4 February 2013, setting the budget for staff for 2013;

— the decision of the EIF's Chief Executive setting the new merit grid for 2013;

— the minutes of the meeting of the EIB's Board of Directors of 18 December 2012;

— the minutes of the meeting of the EIB's Management Committee of 29 January 2013;

— the note from the EIB's Personnel Directorate 'personnel/ASP/2013-5' of 29 January 2013;

— the Corporate Operational Plans 2013-2015 of the EIB and of the EIF;

— order the EIF to pay the costs.

Action brought on 17th July 2013 — ZZ v ECB

(Case F-73/13)

(2013/C 274/55)

Language of the case: English

Parties

Applicant: ZZ (represented by: L. Levi, Lawyer)

Defendant: European Central Bank

Subject-matter and description of the proceedings

The annulment of the ECB's decision of 28 May 2013 imposing a disciplinary dismissal to the Applicant and the compensation of the moral prejudice he suffered.

Form of order sought

— Annul the decision of the European Central Bank dated 28 May 2013 imposing the disciplinary dismissal with effect from 31 August 2013;

— as a consequence, fully reinstate the Applicant with the appropriate publicity in order to restore his good name;

— in any case, compensate the moral prejudice suffered by the Applicant evaluated ex aequo et bono at 20 000,00 EUR;

— reimburse all the costs.

Action brought on 25 July 2013 — ZZ v Commission

(Case F-74/13)

(2013/C 274/56)

Language of the case: French

Parties

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

Defendant: European Commission

Subject-matter and description of the proceedings

Application for annulment of the decision on the transfer of the applicant's pension rights into the European Union pension scheme applying the new general implementing provisions ('GIP') relating to Articles 11 and 12 of Annex VIII to the Staff Regulations.

Form of order sought

— annul the decision to transfer the applicant's pension rights acquired before his entry into service into the pension scheme applicable to staff of the European institutions in accordance with the calculations for the transfer drawn up pursuant to the GIP of Article 11(2) of Annex VIII to the Staff Regulations of 3 March 2011;

— order the Commission to pay the costs.

Action brought on 1 August 2013 — ZZ v Commission

(Case F-75/13)

(2013/C 274/57)

Language of the case: French

Parties

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

Defendant: European Commission

Subject-matter and description of the proceedings

Application for annulment of the decision to not grant the applicant the benefit of the expatriation allowance.

Form of order sought

— annul the decision of the PMO of 4 October 2012 refusing the applicant the benefit of the expatriation allowance in accordance with Article 4 of Annex VII to the Staff Regulations;

— order the Commission to pay the costs.

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