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COURT OF JUSTICE OF THE EUROPEAN UNION

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

(2014/C 431/01)

Last publication

OJ C 421, 24.11.2014

Past publications

OJ C 409, 17.11.2014

OJ C 395, 10.11.2014

OJ C 388, 3.11.2014

OJ C 380, 27.10.2014

OJ C 372, 20.10.2014

OJ C 361, 13.10.2014

These texts are available on:

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

Taking of the oath by the new Member of the Court of Justice

(2014/C 431/02)

Following his appointment as Judge at the Court of Justice for the period from 7 October 2014 to 6 October 2018 by decision of the Representatives of the Governments of the Member States of the European Union of 24 September 2014 ([1]), Mr Lycourgos took the oath before the Court of Justice on 8 October 2014.

Election of the Presidents of the Chambers of three Judges

(2014/C 431/03)

At a meeting on 7 October 2014, the Judges of the Court of Justice elected, pursuant to Article 12(2) of the Rules of Procedure, Mr Ó Caoimh as President of the Eighth Chamber, Mr Bonichot as President of the Seventh Chamber, Mr Vajda as President of the Tenth Chamber, Mr Rodin as President of the Sixth Chamber and Ms Jürimäe as President of the Ninth Chamber for the period from 7 October 2014 to 6 October 2015.

Decisions adopted by the Court in its General Meeting on 14 October 2014

(2014/C 431/04)

At its General Meeting on 14 October 2014, the Court decided to assign Mr Lycourgos to the Second and Seventh Chambers.

Consequently, the composition of the Second and Seventh Chambers is as set out below.

Second Chamber

Ms Silva de Lapuerta, President of the Chamber,

Mr Bonichot, Mr Arabadjiev, Mr Da Cruz Vilaça and Mr Lycourgos, Judges.

Seventh Chamber

Mr Bonichot, President of the Chamber,

Mr Arabadjiev, Mr Da Cruz Vilaça and Mr Lycourgos, Judges.

([1]) OJ L 284, 30.9.2014, p. 46.

Lists for the purposes of determining the composition of the formations of the Court

(2014/C 431/05)

At its General Meeting on 14 October 2014, the Court drew up the list for determining the composition of the Grand Chamber as follows:

Mr Rosas

Mr Lycourgos

Mr Juhász

Ms Jürimäe

Mr Borg Barthet

Mr Biltgen

Mr Malenovský

Mr Rodin

Mr Levits

Mr Vajda

Mr Ó Caoimh

Mr Da Cruz Vilaça

Mr Bonichot

Mr Fernlund

Mr Arabadjiev

Mr Jarašiūnas

Ms Toader

Ms Prechal

Mr Safjan

Ms Berger

Mr Šváby

At its General Meeting on 14 October 2014, the Court drew up the list for determining the composition of the Second Chamber of five Judges as follows:

Mr Bonichot

Mr Lycourgos

Mr Arabadjiev

Mr Da Cruz Vilaça

At its General Meeting on 14 October 2014, the Court drew up the list for determining the composition of the Seventh Chamber of three Judges as follows:

Mr Arabadjiev

Mr Da Cruz Vilaça

Mr Lycourgos

Designation of the Chamber responsible for cases of the kind referred to in Article 107 of the Rules of Procedure of the Court

(2014/C 431/06)

At its General Meeting on 7 October 2014, the Court designated the Fourth Chamber as the Chamber that is, in accordance with Article 11(2) of the Rules of Procedure, responsible for cases of the kind referred to in Article 107 of those Rules, for the period from 7 October 2014 to 6 October 2015.

Designation of the Chamber responsible for cases of the kind referred to in Article 193 of the Rules of Procedure of the Court

(2014/C 431/07)

At its General Meeting on 7 October 2014, the Court designated the First Chamber as the Chamber that is, in accordance with Article 11(2) of the Rules of Procedure, responsible for cases of the kind referred to in Article 193 of those Rules, for the period from 7 October 2014 to 6 October 2015.

Appointment of the First Advocate General

(2014/C 431/08)

At its General Meeting on 7 October 2014, the Court of Justice appointed Mr Wathelet as First Advocate General for the period from 7 October 2014 to 6 October 2015.

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Order of the Court (Fifth Chamber) of 9 September 2014 (request for a preliminary ruling from the Okrazhen sad — Targovishte — Bulgaria) — 'Parva Investitsionna Banka' AD, 'UniKredit Bulbank' AD, 'Siyk Faundeyshan' LLS v 'Ear Proparti Development — v nesastoyatelnost' AD, Sindik na 'Ear Proparti Development — v nesastoyatelnost' AD

(Case C-488/13) ([1])

(Reference for a preliminary ruling — Regulation (EC) No 1896/2006 — Definition of 'uncontested pecuniary claims' — Insolvency proceedings — Extra-judicial enforcement order relating to a contested claim — Claim for payment out of the insolvency estate, on the basis of such an enforcement order — Situation falling outside the scope of Regulation No 1896/2006 — Court clearly lacking jurisdiction)

(2014/C 431/09)

Language of the case: Bulgarian

Referring court

Okrazhen sad — Targovishte

Parties to the main proceedings

Applicants: 'Parva Investitsionna Banka' AD, 'UniKredit Bulbank' AD, 'Siyk Faundeyshan' LLS

Defendants: 'Ear Proparti Developmant — v nesastoyatelnost' AD, Sindik na 'Ear Proparti Developmant — v nesastoyatelnost' AD

Intervening parties: Natsionalna agentsia za prihodite, 'Aset Menidzhmant' EAD, 'Ol Siyz Balgaria' OOD, 'Si Dzhi Ef — aktsionerna obshtnost' AD, 'Silvar Biych' EAD, 'Rudersdal' EOOD, 'Kota Enerdzhi' EAD, Chavdar Angelov Angelov

Operative part of the order

The Court of Justice of the European Union clearly lacks jurisdiction to answer the questions referred by the Okrazhen sad — Targovishte (Bulgaria).

([1]) OJ C 344, 23.11.2013.

Order of the Court (Eighth Chamber) of 11 September 2014 — Think Schuhwerk GmbH v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-521/13 P) ([1])

(Appeal — Community trade mark — Regulation (EC) No 207/2009 — Article 7(1)(b) — No distinctive character — Red aglets on shoe laces — Article 122 of the Rules of Procedure of the General Court — Appeal in part manifestly inadmissible and in part manifestly unfounded)

(2014/C 431/10)

Language of the case: German

Parties

Appellant: Think Schuhwerk GmbH (represented by: M. Gail, Rechtsanwalt)

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

Operative part of the order

1. *The appeal is dismissed.*

2. *Think Schuhwerk GmbH is ordered to pay the costs.*

([1]) OJ C 344, 23.11.2013.

Order of the Court (Seventh Chamber) of 25 September 2014 (request for a preliminary ruling from the Fővárosi Közigazgatási és Munkaügyi Bíróság — Hungary) — János Kárász v Nyugdíjfolyósító Igazgatóság

(Case C-199/14) ([1])

(Reference for a preliminary ruling — Article 17 of the Charter of Fundamental Rights of the European Union — Implementation of EU law — Lack of implementation — Clear lack of jurisdiction of the Court)

(2014/C 431/11)

Language of the case: Hungarian

Referring court

Fővárosi Közigazgatási és Munkaügyi Bíróság

Parties to the main proceedings

Applicant: János Kárász

Defendant: Nyugdíjfolyósító Igazgatóság

Operative part of the order

The Court of Justice of the European Union clearly lacks jurisdiction to answer the question referred by the Fővárosi Közigazgatási és Munkaügyi Bíróság (Hungary) by decision of 25 March 2014.

([1]) OJ C 245, 28.07.2014.

Order of the Court (Tenth Chamber) of 4 September 2014 (request for a preliminary ruling from the Tatabányai Közigazgatási és Munkaügyi Bíróság (Hungary)) — István Tivadar Szabó v Nemzeti Adó- és Vámhivatal Közép-dunántúli Regionális Adó Főigazgatósága

(Case C-204/14) ([1])

(Reference for a preliminary ruling — Tax debts accumulated by a commercial company — Director of that company could not be recruited to be a director of another company — Article 53(2) of the Rules of Procedure of the Court of Justice — Interpretation requested of provisions of EU law that are inapplicable — Manifest lack of jurisdiction of the Court — Hypothetical questions — Manifest inadmissibility)

(2014/C 431/12)

Language of the case: Hungarian

Referring court

Tatabányai Közigazgatási és Munkaügyi Bíróság

Parties to the main proceedings

Applicant: István Tivadar Szabó

Defendant: Nemzeti Adó- és Vámhivatal Közép-dunántúli Regionális Adó Főigazgatósága

Operative part of the order

1. *The Court of Justice of the European Union manifestly lacks jurisdiction to provide an answer to the third question posed by the Tatabányai Közigazgatási és Munkaügyi Bíróság (Hungary).*

2. *The other questions posed by the aforementioned court are manifestly inadmissible.*

([1]) OJ C 245, 28.7.2014.

Request for a preliminary ruling from the Krajowa Izba Odwoławcza (Poland) lodged on 14 August 2014 — Esaprojekt sp. z o.o. v Województwo Łódzkie

(Case C-387/14)

(2014/C 431/13)

Language of the case: Polish

Referring court

Krajowa Izba Odwoławcza

Parties to the main proceedings

Appellant: Esaprojekt sp. z o.o.

Respondent: Województwo Łódzkie

Questions referred

1) Does Article 51 of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts ('Directive 2004/18/EC'), ([1]) in conjunction with the principle of equal and non-discriminatory treatment of economic operators and the principle of transparency set out in Article 2 thereof, allow an economic operator, when clarifying or supplementing documents, to refer to the performance of contracts (that is to say, supplies provided) other than those which it referred to in the list of supplies attached to the tender, and in particular can it refer to the performance of contracts by another entity the use of whose resources it did not refer to in the tender?

2) In the light of the judgment of the Court of Justice in Case C-336/12 *Manova* [2013] ECR, according to which 'the principle of equal treatment must be interpreted as not precluding a contracting authority from asking a candidate, after the deadline for applying to take part in a tendering procedure, to provide documents describing that candidate's situation — such as a copy of its published balance sheet — which can be objectively shown to pre-date that deadline, so long as it was not expressly laid down in the contract documents that, unless such documents were provided, the application would be rejected', must Article 51 of Directive 2004/18/EC be interpreted as meaning that the supplementing of documents is possible only when it involves documents which can be objectively shown to pre-date the deadline for submitting tenders or requests to participate in the procedure, or that the Court of Justice stated only one of the possibilities and the supplementing of documents is possible also in other cases, for example by attaching documents which did not pre-date the deadline but which objectively confirm fulfilment of a condition?

3) If the answer to Question 2 is to the effect that the supplementing of documents other than as stated in the judgment in Case C-336/12 *Manova* is possible, is it possible to supplement by adding documents drawn up by the economic operator, subcontractors or other entities on whose capacities the economic operator relies, if they were not submitted together with the tender?

4) Does Article 44 of Directive 2004/18/EC, in conjunction with Article 48(2)(a) thereof and the principle of equal treatment of economic operators set out in Article 2, allow reliance on the resources of another entity, as referred to in Article 48(3), by combining the knowledge and experience of two entities, which, individually, do not have the knowledge and experience required by the contracting authority, where that experience cannot be divided (that is to say, the condition for participation in the procedure must be fulfilled in its entirety by the economic operator) and performance of the contract cannot be divided (constitutes a single whole)?

5) Does Article 44 of Directive 2004/18/EC, in conjunction with Article 48(2)(a) thereof and the principle of equal treatment of economic operators in Article 2, allow reliance on the experience of a group of economic operators in such a way that an economic operator which performed a contract as one of a group of economic operators can rely on the performance by that group, regardless of what its participation in the performance of that contract was, or can it rely only on the experience it itself has actually acquired in performing the relevant part of the contract which was assigned to it within that group?

6) Can Article 45(2)(g) of Directive 2004/18/EC, which states that any economic operator which is guilty of serious misrepresentation in supplying or not supplying information can be excluded from the procedure, be interpreted as excluding from the procedure an economic operator which submitted incorrect information which affected, or could affect, the result of the procedure, in that the guilt for misrepresentation lies in the very supply to the contracting authority of the factually inaccurate information which affects the decision of the contracting authority concerning exclusion of the economic operator (and rejection of its tender), regardless of whether the economic operator did so knowingly and wilfully, or unknowingly, through recklessness, negligence or failure to exercise due diligence? It is possible to regard as 'guilty of serious misrepresentation in supplying the information required […] or not having supplied such information' only an economic operator which has submitted incorrect (factually inaccurate) information, or also one which has submitted information which is correct, but has done so in such a way as to satisfy the contracting authority that it fulfils the requirements laid down by the contracting authority it, even though it does not?

7) Does Article 44 of Directive 2004/18/EC, in conjunction with Article 48(2)(a) thereof and the principle of equal treatment of economic operators in Article 2, allow reliance by an economic operator on experience in such a way that it relies jointly on two or more contractual agreements as a single public contract, despite the fact that the contracting authority did not refer to such a possibility in the contract notice or the tender specifications?

(1) OJ 2004 L 134, p. 114.

Request for a preliminary ruling from the Sąd Najwyższy (Poland) lodged on 20 August 2014 — Polkomtel Sp. z o.o. v Prezes Urzędu Komunikacji Elektronicznej

(Case C-397/14)

(2014/C 431/14)

Language of the case: Polish

Referring court

Sąd Najwyższy

Parties to the main proceedings

Applicant: Polkomtel Sp. z o.o.

Defendant: Prezes Urzędu Komunikacji Elektronicznej

Intervening party: Telekomunikacja Polska S.A. (now Orange Polska S.A.), whose seat is in Warsaw

Questions referred

1. Must Article 28 of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive), ([1]) in its initial version, be interpreted as meaning that it is necessary to ensure that not only end-users from other Member States, but also end-users from the Member State of a particular public communications network operator, have access to non-geographic numbers, with the result that the national regulatory authority's assessment of whether that obligation has been fulfilled is subject to the requirements arising from the principle of effectiveness of EU law and the principle of interpreting national law in conformity with EU law?

2. If the answer to Question 1 is in the affirmative, must Article 28 of Directive 2002/22, read in conjunction with Article 16 of the Charter of Fundamental Rights, be interpreted as meaning that, in order to fulfil the obligation referred to in the first of those provisions, it is possible to use the procedure laid down for national regulatory authorities in Article 5(1) of Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive)? ([2])

3. Must Article 8(3) of Directive 2002/19, read in conjunction with Article 28 of Directive 2002/22 and Article 16 of the Charter of Fundamental Rights, or Article 8(3) of Directive 2002/19, read in conjunction with Article 5(1) of Directive 2002/19 and Article 16 of the Charter of Fundamental Rights, be interpreted as meaning that, in order to ensure that the end-users of a national public communications network operator have access to services using non-geographic numbers supplied on the network of another national operator, the national regulatory authority may lay down rules governing the payment of operators for call origination by having recourse to the call termination rates set in respect of one of those operators which are cost orientated pursuant to Article 13 of Directive 2002/19, where the operator proposed that such a rate be applied during failed negotiations held to fulfil the obligation laid down in Article 4 of Directive 2002/19?

([1]) OJ 2002 L 108, p. 51.
([2]) OJ 2002 L 108, p. 7.

Appeal brought on 20 August 2014 by Basic AG Lebensmittelhandel against the judgment of the General Court (Sixth Chamber) delivered on 26 June 2014 in Case T-372/11: Basic AG Lebensmittelhandel v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-400/14 P)

(2014/C 431/15)

Language of the case: English

Parties

Appellant: Basic AG Lebensmittelhandel (represented by: D. Altenburg, T. Haug, Rechtsanwälte)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), Repsol YPF, SA

Form of order sought

The appellant requests that:

— The decision of the Court of Justice of the European Union (General Court) of June 26, 2014 (Case T-372/11) shall be annulled and the case shall be referred to the General Court for reapplication;

— The defendant shall bear all costs of this proceeding.

Pleas in law and main arguments

The applicant contests the General Court's interpretation of the definition of '*distribution services*' which is — as a matter of law — a preliminary issue in the assessment of similarity of services. The applicant consequently claims that the General Court has taken an incorrect perception as the legal basis for its subsequent assessment concerning the likelihood of confusion between the trademarks at issue.

The applicant would point out that the ECJ's main function is to supply a uniform interpretation of the concept and scope of the respective services (C-418/02, paragraph 33 — Praktiker; joined cases C-414/99 to C-416/99 Zino Davidoff and Levi Strauss, paragraphs 42 and 43) and of the judgment 'IP-Translator' (C-307/10, June 19, 2012) whereby '*goods and services have to be definable in an objective manner in order to fulfil the trademark's function as an indication of origin*' and asks the ECJ for a '*sufficient precise and clear*' definition of '*distribution services*'.

In the opinion of the applicant, the service 'distribution' has a very narrow scope and comprises only the activities '*transport; packaging and storage of goods*' but not 'retail and wholesale' services. The applicant further points out that the Court of Justice clarified in the 'Praktiker' judgment that the objective of 'retail' (class 35) is — in contrast to the services in class 39 — the sale of goods to consumers, whereas these activities consist, '*inter alia, in selecting an assortment of goods offered for sale and in offering a variety of services aimed at inducing the consumer to conclude the transaction with the trader in question rather than with a competitor*'.

The general classification of 'distribution' in Nice Class 39 cannot be ignored in the view of the applicant since the ECJ expressly underlined its argumentation in its Praktiker decision in consideration of the Explanatory Note of Nice Class 35 (C-418/02, paragraph 36).

Therefore the decision of the General Court must be annulled and referred back for reapplication.

Request for a preliminary ruling from the Nejvyšší soud České republiky (Czech Republic) lodged on 25 August 2014 — Marie Matoušková, court commissioner in inheritance proceedings v Misha Martinus and Elisabeth Jekaterina Martinus, represented by David Sedlák as trustee; Beno Jeriël Eljada Martinus

(Case C-404/14)

(2014/C 431/16)

Language of the case: Czech

Referring court

Nejvyšší soud České republiky

Parties to the main proceedings

Applicant: Marie Matoušková, court commissioner in inheritance proceedings

Persons concerned by the inheritance proceedings: Misha Martinus and Elisabeth Jekaterina Martinus, represented by David Sedlák as trustee; Beno Jeriël Eljada Martinus

Question referred

If an inheritance settlement agreement concluded on behalf of a minor by his or her trustee requires the approval of a court in order to be valid, is that decision on the part of the court a measure within the meaning of Article 1(1)(b) or a measure within the meaning of Article 1(3)(f) of Council Regulation (EC) No 2201/2003 ([1]) of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility, repealing Regulation (EC) No 1347/2000?

([1]) OJ 2003 L 338, p. 1.

Request for a preliminary ruling from the Nejvyšší správní soud (Czech Republic) lodged on 25 August 2014 — PST CLC a.s. v Generální ředitelství cel

(Case C-405/14)

(2014/C 431/17)

Language of the case: Czech

Referring court

Nejvyšší správní soud

Parties to the main proceedings

Applicant: PST CLC a.s.

Defendant: Generální ředitelství cel

Question referred

Was Commission Regulation (EC) No 384/2004 ([1]) of 1 March 2004 concerning the classification of certain goods in the Combined Nomenclature valid at the time of its effectiveness from 22 March 2004 to 22 December 2009 insofar as point 2 of the annex thereto is concerned, which specifies that products consisting of a heat sink and a fan fall within CN Code 8414 59 30, and was it thus applicable to the present case?

([1]) OJ 2004 L 64, p. 21.

Request for a preliminary ruling from the Wojewódzki Sąd Administracyjny w Warszawie (Poland) lodged on 27 August 2014 — Wrocław — Miasto na prawach powiatu v Minister Infrastruktury i Rozwoju

(Case C-406/14)

(2014/C 431/18)

Language of the case: Polish

Referring court

Wojewódzki Sąd Administracyjny w Warszawie

Parties to the main proceedings

Applicant: Wrocław — Miasto na prawach powiatu

Defendant: Minister Infrastruktury i Rozwoju

Questions referred

1. In the light of Article 25 of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts ([1]) is the contracting authority allowed to stipulate in the tender specifications that the economic operator is required to perform at least 25 % of the works covered by the contract using its own resources?

2. If the answer to the first question is in the negative, does the application of the requirement described in that question in a procedure for the award of a public contract result in an infringement of provisions of EU law which justifies the necessity to make a financial correction pursuant to Article 98 of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 ([2])?

([1]) OJ 2004 L 134, p. 114.
([2]) OJ 2006 L 210, p. 25.

Request for a preliminary ruling from the Commissione Tributaria Regionale di Mestre-Venezia (Italy) lodged on 3 September 2014 — Fratelli De Pra SpA and SAIV SpA v Agenzia Entrate — Direzione Provinciale Ufficio Controlli Belluno and Agenzia Entrate — Direzione Provinciale Ufficio Controlli Vicenza

(Case C-416/14)

(2014/C 431/19)

Language of the case: Italian

Referring court

Commissione Tributaria Regionale di Mestre-Venezia

Parties to the main proceedings

Appellants: Fratelli De Pra SpA and SAIV SpA

Respondents: Agenzia Entrate — Direzione Provinciale Ufficio Controlli Belluno and Agenzia Entrate — Direzione Provinciale Ufficio Controlli Vicenza

Questions referred

1. With regard to terminal equipment for a terrestrial mobile radio communication service, are the following provisions of national legislation compatible with EU law (Directives 1999/5/EC, ([1]) 2002/19/EC, ([2]) 2002/20/EC, ([3]) 2002/21/EC ([4]) and 2002/22/EC ([5])):

   — Article 2(4) of Decree-Law No 4/2014 (subsequently converted into Law No 50/2014);

   — Article 160 of Legislative Decree No 259/2003;

   — Article 21 of the Tariff annexed to Presidential Decree No 641/1972;

   which, equating terminal equipment with radio stations, require a user to obtain a general authorisation and to be issued with a special licence for a radio station, and deem those activities to be chargeable events?

Accordingly, with specific reference to the use of terminal equipment, is the obligation imposed by the Italian State on users to obtain a general authorisation and a licence for a radio station compatible with EU law when the placing on the market, the free movement and the putting into service of terminal equipment is already comprehensively governed by EU instruments (Directive 1999/5/EC) which do not lay down any requirement for general authorisation and/or for a licence?

Additionally, are the general authorisation and the licence required under national legislation compatible with EU law despite the following facts:

— a general authorisation is a measure which is not for a user of terminal equipment, but rather for businesses involved in the provision of electronic communications networks and services (Articles 1, 2 and 3 of Authorisation Directive 2002/20/EC);

— a licence is intended to grant individual rights to use radio frequencies and to use numbers, which are clearly not related to the use of terminal equipment;

— the EU legislation does not impose any obligation to obtain a general authorisation or to be issued with a licence for terminal equipment;

— Article 8 of Directive 1999/5/EC provides that Member States 'shall not prohibit, restrict or impede the placing on the market and putting into service in their territory of apparatus bearing the CE marking';

— a radio station is different — in substantive terms and in terms of its mode of regulation, as well as by its very nature — from terminal equipment for a terrestrial mobile radio communication service?

2. Are the following provisions of national legislation compatible with EU law (Directive 1999/5/EC and Directive 2002/20/EC, in particular Article 20 thereof):

— Article 2(4) of Decree-Law No 4/2014 (subsequently converted into Law No 50/2014);

— Article 160 of Legislative Decree No 259/2003;

— Article 21 of the Tariff annexed to Presidential Decree No 641/1972;

— Article 3 of Ministerial Decree No 33/1990;

on the basis of which

— the contract referred to in Article 20 of Directive 2002/22/EC — established between a manager and a user, designed to regulate commercial relations between consumers or end users and one or more firms which provide the connection or services concerned — may 'in itself' constitute a document which is equivalent to a general authorisation and/or licence for a radio station, without any intervention, activity or supervision on the part of the public administrative authorities;

— the contract must also include details of the type of terminal equipment and the corresponding certification (not provided for under Article 8 of Directive 1999/5/EC)?

3. Are Article 2(4) of Decree-Law No 4/2014 (subsequently converted into Law No 50/2014), Article 160 of Legislative Decree No 259/2003 and Article 21 of the Tariff annexed to Presidential Decree No 641/1972, read together, compatible with EU law in providing that only one particular category of users — namely, anyone holding a contract technically referred to as 'a subscription' — is obliged to have a general authorisation and accordingly a licence for a radio station, while no general authorisation or licence is required in the case of other persons using electronic communications services on the basis of a contract, simply because their contract is referred to by a different name (pay-as-you-go or top-up service)?

4. Does Article 8 of Directive 1999/5/EC preclude national legislation such as the provisions referred to in Article 2(4) of Decree-Law No 4/2014 (subsequently converted into Law No 50/2014), namely, Article 160 of Legislative Decree No 259/2003 and Article 21 of the Tariff annexed to Presidential Decree No 641/1972, which envisages:

— administrative activity resulting in the grant of a general authorisation and licence for a radio station;

— the payment of a government licence charge in connection with such activity;

that being conduct which could constitute a restriction on the putting into service, use and free movement of terminal equipment?

(1) Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity (OJ 1999 L 91, p. 10).
(2) Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) (OJ 2002 L 108, p. 7).
(3) Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) (OJ 2002 L 108, p. 21).
(4) Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ 2002 L 108, p. 33).
(5) Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (OJ 2002 L 108, p. 51).

Request for a preliminary ruling from the Consiglio di Giustizia Amministrativa per la Regione Siciliana (Italy) lodged on 17 September 2014 — Impresa Edilux Srl, as the representative of a temporary joint venture, and Società Italiana Costruzioni e Forniture Srl (SICEF) v Assessorato Beni Culturali e Identità Siciliana — Servizio Soprintendenza Provincia di Trapani, Assessorato ai Beni Culturali e dell'Identità Siciliana, UREGA — Sezione provinciale di Trapani and Assessorato delle Infrastrutture e della Mobilità della Regione Siciliana

(Case C-425/14)

(2014/C 431/20)

Language of the case: Italian

Referring court

Consiglio di Giustizia Amministrativa per la Regione Siciliana

Parties to the main proceedings

Appellants: Impresa Edilux Srl, as the representative of a temporary joint venture, and Società Italiana Costruzioni e Forniture Srl (SICEF)

Respondents: Assessorato Beni Culturali e Identità Siciliana — Servizio Soprintendenza Provincia di Trapani, Assessorato ai Beni Culturali e dell'Identità Siciliana, UREGA — Sezione provinciale di Trapani and Assessorato delle Infrastrutture e della Mobilità della Regione Siciliana

Questions referred

1. Does EU law, and in particular Article 45 of Directive 2004/18/EC, (1) preclude a provision — such as Article 1(17) of Law No 190/2012 — under which contracting authorities may treat as a legitimate ground for excluding undertakings from a tendering procedure for the award of a public procurement contract the non-acceptance, or the lack of documentary evidence of acceptance, by those undertakings of the commitments set out in legality protocols and, more generally, in agreements between the contracting authorities and participating undertakings which are intended to prevent organised crime from infiltrating the public contract awards sector?

2. On a proper construction of Article 45 of Directive 2004/18/EC, may legislation of a Member State conferring the power of exclusion described in Question 1 be regarded as a derogation from the principle that the grounds for exclusion are exhaustive which is justified by the overriding need to combat the attempted infiltration of organised crime into procedures for the award of public contracts?

(1) Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ 2004 L 124, p. 114).

Request for a preliminary ruling from the Tribunale Amministrativo Regionale per il Piemonte (Italy) lodged on 18 September 2014 — Heart Life Croce Amica Srl v Regione Piemonte

(Case C-426/14)

(2014/C 431/21)

Language of the case: Italy

Referring court

Amministrativo Regionale per il Piemonte

Parties to the main proceedings

Applicant: Heart Life Croce Amica Srl

Defendant: Regione Piemonte

Questions referred

1. Does European Union public procurement law — in the case under examination, concerning excluded contracts and the general principles of free competition, equal treatment, transparency and proportionality — preclude national legislation under which contracts for the provision of ambulance and health-related transport services may be awarded directly to voluntary organisations organised predominantly on the basis of unpaid work and in return for genuine reimbursement of costs?

2. If such an award is regarded as compatible with Community law, can 'the genuine reimbursement of costs' also cover the 'indirect and general' costs relating to the activities carried out on a regular basis by the voluntary organisation, such as the special maintenance of the vehicles used to provide the service, meals for personnel, remuneration for the administrative staff and the services coordinator, and the necessary telephonic and radio links between the ambulance despatch centre and the voluntary organisation's communications points?

Request for a preliminary ruling from the Conseil de prud'hommes de Paris (France) lodged on 22 September 2014 — David Van der Vlist v Bio Philippe Auguste SARL

(Case C-432/14)

(2014/C 431/22)

Language of the case: French

Referring court

Conseil de prud'hommes de Paris

Parties to the main proceedings

Applicant: David Van der Vlist

Defendant: Bio Philippe Auguste SARL

Question referred

Does the general principle of non-discrimination on grounds of age preclude national legislation (Article L. 1243-10 of the French Code du travail) which excludes young persons who work during their school holidays or university vacations from entitlement to an insecurity payment payable in the event that employment under a fixed-term contract is not followed by an offer of permanent employment?

Order of the President of the Court of 24 September 2014 — European Commission v Republic of Cyprus

(Case C-386/13) ([1])

(2014/C 431/23)

Language of the case: Greek

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

([1]) OJ C 260, 7.9.2013.

Order of the President of the Court of 9 September 2014 (request for a preliminary ruling from the Audiencia Provincial de Navarra — Spain) — Miguel Angel Zurbano Belaza, Antonia Artieda Soria v Banco Bilbao Vizcaya Argentaria, SA

(Case C-93/14) ([1])

(2014/C 431/24)

Language of the case: Spanish

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

([1]) OJ C 151, 19.5.2014.

Order of the President of the Court of 12 September 2014 — European Commission v Kingdom of Belgium

(Case C-130/14) ([1])

(2014/C 431/25)

Language of the case: French

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

([1]) OJ C 159, 26.5.2014.

Order of the President of the Court of 9 September 2014 (request for a preliminary ruling from the Landgericht Hannover — Germany) — Catharina Smets, Franciscus Vereijken v TUIfly GmbH

(Case C-279/14) ([1])

(2014/C 431/26)

Language of the case: German

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

([1]) OJ C 303, 8.9.2014.

Order of the President of the Court of 25 September 2014 (request for a preliminary ruling from the Amtsgericht Rüsselsheim — Germany) — Marc Hußock, Ute Hußock, Michelle Hußock, Florian Hußock v Condor Flugdienst GmbH

(Case C-316/14) ([1])

(2014/C 431/27)

Language of the case: German

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

([1]) OJ C 303, 8.9.2014.

Order of the President of the Court of 23 September 2014 (request for a preliminary ruling from the Amtsgericht Rüsselsheim — Germany) — Elvira Mandl, Helmut Mandl v Condor Flugdienst GmbH

(Case C-337/14) ([1])

(2014/C 431/28)

Language of the case: German

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

([1]) OJ C 315, 15.9.2014.

Order of the President of the Court of 16 September 2014 (request for a preliminary ruling from the Amtsgericht Rüsselsheim — Germany) — Annette Lorch, Kurt Lorch v Condor Flugdienst GmbH

(Case C-364/14) ([1])

(2014/C 431/29)

Language of the case: German

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

([1]) OJ C 339, 29.9.2014.

Order of the President of the Court of 12 September 2014 (request for a preliminary ruling from the Amtsgericht Rüsselsheim — Germany) — Brunhilde Liebler, Helmut Liebler v Condor Flugdienst GmbH

(Case C-365/14) ([1])

(2014/C 431/30)

Language of the case: German

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

([1]) OJ C 329, 22.9.2014.

GENERAL COURT

Judgment of the General Court of 21 October 2014 — Szajner v OHIM — Forge de Laguiole (LAGUIOLE)

(Case T-453/11) ([1])

(Community trade mark — Invalidity proceedings — Community word mark LAGUIOLE — Earlier French company name Forge de Laguiole — Article 53(1)(c) and Article 8(4) of Regulation (EC) No 207/2009)

(2014/C 431/31)

Language of the case: French

Parties

Applicant: Gilbert Szajner (Niort, France) (represented by: A. Lakits-Josse, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Forge de Laguiole SARL (Laguiole, France) (represented by: F. Fajgenbaum, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 1 June 2011 (Case R 181/2007-1) concerning invalidity proceedings between Forge de Laguiole SARL and Mr Gilbert Szajner.

Operative part of the judgment

The Court:

1. *Annuls the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 1 June 2011 (Case R 181/2007-1) in so far as it declares the Community word mark LAGUIOLE invalid in respect of goods other than 'hand tools and implements (hand operated); spoons; saws, razors, razor blades; shaving cases; nail files and nail nippers, nail-clippers; manicure sets' in Class 8, 'paper-cutters' in Class 16, 'corkscrews; bottle-openers' and 'shaving brushes, fitted vanity cases' in Class 21 and 'cigar cutters' and 'pipe cleaners' in Class 34;*

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

3. *Orders Forge de Laguiole SARL to bear one quarter of the costs incurred by the applicant and three-quarters of its own costs;*

4. *Orders Mr Gilbert Szajner to bear one quarter of the costs incurred by Forge de Laguiole, one quarter of the costs incurred by OHIM and three-quarters of his own costs;*

5. *Orders OHIM to bear three-quarters of its own costs.*

([1]) OJ C 298, 8.10.2011.

Judgment of the General Court of 21 October 2014 — Italy v Commission

(Case T-268/13) ([1])

(Failure to comply with a judgment of the Court establishing an infringement — Liquidate penalty — Judgment quantifying the amount — Recovery obligation — Undertakings subject to insolvency proceedings — Subject of the insolvency proceedings at issue — Due diligence — Burden of proof)

(2014/C 431/32)

Language of the case: Italian

Parties

Applicant: Italian Republic (represented by: G. Palmieri, acting as Agent, and S. Fiorentino, avvocato dello Stato)

Defendant: European Commission (represented by: V. Di Bucci, G. Conte and B. Stromsky, acting as Agents)

Re:

Application for annulment of Commission Decision C(2013) 1264 final of 7 March 2013 ordering the Italian Republic to pay into the 'European Union own resources' account the sum of EUR 16 533 000 by way of liquidate penalty.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders the Italian Republic to pay the costs.*

([1]) OJ C 207, 20.7.2013.

Order of the General Court of 16 September 2014 — Justice & Environment v Commission

(Case T-405/10) ([1])

(Approximation of laws — Deliberate release into the environment of GMOs — Marketing authorisation procedure — Request for internal review — Annulment of the contested decisions or the decisions concerned — Action devoid of purpose — No need to adjudicate)

(2014/C 431/33)

Language of the case: English

Parties

Applicant: Association/Vereniging Justice & Environment (Amsterdam, Netherlands) (represented by: P. Černý, lawyer)

Defendant: European Commission (represented initially by P. Olivier and D. Bianchi, and subsequently by D. Bianchi)

Re:

Application for annulment of Commission Decision 2010/135/EU of 2 March 2010 concerning the placing on the market, in accordance with Directive 200l/18/EC of the European Parliament and of the Council, of a potato product *(Solanum tuberosum* L. line EH92-527-1) genetically modified for enhanced content of the amylopectin component of starch (OJ 2010 L 53, p. 11) and of Commission Decision 2010/136/EU of 2 March 2010 authorising the placing on the market of feed produced from the genetically modified potato EH92-527-1 (BPS-25271-9) and the adventitious or technically unavoidable presence of the potato in food and other feed products under Regulation (EC) No 1829/2003 of the European Parliament and of the Council (OJ 2010 L 53, p. 15), and of the decision allegedly contained in the Commission's letter of 6 July 2010 rejecting the request for an internal review of those decisions.

Operative part of the order

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

2. *The European Commission is to bear its own costs and to pay the costs incurred by Association/Vereniging Justice & Environment.*

(1) OJ C 301, 6.11.2010.

Order of the General Court of 17 September 2014 — Afepadi and Others v Commission

(Case T-354/12) (1)

(Action for annulment — Health claims made in the labelling and advertising of foods — Regulation (EU) No 432/2012 — Recitals 11, 14 and 17 — Act not amenable to review — Inadmissibility)

(2014/C 431/34)

Language of the case: Spanish

Parties

Applicants: Asociación Española de Fabricantes de Preparados alimenticios especiales, dietéticos y plantas medicinales (Afepadi) (Barcelona, Spain); Elaborados Dietéticos, SA (Palma de Cervelló, Spain); Nova Diet, SA (Burgos, Spain); Laboratorios Vendrell, SA (Barcelona); and Ynsadiet, SA (Leganés, Spain) (represented by: P. Velázquez González, lawyer)

Defendant: European Commission (represented by: S. Grünheid and P. Němečková, acting as Agents)

Intervener in support of the defendant: French Republic (represented by: D. Colas and S. Menez, acting as Agents)

Re:

In particular, an action for the annulment of recitals 11, 14 and 17 of Commission Regulation (EU) No 432/2012 of 16 May 2012 establishing a list of permitted health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health (OJ 2012 L 136, p. 1).

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Asociación Española de Fabricantes de Preparados alimenticios especiales, dietéticos y plantas medicinales (Afepadi), Elaborados Dietéticos, SA, Nova Diet, SA, Laboratorios Vendrell, SA and Ynsadiet, SA shall bear their own costs and pay those incurred by the European Commission.*

(1) OJ C 295, 29.9.2012.

Order of the General Court of 7 October 2014 — BT v Commission

(Case T-59/13 P) (1)

(Appeal — Civil service — Members of the temporary staff — Non-renewal of the contract — Article 76 of the Rules of Procedure of the Civil Service Tribunal)

(2014/C 431/35)

Language of the case: English

Parties

Appellant: BT (Bucharest, Romania) (represented by: N. Visan and G. Coca, lawyers)

Other party to the proceedings: European Commission (represented by: J. Currall and A.-C. Simon, acting as Agents)

Re:

Appeal brought against the order of the Civil Service Tribunal of the European Union (First Chamber) of 3 December 2012 in Case F-45/12 *BT* v *Commission*, ECR-SC, EU:F:2012:168, seeking to have that order set aside.

Operative part of the order

1. *The appeal is dismissed.*

2. *BT shall bear his own costs and pay those incurred by the European Commission in the course of the present proceedings.*

([1]) OJ C 114, 20.4.2013.

Order of the General Court of 16 September 2014 — BS v Commission

(Case T-83/13 P) ([1])

(Appeal — Civil service — Officials — Social security — Article 73 of the Staff Regulations — Rules on insurance against the risks of accident and occupational disease — Principle of collegiality — Legal nature of the dispute — Rate of adverse effect on physical or mental integrity — Appeal in part manifestly inadmissible and in part manifestly unfounded)

(2014/C 431/36)

Language of the case: Italian

Parties

Appellant: BS (Messina, Italy) (represented by: C. Pollicino, lawyer)

Other party to the proceedings: European Commission (represented initially by J. Currall and V. Joris, and subsequently by J. Currall, acting as Agents, and D. Gullo, lawyer)

Re:

Appeal brought against the judgment of the Civil Service Tribunal of the European Union (Third Chamber) of 12 December 2012 in Case F-90/11 *BS* v *Commission*, ECR-SC, EU:F:2012:188, seeking to have that judgment set aside.

Operative part of the order

1. *The appeal is dismissed.*

2. *BS shall bear his own costs and pay those incurred by the European Commission in the course of the present proceedings.*

([1]) OJ C 101, 6.4.2013.

Order of the General Court of 2 October 2014 — HTC Sweden v OHIM — Vermop Salmon (TWISTER)

(Case T-230/13) ([1])

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

(2014/C 431/37)

Language of the case: English

Parties

Applicant: HTC Sweden AB (Söderköping, Sweden) (represented by: G. Hasselblatt and D. Kipping, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM intervening before the General Court: Vermop Salmon GmbH (Gilching, Germany) (represented by: M. Ring and W. von der Osten-Sacken, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 31 January 2013 (joined cases R 1873/2011-1 and R 1881/2011-1) relating to invalidity proceedings between Vermop Salmon GmbH and HTC Sweden AB.

Operative part of the order

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

2. *The applicant and the intervener shall bear their own costs and shall each pay half of those incurred by the defendant.*

([1]) OJ C 178, 22.6.2013.

Order of the General Court of 16 September 2014 — Boston Scientific Neuromodulation v OHIM (PRECISION SPECTRA)

(Case T-497/13) ([1])

(Community trade mark — Application for Community word mark PRECISION SPECTRA — Absolute grounds for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 207/2009 — Action in part manifestly inadmissible and in part manifestly lacking any foundation in law)

(2014/C 431/38)

Language of the case: English

Parties

Applicant: Boston Scientific Neuromodulation Corp. (Valencia, California, United States) (represented by: P. Rath and W. Festl-Wietek, lawyers)

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

Re:

Action brought against the decision of the Fifth Board of Appeal of OHIM of 17 May 2013 (Case R 2099/2012-5), concerning an application for registration of the word mark PRECISION SPECTRA as a Community trade mark.

Operative part of the order

1. *The action is dismissed.*

2. *Boston Scientific Neuromodulation Corp. is ordered to pay the costs.*

(1) OJ C 344, 23.11.2013.

Order of the General Court of 3 September 2014 — Shire Pharmaceutical Contracts v Commission

(Case T-583/13) (1)

(Action for annulment — Medicinal products for paediatric use — Regulation (EC) No 1901/2006 — Article 37 — Extension of the period of market exclusivity of off-patent orphan medicinal products — Act not amenable to review — Inadmissibility)

(2014/C 431/39)

Language of the case: English

Parties

Applicant: Shire Pharmaceutical Contracts Ltd (Hampshire, United Kingdom) (represented by: K. Bacon, Barrister, M. Utges Manley and M. Vickers, Solicitors)

Defendant: European Commission (represented by: A. Sipos and V. Walsh, acting as Agents)

Re:

Application for the annulment of the decision purportedly contained in the letter which the Commission sent to the applicant on 2 September 2013, as subsequently confirmed by the letter of 18 October 2013, concerning whether the medicinal product Xagrid was eligible for the reward provided for in Article 37 of Regulation (EC) No 1901/2006 of the European Parliament and of the Council of 12 December 2006 on medicinal products for paediatric use and amending Regulation (EEC) No 1768/92, Directive 2001/20/EC, Directive 2001/83/EC and Regulation (EC) No 726/2004 (OJ 2006 L 378, p. 1)

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Shire Pharmaceutical Contracts Ltd is ordered to pay the costs.*

(1) OJ C 377, 21.12.2013.

Order of the President of the General Court of 4 September 2014 — Röchling Oertl Kunststofftechnik v Commission

(Case T-286/14 R)

(Application for interim measures — State aid — National support for the generation of renewable electricity — Commission decision to open the State aid formal investigation procedure — Application for suspension of operation of a measure — Prima facie case)

(2014/C 431/40)

Language of the case: German

Parties

Applicant: Röchling Oertl Kunststofftechnik GmbH (Brensbach, Germany) (represented by: T. Volz and B. Wißmann, lawyers)

Defendant: European Commission (represented by: T. Maxian Rusche and R. Sauer, Agents)

Re:

Application to suspend the legal effects of the decision by which the Commission opened the State aid formal investigation procedure concerning the German law on renewable energy.

Operative part of the order

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

2. *The costs are reserved.*

Order of the President of the General Court of 4 September 2014 — Schaeffler Technologies v Commission

(Case T-287/14 R)

(Application for interim measures — State aid — National support for the generation of renewable electricity — Commission decision to open the State aid formal investigation procedure — Application for suspension of operation of a measure — Prima facie case)

(2014/C 431/41)

Language of the case: German

Parties

Applicant: Schaeffler Technologies GmbH & Co. KG (Herzogenaurach, Germany) (represented by: T. Volz and B. Wißmann, lawyers)

Defendant: European Commission (represented by: T. Maxian Rusche and R. Sauer, Agents)

Re:

Application to suspend the legal effects of the decision by which the Commission opened the State aid formal investigation procedure concerning the German law on renewable energy.

Operative part of the order

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

2. *The costs are reserved.*

Order of the President of the General Court of 4 September 2014 — Energiewerke Nord v Commission

(Case T-288/14 R)

(Application for interim measures — State aid — National support for the generation of renewable electricity — Commission decision to open the State aid formal investigation procedure — Application for suspension of operation of a measure — Prima facie case)

(2014/C 431/42)

Language of the case: German

Parties

Applicant: Energiewerke Nord GmbH (Rubenow, Germany) (represented by: T. Volz and B. Wißmann, lawyers)

Defendant: European Commission (represented by: T. Maxian Rusche and R. Sauer, Agents)

Re:

Application to suspend the legal effects of the decision by which the Commission opened the State aid formal investigation procedure concerning the German law on renewable energy.

Operative part of the order

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

2. *The costs are reserved.*

Order of the President of the General Court of 4 September 2014 — Klemme v Commission

(Case T-294/14 R)

(Application for interim measures — State aid — National support for the generation of renewable electricity — Commission decision to open the State aid formal investigation procedure — Application for suspension of operation of a measure — Prima facie case)

(2014/C 431/43)

Language of the case: German

Parties

Applicant: Klemme AG (Lutherstadt Eisleben, Germany) (represented by: T. Volz and B. Wißmann, lawyers)

Defendant: European Commission (represented by: T. Maxian Rusche and R. Sauer, Agents)

Re:

Application to suspend the legal effects of the decision by which the Commission opened the State aid formal investigation procedure concerning the German law on renewable energy.

Operative part of the order

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

2. *The costs are reserved.*

Order of the President of the General Court of 4 September 2014 — Autoneum Germany v Commission

(Case T-295/14 R)

(Application for interim measures — State aid — National support for the generation of renewable electricity — Commission decision to open the State aid formal investigation procedure — Application for suspension of operation of a measure — Prima facie case)

(2014/C 431/44)

Language of the case: German

Parties

Applicant: Autoneum Germany GmbH (Roßdorf, Germany) (represented by: T. Volz and B. Wißmann, lawyers)

Defendant: European Commission (represented by: T. Maxian Rusche and R. Sauer, Agents)

Re:

Application to suspend the legal effects of the decision by which the Commission opened the State aid formal investigation procedure concerning the German law on renewable energy.

Operative part of the order

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

2. *The costs are reserved.*

Order of the President of the General Court of 4 September 2014 — Erbslöh v Commission

(Case T-296/14 R)

(Application for interim measures — State aid — National support for the generation of renewable electricity — Commission decision to open the State aid formal investigation procedure — Application for suspension of operation of a measure — Prima facie case)

(2014/C 431/45)

Language of the case: German

Parties

Applicant: Erbslöh AG (Velbert, Germany) (represented by: T. Volz and B. Wißmann, lawyers)

Defendant: European Commission (represented by: T. Maxian Rusche and R. Sauer, Agents)

Re:

Application to suspend the legal effects of the decision by which the Commission opened the State aid formal investigation procedure concerning the German law on renewable energy.

Operative part of the order

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

2. *The costs are reserved.*

Order of the President of the General Court of 4 September 2014 — Walter Klein v Commission

(Case T-297/14 R)

(Application for interim measures — State aid — National support for the generation of renewable electricity — Commission decision to open the State aid formal investigation procedure — Application for suspension of operation of a measure — Prima facie case)

(2014/C 431/46)

Language of the case: German

Parties

Applicant: Walter Klein GmbH & Co. KG (Wuppertal, Germany) (represented by: T. Volz and B. Wißmann, lawyers)

Defendant: European Commission (represented by: T. Maxian and R. Sauer, Agents)

Re:

Application to suspend the legal effects of the decision by which the Commission opened the State aid formal investigation procedure concerning the German law on renewable energy.

Operative part of the order

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

2. *The costs are reserved.*

Order of the President of the General Court of 4 September 2014 — Erbslöh Aluminium v Commission

(Case T-298/14 R)

(Application for interim measures — State aid — National support for the generation of renewable electricity — Commission decision to open the State aid formal investigation procedure — Application for suspension of operation of a measure — Prima facie case)

(2014/C 431/47)

Language of the case: German

Parties

Applicant: Erbslöh Aluminium GmbH (Velbert, Germany) (represented by: T. Volz and B. Wißmann, lawyers)

Defendant: European Commission (represented by: T. Maxian Rusche and R. Sauer, Agents)

Re:

Application to suspend the legal effects of the decision by which the Commission opened the State aid formal investigation procedure concerning the German law on renewable energy.

Operative part of the order

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

2. *The costs are reserved.*

Order of the President of the General Court of 4 September 2014 — Fricopan Back v Commission

(Case T-300/14 R)

(Application for interim measures — State aid — National support for the generation of renewable electricity — Commission decision to open the State aid formal investigation procedure — Application for suspension of operation of a measure — Prima facie case)

(2014/C 431/48)

Language of the case: German

Parties

Applicant: Fricopan Back GmbH Immekath (Klötze, Germany) (represented by: T. Volz and B. Wißmann, lawyers)

Defendant: European Commission (represented by: T. Maxian Rusche and R. Sauer, Agents)

Re:

Application to suspend the legal effects of the decision by which the Commission opened the State aid formal investigation procedure concerning the German law on renewable energy.

Operative part of the order

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

2. *The costs are reserved.*

Order of the President of the General Court of 4 September 2014 — Michelin Reifenwerke v Commission

(Case T-301/14 R)

(Application for interim measures — State aid — National support for the generation of renewable electricity — Commission decision to open the State aid formal investigation procedure — Application for suspension of operation of a measure — Prima facie case)

(2014/C 431/49)

Language of the case: German

Parties

Applicant: Michelin Reifenwerke AG & Co. KGaA (Karlsruhe, Germany) (represented by: T. Volz and B. Wißmann, lawyers)

Defendant: European Commission (represented by: T. Maxian Rusche and R. Sauer, Agents)

Re:

Application to suspend the legal effects of the decision by which the Commission opened the State aid formal investigation procedure concerning the German law on renewable energy.

Operative part of the order

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

2. *The costs are reserved.*

Action brought on 4 July 2014 — Sweden v Commission

(Case T-521/14)

(2014/C 431/50)

Language of the case: Swedish

Parties

Applicant: Kingdom of Sweden (represented by: A. Falk and K. Sparrman, acting as Agents)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— Declare that the European Commission, by failing to adopt delegated acts to specify scientific criteria for the determination of endocrine-disrupting properties, has infringed Article 5(3) of Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products;

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

Pleas in law and main arguments

Under Article 5(3) of the Biocides Regulation ([1]), the Commission is to adopt delegated acts to specify scientific criteria for the determination of endocrine-disrupting properties by 13 December 2013 at the latest. The applicant submits that, by failing to adopt such delegated acts, the Commission has failed to take measures which it is obliged by law to take. The applicant has requested the Commission to adopt delegated acts in accordance with Article 5(3) of the Biocides Regulation, but in the Commission's reply, in the view of the applicant, no position was defined as regards that request within the meaning of the second paragraph of Article 265 TFEU. The applicant claims that, in addition, as at the time of the application, the Commission has not adopted any measures to end the alleged failure to act. In the view of the applicant, the Commission has a basis for specifying scientific criteria for the determination of endocrine-disrupting properties and an application of those criteria which, under the second and third subparagraphs of Article 5(3) of the Biocides Regulation, are to apply until the Commission has adopted delegated acts containing criteria for endocrine-disrupting substances.

([1]) Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ 2012 L 167, p. 1).

Action brought on 29 August 2014 — JP Divver Holding Company v OHIM (EQUIPMENT FOR LIFE)

(Case T-642/14)

(2014/C 431/51)

Language of the case: English

Parties

Applicant: JP Divver Holding Company Ltd (Newry, Ireland) (represented by: A. Franke, E. Bertram, lawyers)

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

Details of the proceedings before OHIM

Trade mark at issue: International registration designating the European Union in respect of the mark 'EQUIPMENT FOR LIFE'

Contested decision: Decision of the Second Board of Appeal of OHIM of 16 June 2014 in Case R 64/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Plea in law

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

Action brought on 12 September 2014 — SV Capital v EBA

(Case T-660/14)

(2014/C 431/52)

Language of the case: English

Parties

Applicant: SV Capital OÜ (Tallinn, Estonia) (represented by: M. Greinoman, lawyer)

Defendant: European Banking Authority (EBA)

Form of order sought

The applicant claims that the Court should:

— annul the decision of the EBA dated 21 February 2014 No EBA C 2013 002 in its entirety;

— set aside the decision of the Board of Appeal of the European Supervisory Authorities No BoA 2014-CI-02 in the part dismissing the appeal;

— remit the case to the competent body of the EBA to review the complaint by SV Capital OÜ dated 24 October 2012 (as supplemented) as to its substance;

— order the defendant to bear the costs of the proceedings before the General Court including costs incurred in enforcing a judgment or order of the General Court.

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 errors of fact as the contested decision No EBA C 2013 002 stated that 'neither Ms [RR] nor Mr [OP] were heads of the branch of Nordea Bank Finland or key function holders in the meaning of the EBA Suitability Guidelines' even though the Board of Appeal accepted the applicant's evidence to the contrary.

2. Second plea in law, alleging that the defendant failed to exercise discretion since it did not take into account the fact i) that Nordea is on the Financial Stability Board list of 29 global systematically important financial institution, ii) that it is a financial conglomerate, iii) that its Estonian branch is a substantial branch and iv) that the alleged violations are of gross nature.

3. Third plea in law, alleging infringement of Article 39(1) of the EBA Regulation ([1]) and Article 16 of the EBA Code of Good Administrative Behaviour ([2]) as the applicant was not given an opportunity to express its views on the defendant's reasoning and statements of facts before the contested decision EBA C 2013 002 was taken since the defendant did not advise the applicant of its intention not to start the requested investigation of Nordea Bank Finland and did not provide reasons therefore.

4. Fourth plea in law, alleging infringement of Articles 3(3), (4) and (5) of the EBA Internal Rules ([3]) as the EBA's Alternate Chairperson was not informed on the basis of anonymised information about the intended decision not to initiate an investigation.

5. Fifth plea in law, alleging misuse of power and unreasonable conduct of the EBA as the defendant was biased and, taking into account the amount of time and effort spent by the defendant on the complaint and its admissibility, there was no reason to abandon the case without making a reasoned decision as to its merits.

([1]) Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing an European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ 2010 L 331, p. 12).
([2]) Decision DC 006 of the Management Board of 12 January 2011 on EBA Code of Good Administrative Behaviour.
([3]) Decision DC 054 of the Board of Supervisors of 5 July 2012 concerning the Internal Processing Rules on Investigation regarding Breach of Union Law.

Action brought on 19 September 2014 — Milchindustrie-Verband and Deutscher Raiffeisenverband v Commission

(Case T-670/14)

(2014/C 431/53)

Language of the case: German

Parties

Applicants: Milchindustrie-Verband e.V. (Berlin, Germany), Deutscher Raiffeisenverband e.V. (Berlin) (represented by: I. Zenke and T. Heymann, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— Annul the defendant's Communication 2014/C 200/01 of 28 June 2014 on the Guidelines on State aid for environmental protection and energy 2014-2020, in so far as the dairy processing industry (NACE 10.51) is not mentioned in Annex 3 although it satisfies the criteria set out in Section 3.7.2 of the guidelines;

— Order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging a misuse of powers due to a manifest error of assessment in the choice of the reference period

   — In this connection, the applicants submit that, in establishing the Guidelines on State aid for environmental protection and energy 2014-2020 ([1]), the defendant infringed elementary principles relating to the exercise of discretion by relying on obsolete data in calculating the trade intensity of the industries, although new data was available.

2. Second plea in law, alleging a misuse of powers due to an insufficient examination of the factual situation

   — The applicants submit that the defendant also misused its powers because it did not, in calculating the trade intensity, identify and take into account all of the products that are actually produced by the dairy industry. That results in a distorted presentation of the competitive position.

3. Third plea in law, alleging infringement of essential procedural requirements

   — The applicants further submit that, in classifying the economic sectors under Annex 3 or 5 of the guidelines on State aid, the defendant infringes Article 296 TFEU because it does not state anywhere how and on the basis of what data the criterion of trade intensity is calculated and determined. As a result the parties concerned are prevented from effectively exercising their rights.

([1]) Communication from the Commission — Guidelines on State aid for environmental protection and energy 2014-2020 (OJ 2014 C 200, p. 1).

Action brought on 18 September 2014 — El-Qaddafi v Council

(Case T-681/14)

(2014/C 431/54)

Language of the case: English

Parties

Applicant: Aisha Muammer Mohamed El-Qaddafi (Muscat, Oman) (represented by: J. Jones, Barrister)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— adopt a measure of organisation of procedure under Article 64 of its Rules of Procedure, requiring the Council to disclose all the information supporting the applicant's listing in the contested measures;

— annul in whole or in part Council Decision 2011/137/CFSP concerning restrictive measures in view of the situation in Libya, as amended by Council Decision 2014/380/CFSP of 23 June 2014, insofar as it concerns the applicant;

— annul in whole or in part Council Regulation (EU) No 204/2011 of 2 March 2011, as implemented by Council Implementing Regulation (EU) No 689/2014 of 23 June 2014 implementing Article 16(2) of regulation (EU) No 204/2011 concerning restrictive measures in view of the situation in Libya, insofar as it concerns the applicant;

— order the Council to pay the applicant's costs.

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 General Court has competence to review the lawfulness of restrictive measures imposed against the applicant by the Council of the European Union which were adopted in order to give effect to the sanctions regime imposed by the United Nations Security Council in relation to Libya. The applicant submits that the EU measures implementing restrictive measures decided at international level do not enjoy immunity from jurisdiction on the grounds that they give effect to resolutions adopted by the United Nations Security Council under Chapter VII of the United Nations Chapter.

2. Second plea in law, alleging that the General Court has competence to engage in a full and substantive review of the lawfulness of the contested EU measures giving effect to the United Nations Security Council resolutions imposing restrictive measures against the applicant. This includes whether the reasons relied on by the Council in its decision to confirm the applicant's listing are well founded and sufficiently detailed and specific.

3. Third plea in law, alleging that the contested EU measures violate the applicant's rights of the defence and its right to effective judicial protection. The applicant argues that the Council failed to provide it with reasons or any specific evidence that would justify its continued listing.

4. Fourth plea in law, alleging that the contested EU measures violate the principle of proportionality and the applicant's fundamental rights, including its right to property and to respect for private and family life.

5. Fifth plea in law, alleging that the applicant's listing is unfounded, inaccurate, unjustified and insufficiently detailed as the applicant does not pose any threat to international peace and security. The applicant alleges that the continued listing on the sole ground of a family connection with the deceased leader of the ousted Gaddafi regime is contrary to EU law. The applicant further alleges that it has not been involved in any events in Libya that constitute a threat to international peace and security.

Action brought on 19 September 2014 — Mylan Laboratories and Mylan v Commission

(Case T-682/14)

(2014/C 431/55)

Language of the case: English

Parties

Applicants: Mylan Laboratories Ltd (Hyderabad, India); and Mylan, Inc. (Canonsburg, United States) (represented by: S. Kon, C. Firth and C. Humpe, Solicitors)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Articles 2, 7 and 8 of Commission decision C(2014) 4955 final of 9 July 2014 in Case AT.39612 Perindopril (Servier) insofar as they pertain to the applicants; or

— in the alternative annul Article 7 of Commission decision C(2014) 4955 final of 9 July 2014 in Case AT.39612 Perindopril (Servier) insofar as it imposes a fine on the applicants; or

— in the further alternative reduce the fine imposed on the applicants pursuant to Article 7 of Commission decision C (2014) 4955 final of 9 July 2014 in Case AT.39612 Perindopril (Servier); or

— in the final alternative annul Articles 2, 7 and 8 of Commission decision C(2014) 4955 final of 9 July 2014 in Case AT.39612 Perindopril (Servier) insofar as they pertain to Mylan Inc.;

— order the Commission to pay the applicants' costs.

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 that the contested decision contains errors of facts and manifest errors of assessment in its analysis of the relevant factual, legal and economic context in which the patent settlement agreement between Mylan Laboratories (formerly known as Matrix Laboratories) and Servier was entered into.

2. Second plea in law, alleging that the contested decision is flawed as a matter of law and fact in finding that Matrix was a potential competitor to Servier.

3. Third plea in law, alleging that the contested decision does not establish to the requisite legal standard that the patent settlement agreement had the object of restricting competition contrary to Article 101 TFEU.

4. Fourth plea in law, alleging that the contested decision does not establish to the requisite legal standard that the patent settlement agreement had the effect of restricting competition contrary to Article 101 TFEU.

5. Fifth plea in law, alleging in the alternative that the Commission has infringed Article 23 of Regulation No 1/2003 ([1]) as well as the principles of proportionality, *nullum crimen nulla poena sine lege* and legal certainty in imposing a fine on the applicants.

6. Sixth plea in law, alleging in the further alternative that the Commission has imposed a fine which is manifestly disproportionate to the gravity of the alleged infringement.

7. Seventh plea in law, alleging that the Commission has infringed Mylan Inc.'s procedural rights of defence by reformulating, without issuing a supplementary Statement of Objections, the basis upon which liability is attributed to Mylan Inc. in the contested decision in a manner that differs from the basis upon which such liability had been imposed on a preliminary basis in the Statement of Objections.

8. Eighth plea in law, alleging that the Commission has (i) breached the principle of personal responsibility and presumption of innocence in holding Mylan Inc. liable for the alleged infringement of Matrix; and (ii) committed manifest errors of assessment in finding that Mylan Inc. exercised decisive influence over the conduct of Matrix during the relevant period.

([1]) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 101 TFEU and 102 TFEU (OJ 2003 L 1, p. 1).

Appeal brought on 16 September 2014 by Rhys Morgan against the judgment of the Civil Service Tribunal of 8 July 2014 in Case F-26/13, Morgan v OHIM

(Case T-683/14 P)

(2014/C 431/56)

Language of the case: English

Parties

Appellant: Rhys Morgan (Alicante, Spain) (represented by: H. Tettenborn, lawyer)

Other party to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Form of order sought by the appellant

The appellant claims that the Court should:

— annul the judgment of the Civil Service Tribunal of 8 July 2014 in Case F-26/13;

— annul the Appraisal Report issued to the appellant in respect of the period from 1 October 2010 to 30 September 2011;

— order OHIM to pay an adequate compensation in the discretion of the Court — not below an amount EUR 500 — to the appellant for the moral and immaterial damages suffered by the appellant as a result of the aforesaid Appraisal Report;

— order OHIM to pay the costs as regards the proceedings in the Civil Service Tribunal and in the General Court.

Pleas in law and main arguments

In support of the appeal, the appellant relies on five pleas in law.

1. First plea in law, alleging that the Civil Service Tribunal erred in failing to recognize that a general assessment must be based on the official's performance during the appraisal period as a whole.

2. Second plea in law, alleging that the Civil Service Tribunal erred in failing to recognize the gravity of the procedural violations committed by OHIM.

3. Third plea in law, alleging that the Civil Service Tribunal committed an error when appreciating the plea in law alleging infringement of the principle of protection of legitimate expectations.

4. Fourth plea in law, alleging that the Civil Service Tribunal committed errors when appreciating the plea in law alleging infringement of the principle of equal treatment.

5. Fifth plea in law, alleging that the Civil Service Tribunal failed to evaluate properly, or even to examine, the evidence in relation to the plea of misuse of powers.

Action brought on 19 September 2014 — Krka/Commission

(Case T-684/14)

(2014/C 431/57)

Language of the case: English

Parties

Applicant: Krka Tovarna Zdravil d.d. (Novo Mesto, Slovenia) (represented by: T. Ilešič and M. Kocmut, lawyers).

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission's decision C(2014) 4955 final of 9 July 2014 in case AT.39612 — Perindopril (Servier), served on the applicant on 11 July 2014, in so far as it concerns the applicant, in particular Articles 4, 7(4)(a), 8 and 9;

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

— order such other measures as justice may require.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission failed to properly analyse the legal, factual and economic context of the applicant's situation.

2. Second plea in law, alleging that the Commission wrongly concluded that the applicant and Servier were actual or potential competitors under Article 101 TFEU.

3. Third plea in law, alleging that the Commission's wrong conclusion that the patent settlement concluded between the applicant and Servier restricted competition by object under Article 101(1) TFEU rests on erroneous factual and legal analysis as well as on a wrongful application of the established principles on restrictions by object.

4. Fourth plea in law, alleging that the Commission violated the applicant's right of defence by inconsistently examining the Assignment and Licence Agreement and erred in concluding that the Assignment and Licence Agreement amounts to a restriction of competition by object under Article 101(1) TFEU.

5. Fifth plea in law, alleging that the Commission erred in concluding that the agreements concluded between the applicant and Servier restricted competition by effect under Article 101(1) TFEU.

6. Sixth plea in law, alleging that the Commission failed to accurately assess the arguments raised by the applicant under Article 101(3) TFEU.

Action brought on 18 September 2014 — EEB/Commission

(Case T-685/14)

(2014/C 431/58)

Language of the case: English

Parties

Applicant: European Environmental Bureau (EEB) (Brussels, Belgium) (represented by: S. Podskalská, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission Decision Ares (2014) 2317513, of 11 July 2014, declaring inadmissible the request for internal review, lodged by the applicant, regarding the Commission decision 2014/2002 final, of 31 March 2014, on the notification by the Republic of Bulgaria of a transitional national plan referred to in Article 32 of Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions;

— annul the Commission Decision C 2014/2002 final, of 31 March 2014, on the notification by the Republic of Bulgaria of a transitional national plan referred to in Article 32 of Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions;

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

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission Decision Ares (2014) 2317513, of 11 July 2014, infringes article 17 of the Treaty on the European Union, articles 2(1)(g) and 10 of Regulation (EC) No 1367/2006, the United Nations Economic Commission for Europe Convention on access to information, public participation in decision-making and access to justice in environmental matters (the 'UNECE Convention'), in conjunction with the Council decision, of 17 February 2005 on the conclusion, on behalf of the European Community, of the UNECE Convention (2005/370/EC).

2. Second plea in law, alleging that the Commission Decision C 2014/2002 final, of 31 March 2014, infringes article 17 of the Treaty on the European Union, the Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions, the Commission Implementing Decision 2012/115/EU, of 10 February 2012, laying down rules concerning the transnational plans referred to in Decision 2010/75/EU, the UNECE Convention, in conjunction with the Council Decision, of 17 February 2005 on the conclusion, on behalf of the European Community, of the UNECE Convention (2005/370/EC), Directive 2001/42/EC on the assessment of the effects of certain plans and programs on the environment, and 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.

Appeal brought on 12 September 2014 by the European Union Agency for Network and Information Security (ENISA) against the judgment of the Civil Service Tribunal of 2 July 2014 in Case F-63/13 *Psarras* v *ENISA*

(Case T-689/14 P)

(2014/C 431/59)

Language of the case: Greek

Parties

Appellant: European Union Agency for Network and Information Security (ENISA) (represented by P. Empadinhas and by C. Meidanis, lawyer)

Other party to the appeal: Aristides Psarras (Heraklion, Greece)

Form of order sought by the appellant

The appellant claims that the General Court should:

— set aside in its entirety the judgment of 2 July 2014 of the Civil Service Tribunal in Case F-63/13;

— reject in their entirety the claims made by the applicant at first instance in Case F-63/13; and

— order the applicant at first instance to pay all the legal costs, both before the Civil Service Tribunal and before the General Court.

Pleas in law and main arguments

In support of the appeal the appellant relies on five grounds.

1. The first ground of appeal claims a distortion of the facts as regards the events of 4 May 2012 and the subsequent period, and an error of law as regards Article 41(2)(a) of the Charter of Fundamental Rights and Article 47 of the Conditions of Employment of other Servants of the European Union (together with Article 59 of the Staff Regulations of Officials of the European Union).

2. The second ground of appeal claims an error of law, with regard to Article 41(2)(a) of the Charter, in so far as it was held that a ruling that that provision has been infringed entails *ipso jure* and automatically the annulment of the contested decision, disregarding the case-law in accordance with which the applicant should additionally have proved that, in the absence of that infringement, the content of the contested decision would have been different, and on the basis of the new interpretation of the provision in the ruling that the previous case-law '*renders* [the provision] *wholly meaningless*'.

3. The third ground of appeal claims a breach of the obligation of the Civil Service Tribunal to answer the defendant's objections of inadmissibility and an insufficient statement of reasons and in addition breach of the obligation to uphold the preliminary procedure for an application for compensation.

4. The fourth ground of appeal claims disregard of the case-law to the effect that the annulment of the contested decision can itself constitute adequate compensation, insufficient statement of reasons, the fact that the Civil Service Tribunal ruled *ultra vires* and manifest error of assessment

5. The fifth ground of appeal claims a suspected lack of impartiality on the part of the Civil Service Tribunal.

Action brought on 19 September 2014 — Sony Computer Entertainment Europe v OHIM — Marpefa (Vieta)

(Case T-690/14)

(2014/C 431/60)

Language in which the application was lodged: English

Parties

Applicant: Sony Computer Entertainment Europe Ltd (London, United Kingdom) (represented by: S. Malynicz, Barrister)

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

Other party to the proceedings before the Board of Appeal: Marpefa, SL (Barcelona, Spain)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community trade mark No 1 790 674

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the Second Board of Appeal of OHIM of 2 July 2014 in Case R 2100/2013-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM and the other party to the proceedings before the Board of Appeal to pay the costs.

Pleas in law

— Infringement of Article 15(1) Regulation No 207/2009;

— Infringement of Article 15(1)(a) Regulation No 207/2009;

— Infringement of Article 51(2) Regulation No 207/2009.

Action brought on 22 September 2014 — Niche Generics v Commission

(Case T-701/14)

(2014/C 431/61)

Language of the case: English

Parties

Applicant: Niche Generics Ltd (Hitchin, United Kingdom) (represented by: E. Batchelor, M. Healy, Solicitors, and F. Carlin, Barrister)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the decision;

— annul or in any event reduce the amount of the fine; and

— order the Commission to pay its own costs and the applicant's costs in connection with these proceedings.

Pleas in law and main arguments

By its present action, the applicant seeks the annulment, in part, of Commission Decision C(2014) 4955 final of 9 July 2014 in case AT.39612 — Perindopril (Servier).

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

1. First plea in law, alleging that the Commission failed to apply the correct 'objective necessity' legal test to determine whether the patent settlement agreement between the applicant and Servier falls within Article 101(1) TFEU.

2. Second plea in law, alleging that the Commission breached the principle of equal treatment by not applying the Technology Transfer Block Exemption Regulation Guidelines to the applicant's settlement.

3. Third plea in law, alleging that the Commission erred in law by categorising the settlement as a violation 'by object' of Article 101(1) TFEU.

4. Fourth plea in law, alleging that the Commission misapplied its own 'infringement by object' legal test to the specific facts relating to the applicant.

5. Fifth plea in law, alleging that the Commission erred in law by concluding that the settlement agreement had anticompetitive effects.

6. Sixth plea in law, alleging in the alternative that the Commission erred in law by not recognising that the settlement agreement satisfies the exemption criteria under Article 101(3) TFEU.

7. Seventh plea in law, alleging that the Commission breached the applicant's rights of defence and the principle of sound administration by acting oppressively in its investigation in relation to documents covered by legal privilege.

8. Eighth plea in law, alleging that the Commission breached the principle of equal treatment in its calculation of the fine by treating the applicant differently than Servier without objective justification.

9. Ninth plea in law, alleging that the Commission breached the principle of proportionality, its own fining guidelines and prior established practice when it imposed a fine on the applicant.

10. Tenth plea in law, alleging that the Commission violated Article 23(2) of Regulation No 1/2003 ([1]) by exceeding the maximum 10 % cap on fines.

11. Eleventh plea in law, alleging that the Commission violated its duty to state reasons pursuant to Article 296 TFEU in respect of its fine calculation and its assessment of the gravity of the applicant's infringement.

([1]) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 101 TFEU and 102 TFEU (OJ 2003 L 1, p. 1).

Action brought on 10 October 2014 — IPSO v ECB

(Case T-713/14)

(2014/C 431/62)

Language of the case: French

Parties

Applicant: International and European Public Services Organisation in the Federal Republic of Germany (IPSO) (Frankfurt am Main, Germany) (represented by: L. Levi, lawyer)

Defendant: European Central Bank

Form of order sought

The applicant claims that the General Court should:

— Annul the ECB Executive Board's decision of 30 May 2014, pronounced on 16 July 2014, to fix at two years the maximum length of certain contracts for temporary staff performing secretarial and administrative roles;

— Order the defendant to pay compensation for non-pecuniary damage estimated *ex aequo et bono* at EUR 15 000;

— Order the defendant to pay all the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging, on the one hand, a breach of the applicant's right to information and consultation as guaranteed by Article 27 of the Charter of Fundamental Rights of the European Union and Directive 2002/14 ([1]) and defined and implemented by the framework agreement on recognition, sharing of information and consultation and the ad hoc agreement of January 2014 establishing the working group on temporary staff, concluded between the ECB and IPSO, and, on the other hand, a breach of those agreements.

2. Second plea in law, alleging a breach of the right to good administration and, in particular, of the right to be heard and of the right of access to information, procedural rights guaranteed by Article 41 of the Charter of Fundamental Rights of the European Union.

([1]) Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community — Joint declaration of the European Parliament, the Council and the Commission on employee representation (OJ 2002 L 80, p. 29).

Action brought on 8 October 2014 — Bonney v OHIM — Bruno (ATHEIST)

(Case T-714/14)

(2014/C 431/63)

Language in which the application was lodged: English

Parties

Applicant: David Bonney (London, United Kingdom) (represented by: D. Farnsworth, Solicitor)

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

Other party to the proceedings before the Board of Appeal: Vanessa Bruno (Paris, France)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community word mark 'ATHEIST' — Application for registration No 10 034 874

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 5 August 2014 in Case R 803/2013-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— reject the opposition insofar as it concerns goods and services in Classes 18, 25 and 35;

— order OHIM to pay the costs.

Plea in law

— Infringement of Article 8(1)(b) of Regulation No 207/2009.

Action brought on 9 October 2014 — NK Rosneft a.o. v Council

(Case T-715/14)

(2014/C 431/64)

Language of the case: English

Parties

Applicants: NK Rosneft OAO (Moscow, Russie); RN-Shelf-Arctic OOO (Moscow); RN-Shelf-Dalniy Vostok ZAO (Yuzhniy Sakhalin, Russia); RN-Exploration OOO (Moscow); and Tagulskoe OOO (Krasnoyarsk, Russia) (represented by: T. Beazley, QC)

Defendant: Council of the European Union

Form of order sought

The applicants claim that the Court should:

— annul articles 1(2)(b), (c) and (d) and (3), and annex III of Council Decision 2014/512/CFSP of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, as amended by Council Decision 2014/659/CFSP of 8 September 2014;

— annul articles 3, 3a, 4(3)-(4), annex II, article 5(2)(b), (c), (d) and (3) and annex VI, and article 11 of the Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, as amended by Council Regulation (EU) No 960/2014 of 8 September 2014;

— further or alternatively, annul the Council Regulation (EU) No 833/2014 and the Council Decision 2014/512/CFSP in so far as they apply to the Applicants;

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

Pleas in law and main arguments

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

1. First plea in law, alleging that the Council failed to provide reasons sufficient to permit a full review of either the substantive or procedural legality of the provisions which the Applicants seek to annul (the 'relevant measures'), and breached the Applicants' defence rights and rights to effective judicial protection with regard to the relevant measures.

2. Second plea in law, alleging that there has been no material produced by the Council which could or does justify the relevant measures as having a legitimate or lawful aim.

3. Third plea in law, alleging that the relevant measures are in breach of the EU's international law obligations under the Partnership and Cooperation Agreement with Russia and/or the GATT.

4. Fourth plea in law, alleging that the Council lacked competence to adopt the relevant measures, or those measures are unlawful, because no rational connection is either evident or provided by way of reasons between the stated aim of the Council Decision 2014/512/CFSP and the means chosen to further it.

5. Fifth plea in law, alleging that the Council Regulation (EU) No 833/2014 does not give proper effect to the provisions of the Council Decision 2014/512/CFSP in that the Council was not competent to adopt or, if it was competent, could not lawfully adopt, Article 3 of the Council Regulation (EU) No 833/2014 in that on its face (at least) it conflicts with the underlying provisions of the Council Decision 2014/512/CFSP, namely its Article 4.

6. Sixth plea in law, alleging that the Council had no competence to adopt, or could not lawfully adopt, relevant measures because they infringed the fundamental principle of equal treatment and non-arbitrariness.

7. Seventh plea in law, alleging that the Council had no competence to adopt, or could not lawfully adopt, relevant measures because they are not proportionate to, or have not been shown to be proportionate to, the aim pursued by the Council Decision 2014/512/CFSP. Further, as a consequence of their lack of proportionality, the provisions (a) encroach upon the Union's legislative competences under the CCP and (b) constitute an impermissible interference with the Applicants' fundamental rights to property and/or their freedom to conduct a business.

8. Eighth plea in law, alleging that, particularly in the absence of any explanation for the relevant measures and their nature, at least part of the purpose of the contested provision could have been to serve an aim other than the stated aim, and that in one further separate respect the powers conferred by the Council Decision 2014/512/CFSP have been misused.

9. Ninth plea in law, alleging breach of the constitutional guarantee of legal certainty, including in the lack of clarity of key terms in the relevant measures.

Action brought on 10 October 2014 — Hong Kong Group v OHIM — WE Brand (W E)

(Case T-718/14)

(2014/C 431/65)

Language in which the application was lodged: English

Parties

Applicant: Hong Kong Group Oy (Vantaa, Finland) (represented by: J. Spåre, lawyer)

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

Other party to the proceedings before the Board of Appeal: WE Brand Sàrl (Luxembourg, Luxembourg)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Figurative mark including the word element 'W E' — Application for registration No 10 763 795

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 4 August 2014 in Case R 2305/2013-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and uphold the application for a Community trade mark registration lodged by the applicant;

— order OHIM and the other party to the proceedings to pay the costs.

Plea in law

— Infringement of Article 8(1) (b) of Regulation No 207/2009.

Action brought on 13 October 2014 — Belgium v Commission

(Case T-721/14)

(2014/C 431/66)

Language of the case: Dutch

Parties

Applicant: Kingdom of Belgium (represented by: L. Van den Broeck and M. Jacobs, acting as Agents, and P. Vlaemminck and B. Van Vooren, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Recommendation 2014/478/EU of 14 July 2014 on principles for the protection of consumers and players of online gambling services and for the prevention of minors from gambling online;

— order the Commission to pay the costs.

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 infringement of the principle of conferral under Article 5 TEU by not referring to the substantive legal basis in the Treaties that confer on the Commission the competence to adopt the contested measure.

2. Second plea in law, alleging infringement of the principle of conferral, given that the Treaties do not confer on the Commission the competence to adopt an instrument with harmonising effect in the games of chance sector.

3. Third plea in law, alleging infringement of the principle of cooperation in good faith under Article 4(3) TEU and the principle of institutional balance under Article 13(2) TEU due to the Commission's disregard of the Conclusions of the Council of 10 December 2010 'Framework for gambling and betting in the EU member states' (Document 16884/10).

4. Fourth plea in law, alleging infringement of the principle of cooperation in good faith under Article 4(3) TEU in respect of the Member States.

5. Fifth plea in law, alleging infringement of Articles 13(2) TEU and 288 and 288 TFEU, given that the contested instrument constitutes *de facto* a hidden directive. The applicant also claims an infringement of Article 52 of the Charter of Fundamental Rights of the European Union because the Commission did not implement in accordance with law a limitation on the freedom of expression and information as laid down in Article 11 of the Charter of Fundamental Rights.

Action brought on 14 October 2014 — Aalberts Industries v Commission and Court of Justice of the European Union

(Case T-725/14)

(2014/C 431/67)

Language of the case: Dutch

Parties

Applicant: Aalberts Industries NV (Utrecht, Netherlands) (represented by: R. Wesseling and M. Tuurenhout, lawyers)

Defendants: European Commission and Court of Justice of the European Union

Form of order sought

The applicant claims that the Court should:

— order the European Union represented by the Court of Justice or the European Commission to compensate the damage suffered by Aalberts as a result of the infringement of its rights, consisting of EUR 1 041 863 of material damage and EUR 5 040 000 of non-material damage or an amount to be fixed by the General Court on an equitable basis, to be increased by compensatory interest from 13 January 2010 until delivery of the present judgment, at the rate fixed by the ECB for main refinancing operations, applicable during the period in question, increased by two percentage points or at a rate fixed by the General Court on an equitable basis;

— order the European Union represented by the Court of Justice or the European Commission to pay the costs.

Pleas in law and main arguments

The applicant submits that the General Court infringed its right to have its case dealt with within a reasonable time in the action in Case T-385/06 *Aalberts Industries N.V. and Others* v *Commission*, which the applicant brought against Commission Decision C(2006) 4180 of 20 September 2006 relating to a proceeding under Article 81 EC and Article 53 of the EEA Agreement (Case COMP/F-1/38.121 — Fittings).

The applicant states that the procedure lasted 4 years and 3 months whereas it should not have taken the General Court more than three years to deal with its action in view of all the circumstances of the case. The applicant asserts that the General Court acted contrary to the second paragraph of Article 47 of the of the Charter of Fundamental Rights of the European Union, which requires the European Union Courts to adjudicate on cases before them within a reasonable time, and Article 6(1) of the ECHR, which confers on individuals the right have their case dealt with within a reasonable time.

The applicant has suffered actual and certain damage as a result of the fact that the General Court did not dispose of the action within a period of 3 years. That damage consists of the costs that the applicant had to incur for the refinancing of a bank guarantee once the action had taken longer than 3 years to be dealt with.

The applicant has suffered non-material damage given that the image of it as a cartel offender has persisted for an unreasonably long period of time as a result of the excessive duration of the procedure before the General Court. The applicant is of the view that compensation in an amount of 5 % of the fine initially imposed is in line with the compensation deemed appropriate by the Court of Justice in comparable situations of time-limits having been seriously exceeded in the assessment of cartel fines.

The applicant states, in the light of the foregoing, that there is a direct causal link between the damage claimed and a rule of law infringed by the European Union intended to confer rights on individuals. The applicant is therefore of the view that the conditions establishing non-contractual liability on the part of the European Union have been satisfied for the purposes of the second paragraph of Article 340 TFEU.

Action brought on 10 October 2014 — Universal Protein Supplements Corp. d/b/a Universal Nutrition v OHIM — H. Young Holdings (animal)

(Case T-727/14)

(2014/C 431/68)

Language in which the application was lodged: English

Parties

Applicant: Universal Protein Supplements Corp. d/b/a Universal Nutrition (New Brunswick, United States) (represented by: S. Malynicz, Barrister)

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

Other party to the proceedings before the Board of Appeal: H. Young Holdings plc (Newbury, United Kingdom)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Community figurative mark containing the verbal element 'animal' — Community trade mark No 2 822 807

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the First Board of Appeal of OHIM of 31 July 2014 in Case R 2054/2013-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM and the other party to pay their own costs and those of the applicant.

Pleas in law

— Infringement of Article 8(4) of Regulation No 207/2009;

— Infringement of Article 37(b)(ii) of Regulation No 2868/95.

Action brought on 10 October 2014 — Universal Protein Supplements Corp. d/b/a Universal Nutrition v OHIM — H. Young Holdings (animal)

(Case T-728/14)

(2014/C 431/69)

Language in which the application was lodged: English

Parties

Applicant: Universal Protein Supplements Corp. d/b/a Universal Nutrition (New Brunswick, United States) (represented by: S. Malynicz, Barrister)

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

Other party to the proceedings before the Board of Appeal: H. Young Holdings plc (Newbury, United Kingdom)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Community figurative mark containing the verbal element 'animal' — Community trade mark No 2 824 548

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the First Board of Appeal of OHIM of 31 July 2014 in Case R 2058/2013-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM and the other party to pay their own costs and those of the applicant.

Pleas in law

— Infringement of Article 8(4) of Regulation No 207/2009;

— Infringement of Article 37(b)(ii) of Regulation No 2868/95.

Order of the General Court of 2 October 2014 — Ratioparts-Ersatzteile v OHIM — Norwood Industries (NORTHWOOD professional forest equipment)

(Case T-592/13) ([1])

(2014/C 431/70)

Language of the case: German

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

([1]) OJ C 24, 25.1.2014.

Order of the General Court of 2 October 2014 — Ratioparts-Ersatzteile v OHIM — Norwood Promotional Products Europe (NORTHWOOD professional forest equipment)

(Case T-622/13) ([1])

(2014/C 431/71)

Language of the case: German

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

([1]) OJ C 39, 8.2.2014.

Order of the General Court of 1 October 2014 — Tui Deutschland v OHIM — Infinity Real Estate & Project Development (Sensimar)

(Case T-706/13) ([1])

(2014/C 431/72)

Language of the case: German

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

([1]) OJ C 61, 1.3.2014.

Order of the General Court of 2 September 2014 — Petropars and Others v Council

(Case T-370/14) ([1])

(2014/C 431/73)

Language of the case: English

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

([1]) OJ C 261, 11.8.2014.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Judgment of the Civil Service Tribunal (1st Chamber) of 15 October 2014 — AY v Council

(Case F-23/11 RENV) ([1])

(Civil service — Officials — Referral back to the Tribunal after setting aside — Promotion — 2010 promotion procedure — Consideration of comparative merits — Decision not to promote the applicant)

(2014/C 431/74)

Language of the case: French

Parties

Applicant: AY (represented by: É. Boigelot, lawyer)

Defendant: Council of the European Union (represented by: M. Bauer and A.F. Jensen, Agents)

Re:

Application for annulment of the Council's decision not to include the applicant on the list of officials promoted to Grade AST 9 under the 2010 promotion procedure and compensation for the non-material harm suffered. Case T-167/12 P referred back by the General Court after appeal.

Operative part of the judgment

The Tribunal:

1. *Dismisses the action;*

2. *Declares that AY is to bear his own costs incurred in Cases F-23/11, T-167/12 P and F-23/11 RENV respectively and orders him to pay the costs incurred by the Council of the European Union in Case F-23/11;*

3. *Declares that the Council of the European Union is to bear its own costs incurred in Cases T-167/12 P and F-23/11 RENV.*

([1]) OJ C 226, 30/07/2011, p. 31.

Judgment of the Civil Service Tribunal (First Chamber) of 15 October 2014 — Robert van de Water v Parliament

(Case F-86/13) ([1])

(Civil service — Rights and obligations of officials — Declaration of intention to engage in an occupational activity after leaving the service — Article 16 of the Staff Regulations — Compatibility with the legitimate interests of the institution — Prohibition)

(2014/C 431/75)

Language of the case: English

Parties

Applicant: Robert van de Water (Grimbergen, Belgium) (represented by: P. Bentley QC, barrister, and R. Bäuerle, lawyer)

Defendant: European Parliament (represented by: N. Chemaï and M. Dean, Agents)

Re:

The application to annul the decision prohibiting the applicant from taking up an appointment as an adviser to the Prime Minister of Ukraine for a period of two years as from the date of termination of his functions with the European Parliament

Operative part of the judgment

The Tribunal:

1. *Dismisses the action;*

2. *Declares that Mr van de Water is to bear his own costs and orders him to pay the costs incurred by the Parliament.*

([1]) OJ C 336, 16/11/2013, p. 31.

Action brought on 24 June 2014 — ZZ v European Commission

(Case F-59/14)

(2014/C 431/76)

Language of the case: German

Parties

Applicant: ZZ (represented by: H. Mannes, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Civil service — Application for compensation for the material and non-pecuniary loss, together with default interest, which the applicant has suffered by means of loss of an opportunity to obtain a post with the EU, based on the judgment of the Civil Service Tribunal of 29 September 2010 in Case F-5/08 *Brune* v *Commission*.

Form of order sought

The applicant claims that the Civil Service Tribunal should:

— Order the defendant to pay compensation to the applicant for the material and non-pecuniary loss, together with default interest, which the latter has suffered as a result of his unlawful exclusion from open competition EPSO/AD/26/05;

— Order the defendant to pay the costs of the proceedings;

— As a precaution, give judgment in default.

Action brought on 31 July 2014 — ZZ v ECSEL Joint Undertaking

(Case F-75/14)

(2014/C 431/77)

Language of the case: Greek

Parties

Applicant: ZZ (represented by: V.A. Christianos, lawyer)

Defendant: ECSEL Joint Undertaking

Subject-matter and description of the proceedings

Application for annulment of the applicant's appraisal report drawn up in respect of 2012.

Form of order sought

The applicant claims that the Tribunal should:

— annul the contested decision by which ARTEMIS dismissed the applicant's complaint and annul the contested act adopted on 15 November by the appeal assessor concerning the applicant's reasoned refusal to accept the content of his appraisal report in respect of 2012;

— order the ECSEL Joint Undertaking to pay the costs.

Action brought on 1 September 2014 — ZZ v Council

(Case F-87/14)

(2014/C 431/78)

Language of the case: French

Parties

Applicant: ZZ (represented by: M. Velardo, lawyer)

Defendant: Council of the European Union

Subject-matter and description of the proceedings

Action seeking (i) the annulment of the Council's decisions relating to the reimbursement of the applicant's hospital expenses and (ii) an order for the Council to pay default and compensatory interest, on the one hand, and compensation for the non-material damage allegedly suffered, on the other.

Form of order sought

The applicant claims that the Tribunal should:

— Partially annul the decisions of the Brussels Settlements Office, as set out in Statement 55 of 27 September 2013, relating to the applicant's request of 12 July 2012 for reimbursement of hospital expenses;

— declare that the letters of 19 November 2013 from the Head of the Settlements Office concerning the unfavourable response to a supposed prior authorisation request of 12 July 2012 are invalid, or, in the alternative, annul those letters;

— annul, so far as is necessary, the appointing authority's decision of 22 May 2014 rejecting the complaints submitted by the applicant on 27 December 2013 and 18 February 2014;

— order the Council to pay the default and compensatory interest with effect from the date on which the sums claimed were payable, and to pay compensation for the non-material damage suffered by the applicant;

— order the Council to pay the costs.

Action brought on 29 September 2014 — ZZ v Council

(Case F-98/14)

(2014/C 431/79)

Language of the case: French

Parties

Applicant: ZZ (represented by: M. Velardo, lawyer)

Defendant: Council of the European Union

Subject-matter and description of the proceedings

Action seeking (i) the partial annulment of two Council Staff Notes in so far as they link obtaining reimbursement of travel expenses from the place of employment to the place of origin and obtaining travelling time to the expatriation and foreign residence allowances and (ii) an order for the defendant to pay damages for the material and non-material harm which the applicant claims to have suffered.

Form of order sought

The applicant claims that the Tribunal should:

— Pursuant to Article 270 TFEU, annul the decision in Staff Note ('SN') 13/14 of 9 January 2014 (Decision No 2/2014), amending the rules on travelling time following the date of application (1 January 2014) of Article 7 of Annex V to the Staff Regulations, and annul the decision in Staff Note ('SN') 9/14 (Decision No 12/2014), amending the rules on travel expenses following the date of application (1 January 2014) of Article 8 of Annex VII to the Staff Regulations, as amended by Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union, published in *Official Journal* L 287 of 29 October 2013. The application for annulment is limited to the part of the SNs which links the right to travel expenses and travelling time to the expatriation and foreign residence allowances and to Article 6 of SN 9/14, which introduced new criteria for determining the place of origin;

— order the Council to pay the applicant EUR 165 596,42 for the material damage suffered and EUR 40 000 for the non-material damage suffered;

— order the Council to pay default and compensatory interest at a rate of 6,75 % for the material and non-material damage suffered;

— order the Council to pay the costs.

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