Official Journal of the European Union

C 448

English edition

Information and Notices

Volume 57

15 December 2014

Contents

EN

General Court

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

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 448/01)

Last publication

OJ C 439, 8.12.2014

Past publications

OJ C 431, 1.12.2014

OJ C 421, 24.11.2014

OJ C 409, 17.11.2014

OJ C 395, 10.11.2014

OJ C 388, 3.11.2014

OJ C 380, 27.10.2014

These texts are available on:

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

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Request for a preliminary ruling from the Bundesverwaltungsgericht (Germany) lodged on 18 August 2014 — Grüne Liga Sachsen e. V. and Others v Freistaat Sachsen

(Case C-399/14)

(2014/C 448/02)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: Grüne Liga Sachsen e. V. and Others

Defendant: Freistaat Sachsen

Intervener: Landeshauptstadt Dresden

Other party: Der Vertreter des Bundesinteresses beim Bundesverwaltungsgericht

Questions referred

1. Is Article 6(2) of Council Directive 92/43/EEC ([1]) of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora ('the Habitats Directive') to be interpreted as meaning that a construction project for a bridge which does not directly serve the management of the site and which was authorised before that site was included in the list of sites of Community importance must be the subject of an impact assessment prior to its implementation if the site was included in that list after authorisation was granted but before the project was implemented and only a risk assessment/preliminary assessment was undertaken before the authorisation was granted?

2. If question 1 is answered in the affirmative:

   When undertaking a subsequent review, must the national authority observe the provisions of Article 6(3) and (4) of the Habitats Directive where it wanted to use those provisions as a precautionary basis for the risk assessment/preliminary assessment preceding the grant of the authorisation?

3. If question 1 is answered in the affirmative and question 2 in the negative:

What requirements should be applied under Article 6(2) of the Habitats Directive to a subsequent review of an authorisation granted for a project and to what date should the review relate?

4. In the context of supplementary proceedings seeking to remedy an error found in a subsequent review under Article 6 (2) of the Habitats Directive or in an impact assessment under Article 6(3) of the Habitats Directive, is account to be taken, by appropriate amendments to the review requirements, of the fact that the structure was permitted to be constructed and put into service because the planning decision was immediately enforceable and proceedings for interim measures had been dismissed with final effect? In any event, does that apply to an alternative subsequent review which is necessary in the context of a decision under Article 6(4) of the Habitats Directive?

(1) OJ 1992 L 206, p. 7.

Request for a preliminary ruling from the Amtsgericht Rüsselsheim (Germany) lodged on 29 August 2014 — Dagmar Wedel, Rudi Wedel v Condor Flugdienst GmbH

(Case C-412/14)

(2014/C 448/03)

Language of the case: German

Referring court

Amtsgericht Rüsselsheim

Parties to the main proceedings

Applicants: Dagmar Wedel, Rudi Wedel

Defendant: Condor Flugdienst GmbH

Questions referred

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

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

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

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

Request for a preliminary ruling from the Tribunale di Bari (Italy) lodged on 22 September 2014 — Criminal proceedings against Domenico Rosa

(Case C-433/14)

(2014/C 448/04)

Language of the case: Italian

Referring court

Tribunale di Bari

Party to the main proceedings

Domenico Rosa

Questions referred

1) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU, as also construed in the judgment of the Court of Justice of the European Union of 16 February 2012 [in Joined Cases C-72/10 and C-77/10], to be interpreted as precluding a call for tenders for the award of licences with a period of validity shorter than that of licences awarded in the past, where that tendering procedure has been launched in order to remedy the consequences of the unlawful exclusion of a certain number of operators from earlier tendering procedures?

2) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU, as also construed in the above judgment of the Court of Justice of the European Union, to be interpreted as precluding the possibility that sufficient justification for the shorter period of validity of licences offered for tender, as compared with licences awarded in the past, can be found in the requirement for the licensing system to be reorganised through the alignment of licence expiry dates?

3) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU, as also construed in the above judgment of the Court of Justice of the European Union, to be interpreted as precluding the imposition of an obligation to transfer, free of charge, the use of tangible and intangible assets represented by the betting management and collection network in the event that the activity has ceased owing to the expiry of the licence or as a result of measures disqualifying the licence-holder or withdrawing the licence?

Request for a preliminary ruling from the Tribunale di Bari (Italy) lodged on 22 September 2014 — Criminal proceedings against Raffaele Mignone

(Case C-434/14)

(2014/C 448/05)

Language of the case: Italian

Referring court

Tribunale di Bari

Party to the main proceedings

Raffaele Mignone

Questions referred

1) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU, as also construed in the judgment of the Court of Justice of the European Union of 16 February 2012 [in Joined Cases C-72/10 and C-77/10], to be interpreted as precluding a call for tenders for the award of licences with a period of validity shorter than that of licences awarded in the past, where that tendering procedure has been launched in order to remedy the consequences of the unlawful exclusion of a certain number of operators from earlier tendering procedures?

2) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU, as also construed in the judgment of the Court of Justice of the European Union of 16 February 2012 in Joined Cases C-72/10 and C-77/10, to be interpreted as precluding the possibility that sufficient justification for the shorter period of validity of licences offered for tender, as compared with licences awarded in the past, can be found in the requirement for the licensing system to be reorganised through the alignment of licence expiry dates?

3) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU, as also construed in the judgment of the Court of Justice of the European Union of 16 February 2012 in Joined Cases C-72/10 and C-77/10, to be interpreted as precluding the imposition of an obligation to transfer, free of charge, the use of tangible and intangible assets represented by the betting management and collection network in the event that the activity has ceased owing to the expiry of the licence or as a result of measures disqualifying the licence-holder or withdrawing the licence?

Request for a preliminary ruling from the Tribunale di Bari (Italy) lodged on 22 September 2014 — Criminal proceedings against Mauro Barletta

(Case C-435/14)

(2014/C 448/06)

Language of the case: Italian

Referring court

Tribunale di Bari

Party to the main proceedings

Mauro Barletta

Questions referred

1) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU, as also construed in the judgment of the Court of Justice of the European Union of 16 February 2012 [in Joined Cases C-72/10 and C-77/10], to be interpreted as precluding a call for tenders for the award of licences with a period of validity shorter than that of licences awarded in the past, where that tendering procedure has been launched in order to remedy the consequences of the unlawful exclusion of a certain number of operators from earlier tendering procedures?

2) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU, as also construed in the above judgment of the Court of Justice of the European Union, to be interpreted as precluding the possibility that sufficient justification for the shorter period of validity of licences offered for tender, as compared with licences awarded in the past, can be found in the requirement for the licensing system to be reorganised through the alignment of licence expiry dates?

3) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU, as also construed in the above judgment of the Court of Justice of the European Union, to be interpreted as precluding the imposition of an obligation to transfer, free of charge, the use of tangible and intangible assets represented by the betting management and collection network in the event that the activity has ceased owing to the expiry of the licence or as a result of measures disqualifying the licence-holder or withdrawing the licence?

Request for a preliminary ruling from the Tribunale di Bari (Italy) lodged on 22 September 2014 — Criminal proceedings against Davide Cazzorla

(Case C-436/14)

(2014/C 448/07)

Language of the case: Italian

Referring court

Tribunale di Bari

Party to the main proceedings

Davide Cazzorla

Questions referred

1) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU, as also construed in the judgment of the Court of Justice of the European Union of 16 February 2012 [in Joined Cases C-72/10 and C-77/10], to be interpreted as precluding a call for tenders for the award of licences with a period of validity shorter than that of licences awarded in the past, where that tendering procedure has been launched in order to remedy the consequences of the unlawful exclusion of a certain number of operators from earlier tendering procedures?

2) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU, as also construed in the above judgment of the Court of Justice of the European Union, to be interpreted as precluding the possibility that sufficient justification for the shorter period of validity of licences offered for tender, as compared with licences awarded in the past, can be found in the requirement for the licensing system to be reorganised through the alignment of licence expiry dates?

3) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU, as also construed in the above judgment of the Court of Justice of the European Union, to be interpreted as precluding the imposition of an obligation to transfer, free of charge, the use of tangible and intangible assets represented by the betting management and collection network in the event that the activity has ceased owing to the expiry of the licence or as a result of measures disqualifying the licence-holder or withdrawing the licence?

Request for a preliminary ruling from the Tribunale di Bari (Italy) lodged on 22 September 2014 — Criminal proceedings against Nicola Seminario

(Case C-437/14)

(2014/C 448/08)

Language of the case: Italian

Referring court

Tribunale di Bari

Parties to the main proceedings

Nicola Seminario

Questions referred

1) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU, as also construed in the judgment of the Court of Justice of the European Union of 16 February 2012 [in Joined Cases C-72/10 and C-77/10], to be interpreted as precluding a call for tenders for the award of licences with a period of validity shorter than that of licences awarded in the past, where that tendering procedure has been launched in order to remedy the consequences of the unlawful exclusion of a certain number of operators from earlier tendering procedures?

2) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU, as also construed in the above judgment of the Court of Justice of the European Union, to be interpreted as precluding the possibility that sufficient justification for the shorter period of validity of licences offered for tender, as compared with licences awarded in the past, can be found in the requirement for the licensing system to be reorganised through the alignment of licence expiry dates?

3) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU, as also construed in the above judgment of the Court of Justice of the European Union, to be interpreted as precluding the imposition of an obligation to transfer, free of charge, the use of tangible and intangible assets represented by the betting management and collection network in the event that the activity has ceased owing to the expiry of the licence or as a result of measures disqualifying the licence-holder or withdrawing the licence?

Request for a preliminary ruling from the Curtea de Apel București (Romania) lodged on 24 September 2014 — SC Star Storage SA v Institutul Național de Cercetare Dezvoltare în Informatică (INCDI)

(Case C-439/14)

(2014/C 448/09)

Language of the case: Romanian

Referring court

Curtea de Apel București

Parties to the main proceedings

Applicant: SC Star Storage SA

Defendant: Institutul Național de Cercetare Dezvoltare în Informatică (INCDI)

Question referred

Are the provisions in the third subparagraph of Article 1(1) and Article 1(3) of Directive 89/665 ([1]), as amended by Directive 2007/66 ([2]), to be interpreted as precluding a rule under which a 'good conduct guarantee' must be lodged as a prerequisite for being granted access to procedures for reviewing the decisions of contracting authorities, such as the rule laid down in Article 271a and Article 271b of [Ordonanța de urgență a Guvernului] (Emergency Ordinance) No 34/2006?

([1]) Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ 1989 L 395, p. 33).

([2]) Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts (OJ 2007 L 335, p. 31).

Request for a preliminary ruling from the Bayerischer Verwaltungsgerichtshof (Germany) lodged on 26 September 2014 — Davitas GmbH v Stadt Aschaffenburg

(Case C-448/14)

(2014/C 448/10)

Language of the case: German

Referring court

Bayerischer Verwaltungsgerichtshof

Parties to the main proceedings

Appellant: Davitas GmbH

Respondent: Stadt Aschaffenburg

Intervener: Landesanwaltschaft Bayern

Questions referred

Is the product 'De Tox Forte' which is marketed by the appellant a food or a food ingredient with a new molecular structure within the meaning of Article 1(2)(c) of Regulation (EC) No 258/97 ([1])?

In particular, does it suffice, in order to be able to answer this question in the affirmative, that that product, which contains the substance clinoptilolite in its particular primary molecular structure, was not yet being used as a food prior to 15 May 1997, or does that product, in addition, have to be produced via the production process by means of a procedure which results in a new or intentionally modified molecular structure, which means that it must be a substance which did not previously exist naturally in that form?

([1]) Regulation (EC) No 258/97 of the European Parliament and of the Council of 27 January 1997 concerning novel foods and novel food ingredients (OJ 1997 L 43, p. 1).

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 29 September 2014 — Agenzia Italiana del Farmaco (AIFA), Ministry for Health v Doc Generici srl

(Case C-452/14)

(2014/C 448/11)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicants: Agenzia Italiana del Farmaco (AIFA), Ministry for Health

Defendant: Doc Generici srl

Questions referred

1. Must Article 3(2)(a) of Council Regulation (EC) No 297/95 of 10 February 1995 ([1]), in the version currently in force, be interpreted as meaning that Type I marketing authorisation variations — and, in particular, in respect of the case in the main proceedings, Type IA variations — where an identical variation affecting several authorisations belonging to the same holder are concerned, are subject to a single fee, to the extent specified therein, or to as many fees as there are authorisations affected by the variation?

2. In the circumstances in the present proceedings, may or must, as held by this Chamber, the question be referred to the Court of Justice?

(1) Council Regulation (EC) No 297/95 of 10 February 1995 on fees payable to the European Agency for the Evaluation of Medicinal Products (OJ 1995 L 35, 15.2.1995, p. 1).

Action brought on 30 September 2014 — European Commission v Kingdom of Spain

(Case C-454/14)

(2014/C 448/12)

Language of the case: Spanish

Parties

Applicant: European Commission (represented by: L. Pignataro-Nolin, E. Sanfrutos Cano and D. Loma-Osorio Lerena, acting as Agents)

Defendant: Kingdom of Spain

Form of order sought

The applicant claims that the Court should:

— declare that, by failing to adopt, for each of the landfill sites identified in point 26 of the present application (non-hazardous waste landfills in Urtuella in the Basque Country, and in Zurita and Juan Grande in the Canary Islands), the measures necessary to request the relevant operator to prepare a conditioning plan and ensure full implementation of that plan in accordance with the requirements of the directive, with the exception of those listed in Annex I, point 1, within eight years after the date laid down in Article 18(1) of Council Directive 1999/31/EC (1) of 26 April 1999 on the landfill of waste, the Kingdom of Spain has failed to fulfil its obligations under Article 14(c) of the directive in relation to each of the landfill sites listed.

— declare that, by failing to adopt, for each of the landfill sites identified in point 37 of the present application (9 non-hazardous waste landfills (Vélez Rubio (Almería), Alcolea de Cinca (Huesca), Sariñena (Huesca), Tamarite de Litera (Huesca), Somontano — Barbastro (Huesca), Barranco de Sedases (Fraga, Huesca), Barranco Seco (Puntallana, La Palma), Jumilla (Murcia) y Legazpia (Guipuzkoa)) and 19 inert waste landfills (Sierra Valleja (Arcos de la Frontera, Cádiz), Carretera Pantano del Rumblar (Baños de la Encina, Jaén), Barranco de la Cueva (Bélmez de la Moraleda, Jaén), Cerrajón (Castillo de Locution, Jaén), Las Canters (Jimena y Bed mar, Jaén), Hoya del Pine (Siles, Jaén), Bella vista (Finca El Coronel, Alcalá de Guadaira, Sevilla), El Patarín (Alcalá de Guadaira, Sevilla), Carretera de Arahal-Morón de la Frontera (Arahal, Sevilla), Carretera de Almadén de la Plata (Cazalla de la Sierra, Sevilla), El Chaparral (Écija, Sevilla), Carretera A-92, KM 57,5 (Morón de la Frontera, Sevilla), Carretera 3118 Fuente Leona — Cumbres mayores (Colina Barragona, Huelva), Llanos del Campo (Grazalema — Benamahoma, Cádiz) Andrada Baja (Alcalá de Guadaira, Sevilla), Las Zorreras (Aldeira, Granada), Carretera de los Villares (Andújar, Jaén) La Chacona (Cabra, Córdoba) and el Chaparral — La Sombrerera (Puerto Serrano, Cádiz))), the measures necessary to close as soon as possible, pursuant to Article 7(g) and Article 13 of Directive 1999/31, the sites which had not been granted, under Article 8 of that directive, a permit to continue to operate, the Kingdom of Spain has failed to fulfil its obligations in respect of each of the landfills listed in Article 14(b) of the directive.

— order the Kingdom of Spain to pay the costs.

Pleas in law and main arguments

The investigations conducted by the Commission in the course of infringement proceedings 2001/2071 and the analysis of the Spanish authorities' responses enabled the finding that the Kingdom of Spain had failed to fulfil its obligations under Article 14(a) and (c), as set out in the letter of formal notice, and those under Article 14(b) of the directive.

The present action also relates to the landfill of Barranco de Sedases, which is the subject of infringement proceedings 2012/4068 and the infringement proceedings referred to above. The Commission submits that the Kingdom of Spain has failed to fulfil its obligations under Article 14(b) of Directive 1999/31 in relation to that landfill.

The analysis of those responses enabled the Commission to remove from the proceedings 45 landfill sites which either could not be considered to be existing landfills on 16 July 2001, or had been authorised and conditioned in accordance with Directive 1999/31. However, in the light of the continuing non-compliance — given the Spanish authorities' failure, in certain cases, to adopt the measures necessary to request that the relevant operator prepare a conditioning plan and ensure full implementation of that plan in accordance with the requirements of the directive, and in other cases to take the measures necessary to close as soon as possible the sites which had not been granted a permit to continue to operate, and, accordingly, the Kingdom of Spain's failure to fulfil its obligations under Article 14(c) and (b) of Directive 1999/31 — the Commission has decided to bring the present action before the Court of Justice.

([1]) OJ 1999 L 182, p. 1.

Appeal brought on 29 September 2014 by H against the order of the General Court (Ninth Chamber) delivered on 10 July 2014 in Case T-271/10: H v Council of the European Union, European Commission, European Police Mission in Bosnia-Herzegovina ('EUPM')

(Case C-455/14 P)

(2014/C 448/13)

Language of the case: English

Parties

Appellant: H (represented by: M. Velardo, avvocato)

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

Form of order sought

The applicant claims that the Court should:

— set aside the order of the General Court of 10 July 2014 in Case T-271/10 H v. Council of the European Union, European Commission and 'EUPM', insofar as it rejects the Applicant's action seeking the annulment of the decision of 7 April 2010, signed by the Head of the personnel of the EUPM, by which the Applicant was redeployed to the post of 'Criminal Justice Adviser-Prosecutor' in the regional office of Banja Luka (Bosnia and Herzegovina) and, if necessary, of the decision of 30 April 2010, signed by the Head of Mission, referred to in Article 6 of the Council Decision 2009/906/CFSP of 8 December 2009, on the European Union Police Mission (EUPM) in Bosnia and Herzegovina (BiH) ([1]), and second, for damages;

— refer the case back to the General Court;

— order the defendant at first instance to pay the costs of these proceedings.

Pleas in law and main arguments

The Appellant is putting forward the following pleas in law:

— Infringement of the right of defence

— Infringement of Article 114 of the Rules of Procedure

— Error in law

— Infringement of European Law

(1) OJ L 322, p. 22

Request for a preliminary ruling from the Tribunale Amministrativo Regionale per la Lombardia (Italy) lodged on 3 October 2014 — Promoimpresa srl v Consorzio dei Comuni della Sponda Bresciana del Lago di Garda e del Lago di Idro, Regione Lombardia

(Case C-458/14)

(2014/C 448/14)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per la Lombardia

Parties to the main proceedings

Applicant: Promoimpresa srl

Defendants: Consorzio dei Comuni della Sponda Bresciana del Lago di Garda e del Lago di Idro, Regione Lombardia

Question referred

Do the principles of freedom of establishment, non-discrimination and safeguarding competition, respectively laid down in Articles 49, 56 and 106 TFEU, and the precept of reasonableness implicit therein, preclude national legislation under which the validity of concessions of economically significant publicly-owned maritime, lakeside and waterway assets is to be repeatedly extended through a succession of legislative acts, the duration of that validity being statutorily increased for at least 11 years, with the effect that the same concessionaire retains the exclusive right to exploit the asset economically, even though the period of validity under the concession awarded to that concessionaire has meanwhile expired, whereby interested economic operators are deprived of any opportunity of obtaining a concession for the asset on the basis of a public tendering procedure?

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 6 October 2014 — Johannes Evert Antonius Massar v DAS Nederlandse Rechtsbijstand Verzekeringsmaatschappij NV

(Case C-460/14)

(2014/C 448/15)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: Johannes Evert Antonius Massar

Defendant: DAS Nederlandse Rechtsbijstand Verzekeringsmaatschappij NV

Questions referred

1) Must the term 'inquiry' in Article 4(1)(a) of Council Directive 87/344/EEC ([1]) of 22 June 1987 on the coordination of laws, regulations and administrative provisions relating to legal expenses insurance be interpreted as covering the procedure before the UWV [Uitvoeringsinstituut Werknemersverzekeringen (Employee Insurance Agency)], in which the employer requests a dismissal permit in order to bring to an end the employment contract with the employee (who is covered by legal expenses insurance)?

2) If the answer to Question 1 depends on the characteristics of the specific procedure, in combination, if necessary, with the facts and circumstances of the case, on the basis of which characteristics, facts and circumstances must the national court then determine whether that procedure is to be regarded as constituting an inquiry within the meaning of Article 4(1)(a) of the Directive?

([1]) OJ 1987 L 185, p. 77.

Request for a preliminary ruling from the Tribunale di Bari (Italia) lodged on 8 October 2014 — Criminal proceedings against Lorenzo Carlucci

(Case C-462/14)

(2014/C 448/16)

Language of the case: Italian

Referring court

Tribunale di Bari

Parties to the main proceedings

Lorenzo Carlucci

Questions referred

1) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU, as also construed in the judgment of the Court of Justice of the European Union of 16 February 2012 [in Joined Cases C-72/10 and C-77/10], to be interpreted as precluding a call for tenders for the award of licences with a period of validity shorter than that of licences awarded in the past, where that tendering procedure has been launched in order to remedy the consequences of the unlawful exclusion of a certain number of operators from earlier tendering procedures?

2) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU, as also construed in the judgment of the Court of Justice of the European Union of 16 February 2012 in Joined Cases C-72/10 and C-77/10, to be interpreted as precluding the possibility that sufficient justification for the shorter period of validity of licences offered for tender, as compared with licences awarded in the past, can be found in the requirement for the licensing system to be reorganised through the alignment of licence expiry dates?

3) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU, as also construed in the judgment of the Court of Justice of the European Union of 16 February 2012 in Joined Cases C-72/10 and C-77/10, to be interpreted as precluding the imposition of an obligation to transfer, free of charge, the use of tangible and intangible assets represented by the betting management and collection network in the event that the activity has ceased owing to the expiry of the licence or as a result of measures disqualifying the licence-holder or withdrawing the licence?

Request for a preliminary ruling from the Centrale Raad van Beroep (Netherlands) lodged on 9 October 2014 — Raad van bestuur van de Sociale verzekeringsbank v F. Wieland and H. Rothwangl

(Case C-465/14)

(2014/C 448/17)

Language of the case: Dutch

Referring court

Centrale Raad van Beroep

Parties to the main proceedings

Appellant: Raad van bestuur van de Sociale verzekeringsbank

Respondents: F. Wieland, H. Rothwangl

Questions referred

1) Must Article 3 and Article 94(1) and (2) of Regulation No 1408/71 ([1]) be interpreted as meaning that a former seaman who belonged to the crew of a vessel with a home port in a Member State, who had no place of residence on shore and who was not a national of a Member State, cannot be denied (in part) an old-age pension, after the State of which that seaman is a national acceded to (a legal predecessor of) the European Union or after Regulation No 1408/71 entered into force for that State, solely on the ground that that former seaman was not a national of the (first-mentioned) Member State during the period of the (claimed) insurance cover?

2) Must Articles 18 TFEU and 45 TFEU be interpreted as precluding a rule of a Member State under which a seaman who belonged to the crew of a vessel with a home port in that Member State, who had no place of residence on shore and who is not a national of any Member State, was excluded from insurance cover for purposes of an old-age pension, whereas, under that rule, a seaman who is a national of the Member State in which the vessel has its home port and who is otherwise in the same situation is deemed to be insured, if the State of which the first-named seaman is a national has in the meanwhile, by the time of the determination of the pension, acceded to (a legal predecessor of) the European Union or Regulation No 1408/71 has in the meanwhile entered into force for that State?

3) Must Questions 1 and 2 be answered in the same way in the case of a (former) seaman who, at the time of his employment, was a national of a State which at a later date accedes to (a legal predecessor of) the European Union, but who, at the time of that accession or the entry into force of Regulation No 1408/71 for that State, and at the time of submitting his claim to entitlement to an old-age pension, was not a national of any Member State, but to whom Regulation No 1408/71 nevertheless applies pursuant to Article 1 of Regulation No 859/2003 ([2])?

([1]) Regulation of the Council of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (OJ, English Special Edition 1971(II), p. 416).

([2]) Council Regulation of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the ground of their nationality (OJ 2003 L 124, p. 1).

Request for a preliminary ruling from the Tribunale di Bergamo (Italy) lodged on 13 October 2014 — Criminal proceedings against Chiara Baldo

(Case C-467/14)

(2014/C 448/18)

Language of the case: Italian

Referring court

Tribunale di Bergamo

Party to the main proceedings

Chiara Baldo

Questions referred

1) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU, considered also in the light of the principles set out in the judgment of the Court of Justice of the European Union of 16 February 2012 [in Joined Cases C-72/10 and C-77/10], to be interpreted as precluding a call for tenders for the award of licences with a period of validity shorter than that of licences awarded in the past?

2) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU, considered also in the light of the principles set out in the judgment of the Court of Justice of the European Union of 16 February 2012 [in Joined Cases C 72/10 and C 77/10], to be interpreted as precluding the possibility that sufficient justification for the shorter period of validity of licences offered for tender, as compared with licences awarded in the past, can be found in the requirement for the licensing system to be reorganised through the alignment of licence expiry dates?

3) Are Article 49 et seq. TFEU and Article 56 et seq. TFEU, considered also in the light of the principles set out in the judgment of the Court of Justice of the European Union of 16 February 2012 [in Joined Cases C 72/10 and C 77/10], to be interpreted as precluding the imposition of an obligation to transfer, free of charge, the use of tangible and intangible assets represented by the betting management and collection network in the event that the activity has ceased owing to the expiry of the licence or as a result of measures disqualifying the licence-holder or withdrawing the licence?

Request for a preliminary ruling from the Högsta domstolen (Sweden) lodged on 20 October 2014 — Canadian Oil Company Sweden AB, Anders Rantén v Riksåklagaren

(Case C-472/14)

(2014/C 448/19)

Language of the case: Swedish

Referring court

Högsta domstolen

Parties to the main proceedings

Applicants: Canadian Oil Company Sweden AB, Anders Rantén

Defendant: Riksåklagaren

Questions referred

1) Does it run counter to REACH ([1]) that a person who, in the course of a business, imports a chemical product into Sweden — in respect of which there is an obligation to notify under REACH — must notify it in accordance with the Swedish legislation to the Kemikalieinspektionen for registration in the Swedish product register?

2) If the answer to question 1 is negative, does the Swedish obligation to notify run counter to Article 34 TFEU, having regard to the exceptions in Article 36 TFEU?

([1]) Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ 2006 L 396, p. 1).

GENERAL COURT

Judgment of the General Court of 5 November 2014 — Vtesse Networks v Commission

(Case T-362/10) ([1])

(State aid — Aid to support the deployment of next generation broadband networks in the Cornwall and Isles of Scilly region — Decision declaring the aid compatible with the internal market — Article 107(3)(c) TFEU — Action for annulment — No substantial effect on the competitive position — Locus standi — Procedural rights of the interested parties — Partial inadmissibility — No doubts which justify initiating the formal investigation procedure)

(2014/C 448/20)

Language of the case: English

Parties

Applicant: Vtesse Networks Ltd (Hertford, United Kingdom) (represented by: H. Mercer QC)

Defendant: European Commission (represented by: B. Stromsky and L. Armati, Agents)

Interveners in support of the defendant: Republic of Poland (represented: initially by M. Szpunar and B. Majczyna, and subsequently by B. Majczyna, Agents); United Kingdom of Great Britain and Northern Ireland (represented: initially by S. Behzadi-Spencer and L. Seeboruth, and subsequently by L. Seeboruth, J. Beeko and L. Christie, Agents, and initially by K. Bacon, and subsequently by S. Lee, Barristers); and British Telecommunications plc (London, United Kingdom) (represented: initially by M. Nissen and J. Gutiérrez Gisbert, then by M. Nissen and G. van de Walle de Ghelcke and lastly by G. van de Walle de Ghelcke, J. Rivas Andrés, lawyers, and J. Holmes, Barrister)

Re:

Application for the annulment of Commission Decision C(2010) 3204 of 12 May 2010 declaring the aid measure 'Cornwall & Isles of Scilly Next Generation Broadband', providing aid from the European Regional Development Fund to support the deployment of next generation broadband networks in the Cornwall and Isles of Scilly region, compatible with Article 107(3)(c) TFEU (State Aid No 461/2009 — United Kingdom).

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders Vtesse Networks Ltd to bear its own costs and to pay those of the European Commission and British Telecommunications plc;*

3) *Orders the Republic of Poland and the United Kingdom of Great Britain and Northern Ireland to bear their own costs.*

([1]) OJ C 288, 23.10.2010.

Judgment of the General Court of 5 November 2014 — Computer Resources International (Luxembourg) v Commission

(Case T-422/11) ([1])

(Public service contracts — Tendering procedure — Provision of computer services for software development and maintenance, consultancy and assistance for different types of information technology applications — Rejection of a tenderer's bid — Abnormally low tender — Article 139(1) of Regulation (EC, Euratom) No 2342/2002 — Obligation to state reasons — Choice of legal basis — Misuse of powers)

(2014/C 448/21)

Language of the case: English

Parties

Applicant: Computer Resources International (Luxembourg) SA (Dommeldange, Luxembourg) (represented by: S. Pappas, lawyer)

Defendant: European Commission (represented: initially by S. Delaude and D. Calciu, and subsequently by S. Delaude, acting as Agents, assisted by E. Petritsi, lawyer)

Re:

Application for annulment of the decision of the Publications Office of the European Union of 22 July 2011 not to accept the tenders submitted by the consortium formed by the applicant and another company for Lots Nos 1 and 3 in tendering procedure AO 10340, concerning the provision of computer services for software development and maintenance, consultancy and assistance for different types of information technology (OJ 2011/S 66-106099), and to award the framework contracts to other tenderers.

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders Computer Resources International (Luxembourg) SA to pay the costs, including those relating to the proceedings for interim measures.*

([1]) OJ C 290, 1.10.2011.

Judgment of the General Court of 6 November 2014 — Greece v Commission

(Case T-632/11) ([1])

(EAGGF — 'Guarantee' Section — EAGF and EAFRD — Expenditure excluded from financing — Regulation (EC) No 1782/2003 — Single payment entitlements scheme — Loyal cooperation — Fairness — Proportionality — National reserve — Award criteria — Flat-rate financial correction — Risk for the Fund — Regulation (EC) No 1493/1999 — Wine sector — Distillation schemes and schemes for payments for the use of certain musts — Aid for restructuring and for the conversion of vineyards)

(2014/C 448/22)

Language of the case: Greek

Parties

Applicant: Hellenic Republic (represented by: I. Chalkias and S. Papaïoannou, Agents)

Defendant: European Commission (represented by: D. Triantafyllou and A. Marcoulli, Agents)

Re:

Application for annulment of Commission Implementing Decision 2011/689/EU of 14 October 2011 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2011 L 270, p. 33), in so far as that decision concerns the Hellenic Republic.

Operative part of the judgment

The Court:

1. *Annuls Commission Implementing Decision 2011/689/EU of 14 October 2011 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) in so far as it imposes a flat-rate correction on the Hellenic Republic relating to the grant of entitlements from the national reserve to new farmers;*

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

3. *Declares that the European Commission and the Hellenic Republic are to bear their own costs.*

([1]) OJ C 39, 11.2.2012.

Judgment of the General Court of 6 November 2014 — FIS'D v Commission

(Case T-283/12) ([1])

(Erasmus Mundus action programme — Framework partnership agreement — Specific grant agreement — EACEA decision to rescind the framework agreement and amend the specific agreement — Administrative appeal before the Commission — Commission decision dismissing the administrative appeal as unfounded — Infringement of the agreements and the administrative and financial manual)

(2014/C 448/23)

Language of the case: Italian

Parties

Applicant: FIS'D — Formazione integrata superiore del design (Catanzaro, Italy) (represented by: initially, S. Bariatti and A. Sodano, then, F. Sutti and A. Boso Caretta, lawyers)

Defendant: European Commission (represented by: initially, M. Van Hoof, then, C. Cattabriga and D. Roussanov and finally, C. Cattabriga, acting as Agents)

Intervener in support of the defendant: Education, Audiovisual and Culture Executive Agency (EACEA) (represented by: H. Monet, acting as Agent, M. Merola and C. Santacroce, lawyers)

Re:

Application for annulment of the Commission decision of 12 April 2012 (ref. Ares (2012) 446225) dismissing the administrative appeal against the decision of the Education, Audiovisual and Culture Executive Agency (EACEA) of 13 January 2012 by which the latter rescinded early the framework partnership agreement 2011/0181 which it had concluded with the Università degli Studi Mediterranea di Reggio Calabria (Mediterranea University of Reggio Calabria, Italy) and amended the specific grant agreement which it had concluded with that university

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders FIS'D — Formazione integrata superiore del design to bear its own costs and those of the European Commission.*

3. *Orders the Education, Audiovisual and Culture Executive Agency (EACEA) to bear its own costs.*

(1) OJ C 243, 11.8.2012.

Judgment of the General Court of 5 November 2014 — Mayaleh v Council

(Joined Cases T-307/12 and T-408/13) (1)

(Common foreign and security policy — Restrictive measures against Syria — Freezing of funds — Functions of the governor of the Central Bank of Syria — Actions for annulment — Communication of an act imposing restrictive measures — Time-limit for bringing proceedings — Admissibility — Rights of the defence — Fair hearing — Obligation to state reasons — Buren of proof — Right to effective judicial protection — Proportionality — Right to property — Right to privacy and family life — Application of restrictions on admission to a national of a Member State — Freedom of movement for European Union nationals)

(2014/C 448/24)

Language of the case: French

Parties

Applicant: Adib Mayaleh (Damascus, Syri) (represented by: G. Karouni and C. Dumont, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix and V. Piessevaux, Agents)

Re:

Partial annulment of: (i) Council Implementing Decision 2012/256/CFSP of 14 May 2012 implementing Decision 2011/782/CFSP concerning restrictive measures against Syria (OJ 2012 L 126, p. 9); (ii) Council Implementing Regulation (EU) No 410/2012 of 14 May 2012 implementing Article 32(1) of Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2012 L 126, p. 3); (iii) Council Decision 2012/739/CFSP of 29 November 2012 concerning restrictive measures against Syria and repealing Decision 2011/782/CFSP (OJ 2012 L 330, p. 21); (iv) Council Implementing Regulation (EU) No 363/2013 of 22 April 2013 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2013 L 111, p. 1; corrigendum OJ 2013 L 127, p. 27); and (v) Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria (OJ 2013 L 147, p. 14).

Operative part of the judgment

The Court:

1. *Dismisses the application in Case T-307/12;*

2. *Declares that there is no need to adjudicate on the application in Case T-408/13.*

3. *Orders Mr Adib Mayaleh to pay the costs.*

(1) OJ C 273, 8.9.2012.

Judgment of the General Court of 6 November 2014 — Popp and Zech v OHIM — Müller-Boré & Partner (MB)

(Case T-463/12) ([1])

(Community trade mark — Opposition proceedings — Application for the Community word mark MB — Earlier Community figurative mark MB&P — Genuine use of the earlier mark — Article 42(2) and Article 15(1) of Regulation (EC) No 207/2009 — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation No 207/2009)

(2014/C 448/25)

Language of the case: German

Parties

Applicants: Eugen Popp (Munich, Germany) and Stefan M. Zech (Munich) (represented by: C. Rohnke and M. Jacob initially, then M. Jacob and F. Thiering)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Müller-Boré & Partner Patentanwälte (Munich) (represented by: T. Koerl and E. Celenk initially, then K. Kern and B. Maneth, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 19 July 2012 (Case R 506/2011-1), relating to opposition proceedings between Müller-Boré & Partner Patentanwälte, on the one hand, and Eugen Popp and Stefan M. Zech, on the other hand.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Eugen Popp and Stefan M. Zech to pay the costs.*

([1]) OJ C 379, 8.12.2012.

Judgment of the General Court of 5 November 2014 — Commission v Thomé

(Case T-669/13) ([1])

(Appeal — Civil Service — Officials — Recruitment — Notice of competition — Refusal to recruit — Existence of a degree that complies with the condition laid down in the notice of competition on account of a homologation — Financial and non-material damage)

(2014/C 448/26)

Language of the case: French

Parties

Appellant: European Commission (represented by: J. Currall and G. Gattinara, Agents)

Other party to the proceedings: Florence Thomé (Brussles, Belgium) (represented by: S. Orlandi, lawyer)

Re:

Appeal against the judgment of the Civil Service Tribunal of the European Union (First Chamber) of 7 October 2013 in Case F-97/12 Thomé v Commission seeking to have that judgment set aside.

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

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

(1) OJ C 52, 22.2.2014.

Order of the General Court of 14 October 2014 — Ben Ali v Council

(Case T-166/13) (1)

(Common foreign and security policy — Restrictive measures adopted against certain persons and entities in view of the situation in Tunisia — Freezing of funds — Extension — Consequences of an annulment of earlier freezing of funds measures — No need to adjudicate — Non-contractual liability — Action manifestly lacking any foundation in law)

(2014/C 448/27)

Language of the case: French

Parties

Applicant: Mehdi Ben Tijani Ben Haj Hamda Ben Haj Hassen Ben Ali (Saint-Étienne-du-Rouvray, France) (represented by: A. de Saint Rémy, lawyer)

Defendant: Council of the European Union (represented by: G. Étienne and A. De Elera, acting as Agents)

Re:

First, an application for annulment of Council Decision 2013/72/CFSP of 31 January 2013 amending Decision 2011/72/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia (OJ 2011 L 32, p. 20), in so far as that decision concerns the applicant and, secondly, an application for the payment of damages

Operative part of the order

1. *There is no longer any need to adjudicate on the pleas seeking annulment of Council Decision 2013/72/CFSP of 31 January 2013 amending Decision 2011/72/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia, in so far as that decision concerns Mr Mehdi Ben Tijani Ben Haj Hamda Ben Haj Hassen Ben Ali.*

2. *The remainder of the action is dismissed.*

3. *Mr Ben Ali and the Council of the European Union are each ordered to bear their own costs.*

(1) OJ C 156, 1.6.2013.

Order of the General Court of 16 October 2014 — Mallis et Malli v Commission and ECB

(Case T-327/13) ([1])

(Action for annulment — Cyprus stability support programme — Declaration of the Eurogroup concerning the restructuring of the banking sector in Cyprus — Erroneous identification of the defendant in the application — Inadmissibility)

(2014/C 448/28)

Language of the case: Greek

Parties

Applicants: Constantinos Mallis (Larnaca, Cyprus) and Elli Constantinou Malli (Larnaca, Cyprus) (represented by: E. Efstathiou, K. Efstathiou and K. Liasidou, lawyers)

Defendants: European Commission (represented by: B. Smulders, J.-P. Keppenne and M. Konstantinidis, acting as Agents); and European Central Bank (ECB) (represented by: A. Sáinz de Vicuña Barroso, N. Lenihan and F. Athanasiou, acting as Agents, and by W. Bussian, W. Devroe and D. Arts, lawyers)

Re:

Application for annulment of the declaration of the Eurogroup of 25 March 2013 concerning, inter alia, the restructuring of the banking sector in Cyprus.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Constantinos Mallis and Elli Constantinou Malli are ordered to pay, in addition to their own costs, the costs incurred by the European Commission and by the European Central Bank (ECB).*

([1]) OJ C 252, 31.8.2013.

Order of the General Court of 16 October 2014 — Tameio Pronoias Prosopikou Trapezis Kyprou v Commission and ECB

(Case T-328/13) ([1])

(Action for annulment — Cyprus stability support programme — Declaration of the Eurogroup concerning the restructuring of the banking sector in Cyprus — Erroneous identification of the defendant in the application — Inadmissibility)

(2014/C 448/29)

Language of the case: Greek

Parties

Applicant: Tameio Pronoias Prosopikou Trapezis Kyprou (Nicosia, Cyprus) (represented by: E. Efstathiou, K. Efstathiou and K. Liasidou, lawyers)

Defendants: European Commission (represented by: B. Smulders, J.-P. Keppenne and M. Konstantinidis, acting as Agents); and European Central Bank (ECB) (represented by: A. Sáinz de Vicuña Barroso, N. Lenihan and F. Athanasiou, acting as Agents, and by W. Bussian, W. Devroe and D. Arts, lawyers)

Re:

Application for annulment of the declaration of the Eurogroup of 25 March 2013 concerning, inter alia, the restructuring of the banking sector in Cyprus.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Tameio Pronoias Prosopikou Trapezis Kyprou is ordered to pay, in addition to its own costs, the costs incurred by the European Commission and by the European Central Bank (ECB).*

([1]) OJ C 252, 31.8.2013.

Order of the General Court of 16 October 2014 — Khatzithoma v Commission and ECB

(Case T-329/13) ([1])

(Action for annulment — Cyprus stability support programme — Declaration of the Eurogroup concerning the restructuring of the banking sector in Cyprus — Erroneous identification of the defendant in the application — Inadmissibility)

(2014/C 448/30)

Language of the case: Greek

Parties

Applicants: Petros Khatzithoma (Makedonitissa, Cyprus); and Elenitsa Khatzithoma (Makedonitissa) (represented by: E. Efstathiou, K. Efstathiou and K. Liasidou, lawyers)

Defendants: European Commission (represented by: B. Smulders, J.-P. Keppenne and M. Konstantinidis, acting as Agents); and European Central Bank (ECB) (represented by: A. Sáinz de Vicuña Barroso, N. Lenihan and F. Athanasiou, acting as Agents, and by W. Bussian, W. Devroe and D. Arts, lawyers)

Re:

Application for annulment of the declaration of the Eurogroup of 25 March 2013 concerning, inter alia, the restructuring of the banking sector in Cyprus.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Petros Khatzithoma and Elenitsa Khatzithoma are ordered to pay, in addition to their own costs, the costs incurred by the European Commission and by the European Central Bank (ECB).*

([1]) OJ C 252, 31.8.2013.

Order of the General Court of 16 October 2014 — Khatziioannou v Commission and ECB

(Case T-330/13) ([1])

(Action for annulment — Cyprus stability support programme — Declaration of the Eurogroup concerning the restructuring of the banking sector in Cyprus — Erroneous identification of the defendant in the application — Inadmissibility)

(2014/C 448/31)

Language of the case: Greek

Parties

Applicant: Lella Khatziioannou (Nicosia, Cyprus) (represented by: E. Efstathiou, K. Efstathiou and K. Liasidou, lawyers)

Defendants: European Commission (represented by: B. Smulders, J.-P. Keppenne and M. Konstantinidis, acting as Agents); and European Central Bank (ECB) (represented by: A. Sáinz de Vicuña Barroso, N. Lenihan and F. Athanasiou, acting as Agents, and by W. Bussian, W. Devroe and D. Arts, lawyers)

Re:

Application for annulment of the declaration of the Eurogroup of 25 March 2013 concerning, inter alia, the restructuring of the banking sector in Cyprus.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Lella Khatziioannou is ordered to pay, in addition to her own costs, the costs incurred by the European Commission and by the European Central Bank (ECB).*

([1]) OJ C 252, 31.8.2013.

Order of the General Court of 16 October 2014 — Nikolaou v Commission and ECB

(Case T-331/13) ([1])

(Action for annulment — Cyprus stability support programme — Declaration of the Eurogroup concerning the restructuring of the banking sector in Cyprus — Erroneous identification of the defendant in the application — Inadmissibility)

(2014/C 448/32)

Language of the case: Greek

Parties

Applicant: Marinos Nikolaou (Strovolos, Cyprus) (represented by: E. Efstathiou, K. Efstathiou and K. Liasidou, lawyers)

Defendants: European Commission (represented by: B. Smulders, J.-P. Keppenne and M. Konstantinidis, acting as Agents); and European Central Bank (ECB) (represented by: A. Sáinz de Vicuña Barroso, N. Lenihan and F. Athanasiou, acting as Agents, and by W. Bussian, W. Devroe and D. Arts, lawyers)

Re:

Application for annulment of the declaration of the Eurogroup of 25 March 2013 concerning, inter alia, the restructuring of the banking sector in Cyprus.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Marinos Nikolaou is ordered to pay, in addition to his own costs, the costs incurred by the European Commission and by the European Central Bank (ECB).*

(1) OJ C 252, 31.8.2013.

Order of the General Court of 16 October 2014 — Christodoulou and Stavrinou v Commission and ECB

(Case T-332/13) (1)

(Action for annulment — Support programme for stability in Cyprus — Statement by the Eurogroup concerning the restructuring of the banking sector in Cyprus — Incorrect designation of the defendant in the application — Inadmissibility)

(2014/C 448/33)

Language of the case: Greek

Parties

Applicants: Chrisanthi Christodoulou (Paphos, Cyprus) and Maria Stavrinou (Larnaka, Cyprus) (represented by: E. Efstathiou, K. Efstathiou and K. Liasidou, lawyers)

Defendants: European Commission (represented by: B. Smulders, J.-P. Keppene, M. Konstantinidis, Agents) and European Central Bank (ECB) (represented by: A. Sáinz de Vicuña Barroso, N. Lenihan and F. Athanasiou, Agents, and W. Bussian, W. Devroe and D. Arts, lawyers)

Re:

Application for annulment of the statement of the Eurogroup of 25 March 2013 concerning, inter alia, the restructuring of the banking sector in Cyprus.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Mrs Chrisanthi Christodoulou and Mrs Maria Stavrinou are ordered to bear their own costs and to pay the costs incurred by the European Commission and the European Central Bank (ECB).*

(1) OJ C 252, 31.8.2013.

Action brought on 7 July 2014 — Pelikan v OHIM — Hachette Filipacchi Presse (be.bag)

(Case T-517/14)

(2014/C 448/34)

Language in which the application was lodged: English

Parties

Applicant: Pelikan Vertriebsgesellschaft mbH & Co. KG (Hannover, Germany) (represented by: A. Nordemann, lawyer)

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

Other party to the proceedings before the Board of Appeal: Hachette Filipacchi Presse SA (Levallois Perret, France)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: The word mark 'be.bag' — International registration designating the European Union No 1192/2013-1

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of OHIM of 3 April 2014 in Case R 1192/2013-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision in part;

— order OHIM to pay the costs.

Plea in law

— Infringement of Articles 8(1)(b) and 8(5) of Regulation No 207/2009.

Action brought on 15 September 2014 — Hungary v European Commission

(Case T-662/14)

(2014/C 448/35)

Language of the case: Hungarian

Parties

Applicant: Hungary (represented by: M.Z. Fehér and G. Koós, agents)

Defendant: European Commission

Form of order sought

— set aside Article 45(8) of Commission Delegated Regulation (EU) No 639/2014 of 11 March 2014 supplementing Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and amending Annex X to that Regulation, as regards the part which is worded: '- by selecting from the list established pursuant to Article 4(2)(c) of Regulation (EU) No 1307/2013 the species that are most suitable from an ecological perspective, thereby excluding species that are clearly not indigenous –';

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant argues that the contested Article 45(8) exceeds the limits of the authority conferred by Regulation No 1307/2013/EU ([1]) and in practice deprives of any substance the authority granted to the Member States by introducing a restrictive requirement reinterpreting the authority given to the Member States by the basic legislation.

In addition, the applicant takes the view that the preamble to the contested regulation does not state the requisite sufficient and detailed reasons. In its view, a change relating to an authorising provision on such a scale and to such a degree makes it impossible in practice to determine unequivocally precisely on which authorising provision the Commission based its position and to what extent, which makes it almost impossible to conduct the review which is indispensable from the point of view of legal certainty.

The applicant also pointed out that the legislation adopted by the Commission in practice caused unfair discrimination against those tree species called short rotation coppice or the producers of them. The plantations or planters of both types are in the same position, so that a distinction between them on the basis of the tree species they choose to plant is not justified.

The applicant also states that throughout the negotiations on the authorising regulation, the Commission also argued against allowing Member States to classify areas planted with short rotation coppice as areas of ecological interest. According to the applicant, all the signs are that the Commission wished to prevent that possibility by means of the contested legislation, thus abusing its power.

Finally, the applicant considers, inter alia, that the contested regulation breaches the general principle of legal certainty in that, on the one hand, Article 45(8) of the contested regulation is unclear from many points of view, while, on the other hand, the regulation does not provide for a sufficient adaptation period before its entry into force in order to prepare for a change of such importance. In the applicant's view, it also breaches the principle of legitimate expectations, because the Commission, in establishing the provisions for entry into force, did not take into account the fact that in the agricultural sector a longer period of preparation was required in this situation. In addition, in the applicant's view, the contested measure also constituted an infringement of the right to property enshrined in Article 17 of the Charter of Fundamental Rights of the European Union.

([1]) Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009.

Action brought on 22 September 2014 — Slovakia v Commission

(Case T-678/14)

(2014/C 448/36)

Language of the case: Slovak

Parties

Applicant: Slovak Republic (represented by: B. Ricziová, Agent)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— declare invalid the Commission's decision, contained in the letter of 15 July 2014, by which the Commission demands the Slovak Republic to make available the funds corresponding to the loss of traditional own resources; and

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging the Commission's lack of jurisdiction

   According to the Slovak Republic, the Commission does not have the jurisdiction to issue the contested decision. No provision of EU law confers jurisdiction on the Commission to act in the way it acted by issuing the contested decision or the jurisdiction, following the quantification of the amount of the loss of traditional own resources in the form of uncollected import duty, to order a Member State, which was not responsible for the assessment or collection of that duty, to make available the funds in the amount specified in the decision, which, the Slovak Republic submits, does not correspond to the stated loss.

2. Second plea in law, alleging infringement of the principle of legal certainty

   Even if the Commission had the jurisdiction to issue the contested decision (*quod non*), the Slovak Republic submits that, in that event, the Commission infringed the principle of legal certainty. The obligation on the Slovak Republic, imposed on it by the contested decision, was, in the opinion of that Member State, not possible to predict before that decision was issued.

3. Third plea in law, alleging that the Commission exercised its jurisdiction incorrectly

   Even if the Commission had the jurisdiction to issue the contested decision and, in issuing that decision, it also acted in accordance with the principle of legal certainty (*quod non*), the Slovak Republic submits that, in that event, did not exercise that jurisdiction correctly. First, the Commission committed a manifest error of assessment in so far as it demands payment of the funds from the Slovak Republic despite the fact that the loss of traditional own resources did not occur at all, or did not occur as a direct result of the events which the Commission attributes to the Slovak Republic. Secondly, the Commission infringed the Slovak Republic's rights of the defence and the principle of sound administration.

4. Fourth plea in law, alleging inadequate reasons were stated for the contested decision

   In connection with this plea, the Slovak Republic argues that there are several flaws in the statement of reasons for the contested decision, as a result of which it must be regarded as inadequate. This constitutes an infringement of basic procedural legislation and also fails to meet the requirements of legal certainty. According to the Slovak Republic, the Commission failed in the contested decision to state its legal basis. It also provided no explanation of the origin and basis of some of its findings. Lastly, the Slovak Republic submits that the statement of reasons for the contested decision is contradictory.

Action brought on 19 September 2014 — European Dynamics Luxembourg and Evropaïki Dynamiki v European Commission

(Case T-698/14)

(2014/C 448/37)

Language of the case: Greek

Parties

Applicants: European Dynamics Luxembourg and Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece) (Ettelbruck, Luxembourg) (represented by: V. Khristianos, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the General Court should:

— annul the European Commission decision No DIGIT/R/3/MB/pt 2431467 (2014) of 11/07/2014, whereby the Commission classified the applicants' tender in fourth position in the call for tenders at issue with respect to Lot 1;

— annul the European Commission decision DIGIT/R/3/MB/pt 2703722 (2014) of 31/07/2014, whereby the Commission eliminated the applicants' tender in the call for tenders at issue with respect to Lot 2;

— annul the European Commission decision DIGIT/R/3/MB/pt 2711165 (2014) 31/07/2014, whereby the Commission classified the applicants' tender in third position in the call for tenders at issue with respect to Lot 3;

— order the Commission to pay compensation for the damage suffered by the applicants in respect of the lost opportunity to be classified in first position for the three lots of the framework contract, which they estimate at eight hundred thousand euros (EUR 800 000) with respect to Lot 1, four hundred thousand euros (EUR 400 000) with respect to Lot 2 and two hundred thousand euros (EUR 200 000) with respect to Lot 3, with interest from the date of delivery of the judgment, and

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

Pleas in law and main arguments

The applicants maintain that the contested decisions, by which the Commission rejected the applicant's tender in the open call for tenders No DIGIT/R2/PO/2013/029 — ESP DESIS III for three separate projects (lots), should be annulled, under Article 263 TFEU, by reason of infringement of rules of EU law and, in particular, for the following three reasons:

1. First, by reason of the Commission's infringement of the obligation to state reasons, since it provided an inadequate statement of reasons with regards to the applicants' technical tender.

2. Second, by reason of the Commission's infringement of the Financial Regulation and the rules for its application and of the tendering documents, with regard to the question of abnormally low tenders.

3. Second, by reason of the Commission's infringement of the principle of free competition, since the Commission imposed binding conditions with regard to the submission of the financial tenders and did not permit the tenderers freely to construct their financial tenders, in order to choose the most economically advantageous tender.

Action brought on 27 September 2014 — Topps Europe v Commission

(Case T-699/14)

(2014/C 448/38)

Language of the case: English

Parties

Applicant: Topps Europe Ltd (Milton Keynes, United Kingdom) (represented by: R. Vidal and A. Penny, Solicitors and B. Kennelly, Barrister)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Decision in of 15 July 2014 in Case AT.39899 — Licensing of intellectual property rights for football collectibles, which rejected the applicant's complaint that a number of national football governing bodies and players' associations together with Panini S.p.A., Union des Associations Européennes de Football, Fédération Internationale de Football Association, Fédération Française de Football, Associazione Italiana Calciatori, Real Federación Española de Fútbol, and Deutscher Fußball-Bund had breached Articles 101 and 102 of the Treaty on the Functioning of the European Union; and

— order the defendant to pay the applicant's cost of these 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 defendant has seriously infringed the applicant's procedural rights, and as such, the defendant has committed an error of law.

2. Second plea in law, alleging that the defendant's Decision is based on incorrect facts and is subject to a manifest error of appraisal, and as such, the defendant has committed an error of law and/or assessment of the facts.

Action brought on 2 October 2014 — Diktyo Amyntikon Viomichanion Net v Commission

(Case T-703/14)

(2014/C 448/39)

Language of the case: Greek

Parties

Applicant: Diktyo Amyntikon Viomichanion Net (DABNET) AEBE (Kaisariani, Greece) (represented by: K. Damis, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— instruct an expert report, in order that there should be examined the reported finding in the audit report of KPMG Certified Auditors AG, which was wrongly and unlawfully accepted by the European Commission, that there is a 'lack of alternative evidence to confirm the requested personnel costs'. That factor is of crucial importance to the outcome of the case, since the personnel costs incorporate all the indirect costs. The applicant emphasises that the audit report of KPMG AG, in respect of which DABNET AEBE submitted written comments and a request for a re-examination with full supporting evidence, was accepted by the European Commission without a sufficient statement of reasons or any response to the evidence, and

— declare, first, that the debit note No 3241409008, which was sent to the applicant on 31/07/2014 and which requested repayment of EUR 64 574,73, in respect of the agreement relating to the FP7-SME-2007-222303 'FIREROB' project on the basis of the audit 12-BA176-003, is contrary to the contractual obligations of the Commission and is unfounded, second, that the costs which the applicant submitted within the framework of the agreement at issue are eligible costs and, consequently, that the Commission is obliged to issue a credit note for EUR 64 574,73.

Pleas in law and main arguments

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

1. The first plea is based on the arbitration clause. The applicant maintains, first, that the evidence submitted fully proves the engagement of the applicant's staff on the 'FIREROB' project, second, that at no point in the audit report is it stated that the applicant's personnel did not perform the work carried out within the framework of the 'FIREROB' agreement or that false information was produced by the applicant, and, third, that the applicant undertook to provide personnel for 12,2 person-months and that the applicant provided in total 21,92 person-months without seeking an amendment to the agreed budget.

2. The second plea is based on a claimed abuse of rights. The applicant maintains that the Commission's request for repayment of the sum of EUR 64 574,73, in other word a sum which is almost five times greater than the applicant's direct subsidy (EUR 13 474,00) for work which was optimally performed by the applicant, is disproportionate and contrary to the principle of performance of contracts in good faith.

3. The third plea is based on a claimed infringement of the principle of protection of legitimate expectations. The applicant maintains that the lawful right was not given to the applicant to submit its lawful objections directly to the auditor appointed by the European Commission and to clarify the unsupported arguments of the author of the draft audit report.

4. The fourth plea is based on the principle of proportionality. The applicant maintains that Article II.24.1 of Annex II to the 'FIREROB' agreement gave to the Commission the discretion not to request the payment of damages, given that the applicant produced work which was assessed very positively and in which, according to the European Commission's Technical Report, scientific results of a very high level were achieved.

Action brought on 26 September 2014 — Unichem Laboratories/Commission

(Case T-705/14)

(2014/C 448/40)

Language of the case: English

Parties

Applicant: Unichem Laboratories Ltd (Mumbai, India) (represented by: S. Mobley, H. Sheraton and K. Shaw, Solicitors)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission Decision dated 9 July 2014 relating to a proceeding under Articles 101 and 102 of the Treaty on the Functioning of the EU (Case Comp/AT. 39.612 — perindopril (Servier)) in its entirety, and in any event annul and/or reduce the fine imposed, in so far as it applies to Unichem; and

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

Pleas in law and main arguments

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

1. In the first plea in law, the applicant alleges that the Commission lacks jurisdiction to address a decision under Art. 101(1) TFEU to Unichem.

2. In the second plea in law, the applicant alleges that the Commission fails to apply the correct 'objective necessity' legal test to determine whether the patent settlement agreement falls within the ambit of Art. 101(1) TFEU.

3. In the third plea in law, the applicant alleges that the Commission breaches the principle of equal treatment by not applying the Technology Transfer Block Exemption Regulation Guidelines to Unichem's settlement.

4. In the fourth plea in law, the applicant alleges that the Commission errs in law by categorising the settlement as a 'by object' Art. 101(1) TFEU violation.

5. In the fifth plea in law, the applicant alleges that the Commission misapplies its own purported Art. 101(1) 'by object' legal test to the specific Unichem facts.

6. In the sixth plea in law, the applicant alleges that the Commission errs in law by concluding that the settlement agreement resulted in anticompetitive effects.

7. In the seventh plea in law, the applicant alleges that the Commission breaches its duty under Art. 296 to state reasons why it considers Unichem can be held directly liable for infringement of Art. 101(1) TFEU when it is not a potential competitor of Servier.

8. In the eighth plea in law, the applicant alleges that, in the alternative, the Commission errs in law by not recognising that the settlement agreement satisfies the exemption criteria under Art. 101(3) TFEU.

9. In the ninth plea in law, the applicant alleges that the Commission breaches the rights of defence, principle of sound administration and its duty not to act oppressively to obtain legally privileged documents to use against Unichem.

10. In the tenth plea in law, the applicant alleges that the Commission breaches the general EU principle of equal treatment in its fine calculation by treating Unichem differently to Servier without objective justification.

11. In the eleventh plea in law, the applicant alleges that the Commission infringes the general EU law principle of proportionality, its own fining guidelines and prior established practice when it imposed a fine on Unichem.

12. In the twelfth plea in law, the applicant alleges that the Commission violates its duty to state reasons pursuant to Art. 296 TFEU in respect of its fine calculation and its assessment of the gravity of Unichem's alleged infringement.

Action brought on 3 October 2014 — Tri-Ocean Trading v Council

(Case T-709/14)

(2014/C 448/41)

Language of the case: English

Parties

Applicant: Tri-Ocean Trading (George Town, Cayman Islands) (represented by: P. Saini, QC, B. Kennelly, Barrister, and N. Sheikh, Solicitor)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Implementing Decision 2014/488/CFSP of 22 July 2014 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria and Council Implementing Regulation (EU) No 793/2014 of 22 July 2014 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria insofar as they apply to the Applicant; and

— order the Defendant to pay the Applicant's costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Council failed to fulfil the criterion for listing, namely that the person concerned was 'responsible for the violent repression against the civilian population in Syria', or a person 'benefiting from or supporting the regime', or a person associated with any such person. The Council failed to establish that the reasons relied on against the entity concerned were well founded.

2. Second plea in law, alleging that the Council violated the applicant's rights of defence and the right to effective judicial protection. The applicant has at no stage been given 'serious and credible evidence' or 'concrete evidence and information' in support of a case which would justify restrictive measures against it, as required by the case law of the Court.

3. Third plea in law, alleging that the Council failed to give the applicant sufficient reasons for his inclusion.

4. Fourth plea in law, alleging that the Council severely infringed the applicant's fundamental rights to property and reputation. The restrictive measures were imposed without proper safeguards enabling the applicant to put his case effectively to the Council. The Council has not demonstrated that the very significant interference with the applicant's property rights is justified and proportionate. The interference with the applicant extends beyond a financial impact, and has also resulted in damage to its reputation.

5. Fifth plea in law, alleging that the Council made a manifest error of assessment. Contrary to the sole reason for his inclusion, there is no information or evidence available that the applicant has in fact provided 'support to the Syrian regime' and to have benefited from the regime.

Action brought on 9 October 2014 — Tweedale/EFSA

(Case T-716/14)

(2014/C 448/42)

Language of the case: English

Parties

Applicant: Antony C. Tweedale (Brussels, Belgium) (represented by: B. Kloostra, lawyer)

Defendant: European Food Safety Authority

Form of order sought

The applicant claims that the Court should:

— declare that EFSA acted in violation of the Aarhus Convention, of the Regulation (EC) No 1049/2001 and of the Regulation (EC) No 1367/2006 concerning the Commission's decision of 10 August 2011;

— annul EFSA's decision of 30 July 2014;

— order EFSA 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 by adopting the contested decision, EFSA acted in breach of Article 4(4) of the United Nations Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters of 25 June 1998 ('Aarhus Convention') as approved by the Council Decision 2005/370/EC, of 17 February 2005, as well as in breach of Article 6(1) of Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention to Community institutions and bodies ('the Aarhus Regulation') and of Article 4(2) of Regulation No (EC) 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents. In breach of these provisions EFSA did not recognise in the contested Decision the obligation to disclose information relating to emissions into the environment contained in the documents requested.

2. Second plea in law, alleging that by adopting the contested Decision, EFSA acted in breach of Article 4(2) of Regulation (EC) No 1049/2001 and of its obligation to act in compliance with an Aarhus Convention compliant interpretation of the ground of refusal laid down in Article 4(2) of Regulation (EC) No 1049/2001 on the basis of Article 4(4) of the Aarhus Convention.

Action brought on 10 October 2014 — Tri Ocean Energy v Council

(Case T-719/14)

(2014/C 448/43)

Language of the case: English

Parties

Applicant: Tri Ocean Energy (Cairo, Egypt) (represented by: P. Saini, QC, B. Kennelly, Barrister, and N. Sheikh, Solicitor)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Implementing Decision 2014/678/CFSP of 26 September 2014 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria and Council Implementing Regulation (EU) No 1013/2014 of 26 September 2014 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria insofar as they apply to the applicant; and

— order the Defendant to pay the Applicant's costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Council failed to fulfil the criterion for listing, namely that the person concerned was 'responsible for the violent repression against the civilian population in Syria', or a person 'benefiting from or supporting the regime', or a person associated with any such person. The Council failed to establish that the reasons relied on against the entity concerned were well founded.

2. Second plea in law, alleging that the Council violated the applicant's rights of defence and the right to effective judicial protection. The applicant has, at no stage, been given 'serious and credible evidence' or 'concrete evidence and information' in support of a case which would justify restrictive measures against it, as required by the case law of the Court.

3. Third plea in law, alleging the Council failed to give the applicant sufficient reasons for its inclusion.

4. Fourth plea in law, the Council severely infringed the applicant's fundamental rights to property and reputation. The restrictive measures were imposed without proper safeguards enabling the applicant to put its case effectively to the Council. The Council has not demonstrated that the very significant interference with the applicant's property rights is justified and proportionate. The interference with the applicant extends beyond a financial impact, and has also resulted in damage to its reputation.

5. Fifth plea in law, alleging that the Council made a manifest error of assessment. Contrary to the sole reason for his inclusion, there is no information or evidence available that the applicant has in fact provided 'support to the Syrian regime' and to has benefited from the regime. The Council has also wrongly identified the applicant as 'Tri Ocean Trading a.k.a. Tri-Ocean Energy' suggesting that the two legal persons are the same. The applicant is a separate company, distinct from Tri Ocean Trading.

Action brought on 24 October 2014 — Gazprom Neft v Council

(Case T-735/14)

(2014/C 448/44)

Language of the case: English

Parties

Applicant: Gazprom Neft OAO (Saint Petersburg, Russia) (represented by: L. Van den Hende and S. Cogman, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Article 4 of Council Decision 2014/512/CFSP of 31 July 2014;

— annul Article 3 and paragraphs 3 and 4 of Article 4 of Council Regulation (EU) No 833/2014 of 31 July 2014; and

— order the Council to pay the costs of the Applicant in the present proceedings.

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 breach of Article 296 TFEU.

   — The Applicant claims that contested CFSP Decision and the contested Regulation do not provide sufficient reasoning and therefore breach Article 296 TFEU.

2. Second plea in law, alleging an inappropriate legal basis for the contested provisions.

— The Applicant claims that Article 215 TFEU is an inappropriate legal basis for the contested provisions of the contested Regulation since there are insufficient links between the Applicant and (i) the Russian Government and (ii) the apparent objective that the sanctions seek to achieve. These principles should also govern the use of Article 29 TEU as a legal basis for restrictive measures against third countries.

3. Third plea in law, alleging a breach of the principle of proportionality and of and fundamental rights.

— The Applicant claims that the contested provisions are inconsistent with the principle of proportionality and fundamental rights. The contested provisions are a disproportionate interference with Applicant's freedom to conduct a business and the Applicant's right to property since they are not appropriate to achieve their objectives (and therefore are also not necessary) and, in any event, impose burdens that very significantly outweigh any possible benefits.

Action brought on 27 October 2014 — Monster Energy v OHIM — Home Focus (MoMo Monsters)

(Case T-736/14)

(2014/C 448/45)

Language in which the application was lodged: English

Parties

Applicant: Monster Energy Company (Corona, United States) (represented by: P. Brownlow, Solicitor)

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

Other party to the proceedings before the Board of Appeal: Home Focus Development Ltd (Tortola, British Virgin Islands)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: The word mark 'MoMo Monsters' — Community trade mark application No 10 513 372

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 7 August 2014 in Case R 1167/2013-2

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 Articles 8(1)(b) and 8(5) of Regulation No 207/2009.

Action brought on 27 October 2014 — Hersill v OHIM — KCI Licensing (VACUP)

(Case T-741/14)

(2014/C 448/46)

Language in which the application was lodged: English

Parties

Applicant: Hersill, SL (Móstoles, Spain) (represented by: M. Aznar Alonso, lawyer)

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

Other party to the proceedings before the Board of Appeal: KCI Licensing, Inc. (San Antonio, United States)

Details of the proceedings before OHIM

Applicant: The other party to the proceedings before the Board of Appeal

Trade mark at issue: Community trade mark application No 9 943 499

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 14 August 2014 in Case R 1520/2013-2

Form of order sought

The applicant claims that the Court should:

— declare the present appeal as well founded and annul the contested decision;

— order OHIM and the other party to the proceedings before the Board of Appeal, should they appear as parties in the present process, to pay the costs.

Pleas in law

— Infringement of Article 42(2) of Regulation No 207/2009 and of Rule 22(3) of Regulation No 2868/95;

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

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Judgment of the Civil Service Tribunal (Second Chamber) of 6 November 2014 — DH v Parliament

(Case F-4/14) ([1])

(Civil service — Probationary official — Article 34 of the Staff Regulations — Probation report establishing the obvious inadequacy of the probationary official — Extension of the probationary period — Reassignment — Dismissal at the end of the probationary period — Conditions under which the probationary period progressed — Professional incompetence — Duty of care — Principle of sound administration)

(2014/C 448/47)

Language of the case: French

Parties

Applicant: DH (represented by: A. Salerno and B. Cortese, lawyers)

Defendant: European Parliament (represented by: S. Alves and M. Ecker, Agents)

Re:

Application to annul the decision to dismiss the applicant at the end of the probationary period.

Operative part of the judgment

The Tribunal:

1. *Dismisses the action;*

2. *Orders DH to bear his own costs and to pay the costs incurred by the European Parliament.*

([1]) OJ C 61, 1/3/2014, p. 22.

Order of the Civil Service Tribunal (Third Chamber) of 5 November 2014 — CY v ECB

(Case F-68/13) ([1])

(Death of the applicant — Reopening of the oral procedure — Legal successor choosing not to resume the proceedings — No need to adjudicate)

(2014/C 448/48)

Language of the case: English

Parties

Applicant: CY (represented by: L. Levi and M. Vandenbussche, lawyers)

Defendant: European Central Bank (represented by: E. Carlini and F. Feyerbacher, acting as Agents, assisted by B. Wägenbaur, lawyer)

Re:

Application for annulment, first, of the decision to close the administrative inquiry brought regarding psychological harassment allegedly suffered by the applicant and, secondly, of the inquiry report, and for damages to be granted in respect of the non-material harm allegedly suffered.

Operative part of the order

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

2) *Each party is to bear its own costs.*

([1]) OJ C 274, 21.9.2013, p. 31.

Action brought on 4 September 2014 — ZZ v European Commission

(Case F-90/14)

(2014/C 448/49)

Language of the case: German

Parties

Applicant: ZZ (represented by: Hans-Robert Ilting, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Application, first, to set aside the decision not to grant the applicant the child allowance from 1 September 2013 because his child is no longer receives 'educational or vocational training' within the meaning of Article 2 of Annex VII of the Staff Regulations of officials and, second, to oblige his employer to continue to grant him that allowance and to reimburse him all medical expenses for his daughter retroactively from 1 September 2013.

Form of order sought

The applicant claims that the Court should:

— annul the Commission's decision, reference HR.D.2/AS/ac/Ares(2014) of 5 June 2014 relating to his complaint, registered on 12 February 2014 with HR.D.2, 'Appeals and case monitoring', under reference no R/227/14;

— oblige the appointing authority to recognise his daughter, continuously and retroactively from 1 September 2013, as being a dependent child in education and for this reason to continue to grant the child allowance for his daughter continuously and retroactively from 1 September 2013 and to continue to provide, continuously and retroactively from 1 September 2013, his daughter's medical expenses.

Action brought on 10 September 2014 — ZZ v European Parliament

(Case F-92/14)

(2014/C 448/50)

Language of the case: German

Parties

Applicant: ZZ (represented by: Günther Maximini, lawyer)

Defendant: European Parliament

Subject-matter and description of the proceedings

Application, first, to annul the Parliament's decision in which the Parliament refused to take a preventative approach to the harm which the plaintiff has suffered due to infringements of his personal rights and of the provisions of Regulation No 45/2011 in the context of the treatment of a previous case, and, secondly, to award non-financial damages with interest for late payment for the non-financial harm which he allegedly suffered.

Form of order sought

The applicant claims that the Court should:

— Annul the European Parliament's decision of 5 March 2014 which rejected the applicant's application of 16 December 2013 for damages, as well as the implied rejection of his complaint of 24 March 2014 against that decision, and, in the alternative, the subsequent decision of 29 July 2014 by an unknown author;

— Order the defendant to pay the applicant EUR 30 000 for non-financial damages, together with interest for late payment at the rate of five percentage points above the base rate on EUR 25 000 from 1 February 2014 and on EUR 5 000 from 1 May 2014;

— Order the defendant to pay the costs of the proceedings, including the pre-litigation procedure and all necessary expenses and costs incurred by the applicant.

Action brought on 29 September 2014 — ZZ v Council

(Case F-99/14)

(2014/C 448/51)

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

The partial annulment of two of the Council's Staff Notes in so far as they link entitlement to reimbursement of travel expenses from the place of employment to the place of origin and of the travelling time to the expatriation or foreign residence allowance and an order that the defendant pay damages for the material and non-material harm allegedly suffered.

Form of order sought

The applicant claims that the Tribunal should:

— annul, pursuant to Article 270 TFEU, the decision contained in Staff Note ('SN') 13/14 (Decision No 2/2014) of 9 January 2014, which amended the regime applicable to travelling time, following the applicability from 1 January 2014 of the provision in Article 7 of Annex V to the Staff Regulations, and Staff Note ('SN') 9/14 (Decision No 12/2014), which amended the travel expenses regime following the applicability from 1 January 2014 of the provision in Article 8 of Annex VII to the Staff Regulations, 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 the Official Journal No L 187 of 29 October 2013. The application for annulment is limited to the part of the SN which links entitlement to travel expenses and to travelling time to the expatriation or foreign residence allowance and to Article 6 of the SN 9/14 which introduced new criteria for the determination of the place of origin;

— order the defendant to pay the applicant EUR 169 051,96 in respect of the material harm suffered and EUR 40 000 in respect of the non-material harm suffered;

— order the defendant to pay damages plus default interest at the rate of 6,75 in respect of the material and non-material harm suffered;

— order the Council to pay the costs.

Action brought on 29 September 2014 — ZZ and Others v Council

(Case F-100/14)

(2014/C 448/52)

Language of the case: French

Parties

Applicants: ZZ and Others (represented by: S. Orlandi, lawyer)

Defendant: Council of the European Union

Subject-matter and description of the proceedings

Application for a declaration that Article 7 of Annex V to the Staff Regulations of Officials, as amended by Regulation No 1023/2013 of the Parliament and of the Council of 22 October 2013 amending the Staff Regulations of Officials and the CEOS, and Article 8 of Annex VII thereto, are inapplicable, and for the annulment of the decisions withdrawing entitlement to reimbursement of travel expenses from the place of employment to the place of origin and withdrawing entitlement to travelling time.

Form of order sought

The applicants claim that the Tribunal should:

— Declare unlawful Article 7 of Annex V to the Staff Regulations and Article 8 of Annex VII to the Staff Regulations;

— Annul the decision not to award from 2014 onwards any travelling time or the reimbursement of annual travel expenses to the applicants;

— Order the Council to pay the costs.

ISSN 1977-091X (electronic edition)
ISSN 1725-2423 (paper edition)

Publications Office of the European Union
2985 Luxembourg
LUXEMBOURG

EN