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COURT OF JUSTICE OF THE EUROPEAN UNION

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(2015/C 089/01)

Last publication

OJ C 81, 9.3.2015

Past publications

OJ C 73, 2.3.2015

OJ C 65, 23.2.2015

OJ C 56, 16.2.2015

OJ C 46, 9.2.2015

OJ C 34, 2.2.2015

OJ C 26, 26.1.2015

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 Augstākā tiesa (Latvia) lodged on 5 December 2014 — Rūdolfs Meroni v Recoletos Limited

(Case C-559/14)

(2015/C 089/02)

Language of the case: Latvian

Referring court

Augstākā tiesa

Parties to the main proceedings

Applicant: Rūdolfs Meroni

Defendant: Recoletos Limited

Questions referred

1. Must Article 34(1) of the Brussels I Regulation be interpreted as meaning that, in the context of proceedings for the recognition of a foreign judgment, infringement of the rights of persons who are not parties to the main proceedings may constitute grounds for applying the public policy clause contained in Article 34(1) of the Brussels I Regulation and for refusing to recognise the foreign judgment in so far as it affects persons who are not parties to the main proceedings?

2. If the first question is answered in the affirmative, must Article 47 of the Charter be interpreted as meaning that the principle of the right to a fair trial set out therein allows proceedings for the adoption of provisional protective measures to limit the economic rights of a person who has not been a party to the proceedings, if provision is made to the effect that any person who is affected by the decision on the provisional protective measures is to have the right at any time to request the court to vary or discharge the judgment, in a situation in which it is left to the applicants to notify the decision to the persons concerned?

Request for a preliminary ruling from the Sąd Najwyższy (Poland) lodged on 11 December 2014 — PGE Górnictwo i Energetyka Konwencjonalna SA v Prezes Urzędu Regulacji Energetyki

(Case C-574/14)

(2015/C 089/03)

Language of the case: Polish

Referring court

Sąd Najwyższy

Parties to the main proceedings

Applicant: PGE Górnictwo i Energetyka Konwencjonalna SA

Defendant: Prezes Urzędu Regulacji Energetyki

Questions referred

1. Is Article 107 TFEU, in conjunction with Article 4(3) TEU and Article 4(2) of the Decision of the European Commission of 25 September 2007 ([1]), to be interpreted as meaning that, where the European Commission classifies State aid as being compatible with the common market, the national court is not entitled to review whether the domestic provisions which have been deemed to constitute permitted State aid are consistent with the assumptions made in the Commission Communication relating to the methodology for analysing State aid linked to stranded costs ('the Stranded Costs Methodology')?

2. Is Article 107 TFEU, in conjunction with Article 4(3) TEU and Article 4(1) and (2) of the Decision of the European Commission of 25 September 2007, interpreted in the light of points 3.3 and 4.2 of the Stranded Costs Methodology, to be interpreted as meaning that, in the context of the implementation of a State aid programme which the European Commission has found to be compatible with the common market, the annual adjustment of the stranded costs incurred by group-affiliated power generators is carried out on the assumption that the position with respect to the group affiliation of the power generator as recorded in the annexes to the legislative measure examined by the Commission is alone decisive, or is it necessary to verify in respect of every year for which stranded costs are adjusted whether, during that period, the beneficiary of the State aid programme linked to the stranded costs actually belongs to the group to which the other power generators covered by the aid programme also belong?

([1]) Commission Decision 2009/287/EC of 25 September 2007 on State aid awarded by Poland as part of Power Purchase Agreements and the State aid which Poland is planning to award concerning compensation for the voluntary termination of Power Purchase Agreements (notified under document number C(2007) 4319) (OJ 2009 L 83, p. 1).

Appeal brought on 11 December 2014 by Brandconcern BV against the judgment of the General Court (First Chamber) delivered on 30 September 2014 in Case T-51/12: Scooters India Ltd v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-577/14 P)

(2015/C 089/04)

Language of the case: English

Parties

Appellant: Brandconcern BV (represented by: A. von Mühlendahl, H. Hartwig, Rechtsanwälte, G. Casucci, N. Ferretti, avvocati)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), Scooters India Ltd

Form of order sought

The appellant claims that the Court should:

— annul the contested judgment of the General Court of 30 September 2014, and dismiss the appeal by Scooters India Limited against the contested decision of the Board of Appeal of 1 December 2011, Case R 2312/2010-1,

— secondarily, annul the contested judgment to the extent that it had annulled to contested decision for having dismissed the appeal of Scooters India Limited as regards 'vehicles; apparatus for locomotion by land, air or water',

— order the Defendant and Scooters India Limited to bear the costs of the proceedings.

Pleas in law and main arguments

The appellant bases its appeal on two pleas, alleging infringement of Article 50 (1) (a) of Council Regulation (EC) N° 207/2009 ([1]), of 26 February 2009, on the Community trade mark, and, secondarily, an infringement of procedural rules by the General Court by not dismissing the application for annulment brought by Scooters India Limited to the extent it found the application unfounded.

Scooters India Limited is the proprietor of a Community trade mark LAMBRETTA registered, inter alia, for 'vehicles; apparatus for locomotion by land, air or water' in class 12 of the International Classification. The appellant had brought an action to declare the mark revoked, inter alia, for the goods in class 12, on the basis of Article 50 (1) (a) of Regulation 207/2009 on grounds of absence of genuine use. This request was granted by the Cancellation Division of OHIM. The appeal brought by Scooters India Limited was dismissed by the First Board of Appeal of OHIM as unfounded. In the contested judgment, the General Court annulled the decision of the First Board of Appeal of OHIM. The General Court held that OHIM was obliged, on grounds of legal certainty, to take into accounts goods in class 12 for which genuine use had been alleged, even though these goods did not fall within the definition of the goods for which the mark was registered.

The appellant submits that the General Court erred in law by requiring OHIM to take into account use of the mark LAMBRETTA alleged to have been made for certain goods, such as spare parts, even though these goods do not fall within the definition of the goods for which the mark LAMBRETTA is registered in class 12. The appellant asserts that under a proper interpretation of Article 50 (1) (a) of Regulation 207/2009 only use made for goods falling within the definition of the indications in the registration can be taken into account. The appellant asserts that the General Court was bound to apply the judgment of the Court of Justice in Case C-307/10, Chartered Institute of Patent Attorneys (IP TRANSLATOR).

The appellant therefore contends that the contested judgment must be annulled and the application for annulment of the contested decision of the Board of Appeal must be dismissed.

The appellant further submits, as a secondary plea, that, even it would be accepted that OHIM was under an obligation to take into account goods in class 12 for which genuine use was alleged to have been made, the General Court committed a procedural violation by annulling the contested decision without any limitation. After having accepted in the contested judgment that the proprietor of the mark LAMBRETTA had not proved genuine use of the mark for any goods for which it was registered (but obliging OHIM to take into account nevertheless the use made for other goods in the same class), the General Court was required to confirm the contested decision to the extent that the Board of Appeal had found no genuine use for the goods for which the mark was registered.

([1]) OJ L 78, p. 1.

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 17 December 2014 — Patrick Breyer v Bundesrepublik Deutschland

(Case C-582/14)

(2015/C 089/05)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Patrick Breyer

Defendant: Bundesrepublik Deutschland

Questions referred

1. Must Article 2(a) of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ([1]) — the Data Protection Directive — be interpreted as meaning that an Internet Protocol address (IP address) which a service provider stores when his website is accessed already constitutes personal data for the service provider if a third party (an access provider) has the additional knowledge required in order to identify the data subject?

2. Does Article 7(f) of the Data Protection Directive preclude a provision in national law under which a service provider may collect and use a user's personal data without his consent only to the extent necessary in order to facilitate, and charge for, the specific use of the telemedium by the user concerned, and under which the purpose of ensuring the general operability of the telemedium cannot justify use of the data beyond the end of the particular use of the telemedium?

([1]) OJ 1995 L 281, p. 31.

Appeal brought on 22 December 2014 by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) against the judgment of the General Court (Sixth Chamber) delivered on 24 October 2014 in Case T-543/12 Grau Ferrer v OHIM — Rubio Ferrer (Bugui Va)

(Case C-597/14 P)

(2015/C 089/06)

Language of the case: Spanish

Parties

Appellant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: S. Palmero Cabezas and A. Folliard-Montguiral, Agents)

Other parties to the proceedings: Xavier Grau Ferrer, Juan Cándido Rubio Ferrer and Alberto Rubio Ferrer

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal;

— deliver a new judgment on the substance of the case, dismissing the action brought against the contested decision, or refer the case back to the General Court;

— order the applicant before the General Court to pay the costs.

Pleas in law and main arguments

1. The General Court infringed Article 76(2) of the CTR ([1]) and the third paragraph of Rule 50(1) of Regulation No 2868/95 ([2]) by considering that those provisions were applicable in the present case on the basis of incorrect assessment criteria.

2. The General Court infringed Article 76(2) of the CTR and the third paragraph of Rule 50(1) of Regulation No 2868/95 by basing its findings on an incorrect interpretation of the discretion arising from those provisions. In particular, by considering that the Board of Appeal enjoys such a discretion irrespective of whether the evidence presented for the first time before it is additional or not. The question whether the Boards of Appeal's discretion under Article 76(2) of the CTR and the third paragraph of Rule 50(1) of Regulation No 2868/95 exists in any event, that is to say, even when the evidence presented out of time before the Board of Appeal is new, is a point of law which must be clarified by the Court of Justice.

3. The General Court erroneously applied Article 15(1), second paragraph, point (a) of the CTR by concluding that the earlier Community trade mark had been used in a form differing in elements which did not alter the distinctive character of the mark in the form in which it was registered.

([1]) Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1), as amended (replaced by Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1)).

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

Appeal brought on 19 December 2014 by the Council of the European Union against the judgment of the General Court (Sixth Chamber, Extended Composition) delivered on 16 October 2014 in joined Cases T-208/11 and T-508/11: Liberation Tigers of Tamil Eelam (LTTE) v Council of the European Union

(Case C-599/14 P)

(2015/C 089/07)

Language of the case: English

Parties

Appellant: Council of the European Union (represented by: B. Driessen, E. Finnegan, and G. Etienne, Agents)

Other parties to the proceedings: Liberation Tigers of Tamil Eelam (LTTE), Kingdom of the Netherlands, United Kingdom of Great Britain and Northern Ireland, European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the contested judgment;

— give final judgment in the matters that are the subject of this appeal and to dismiss the Applications;

and

— order the Applicant in Joined Cases T-208/11 and T-508/11 to pay the costs of the Council arising from that case and from the present appeal.

Pleas in law and main arguments

In the contested judgment the General Court annulled the listing of LTTE purely for reasons related to the procedure used for their adoption. The Council submits that the General Court erred on the following points:

First plea: The General Court wrongly held that the Council must demonstrate in the statement of reasons that it has verified that the activity of the listing authority in the third state is carried out with sufficient safeguards. Although the Council accepts that the activity of the competent authority in a third state must be framed within legislation and practice that respects the fundamental rights of those affected by it, it submits that the General Court errs in law by requiring this information to be included in the statement of reasons.

Second plea: The General Court erred in law in its assessment of the Council's use of information in the public domain. Moreover, the General Court was wrong to dismiss the use by the Council of open source material. The General Court errs further in reasoning that the Council should have asked a competent authority to investigate the press items referred to in the statement of reasons. Finally, the General Court errs in concluding that its refusal to uphold the Council's reliance on open source material should result in the annulment of the contested decision.

Third plea: the General Court erred by not concluding that the listing could stand on the basis of the 2001 UK Proscription Order. The General Court's interpretation, apart from being not warranted in law, has the consequence that an entity could obstruct its listing under CP931 by refusing to contest its listing or proscription in the Member State from where the decision under Article 1(4) of CP931 emanates. In addition, the General Court's reasoning is not compatible with the judgment in Kadi II.

Action brought on 22 December 2014 — European Commission v Italian Republic

(Case C-601/14)

(2015/C 089/08)

Language of the case: Italian

Parties

Applicant: European Commission (represented by: E. Traversa and F. Moro, acting as Agents)

Defendant: Italian Republic

Form of order sought

The applicant claims that the Court should:

— declare that, by failing to adopt all the necessary measures to guarantee the existence of a scheme on compensation to victims of all violent intentional crimes committed in its territory, the Italian Republic has failed to fulfil its obligations under Article 12(2) of Directive 2004/80/EC ([1]);

— order the Italian Republic to pay the costs.

Pleas in law and main arguments

Directive 2004/80/EC institutes a system of cooperation between the authorities of the Member States to facilitate the access of victims of crime throughout the European Union to appropriate compensation in cross-border situations. The system operates on the basis of Member States' schemes on compensation to victims of violent intentional crimes committed in their respective territories. To ensure that system of cooperation is fully operational, Article 12(2) of that directive requires the Member States to have or to introduce a scheme on compensation to victims of violent intentional crimes committed in their respective territories which guarantees fair and appropriate compensation to victims. That obligation must be understood as referring to all violent intentional crimes and not as referring to only some of them.

Italian law makes provision for a national scheme on compensation to crime victims which consists of a series of special laws on compensation for certain violent intentional crimes, but does not make provision for a general compensation scheme which covers victims of all crimes identified and categorised by the Italian Penal Code as violent intentional crimes. In particular, Italian law does not provide a scheme on compensation for violent intentional crimes which are forms of 'common crime' not covered by those special laws.

Consequently, it must be stated that the Italian Republic has failed to fulfil its obligations under Article 12(2) of Directive 2004/80/EC.

([1]) Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims (OJ 2004 L 261, p. 15).

Appeal brought on 27 December 2014 by Alcoa Trasformazioni Srl against the judgment of the General Court (Eighth Chamber) of 16 October 2014 in Case T-177/10 Alcoa Trasformazioni v Commission

(Case C-604/14 P)

(2015/C 089/09)

Language of the case: Italian

Parties

Appellant: Alcoa Trasformazioni Srl (represented by: O. W. Brouwer, advocaat, T. Salonico and M. Siragusa, avvocati)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside paragraphs 50, 81 to 90 and 92 of the judgment under appeal and consequently that judgment in its entirety;

— give final judgment in the matter and annul the contested decision; and

— order the Commission to pay the costs of the present appeal and of the action before the General Court.

Grounds of appeal and main arguments

The appellant submits that the judgment under appeal is flawed and must be therefore set aside on the following grounds:

1. There was a serious distortion of evidence in relation to the erroneous conclusion in the contested decision, upheld by the General Court, that the measure introduced changes to the substance of the Alumix tariff, as established by the 1995 Decree, and, consequently, there was a breach of Article 107(1) TFEU and the principle of legal certainty. The General Court, in paragraphs 81 to 83 of the judgment under appeal, misread the provisions applicable to the present case, in particular, Article 15.2 of Resolution No 204/99 of the Autorità per l'energia elettrica e il gas (Italian Electricity and Gas Authority), which shows clearly and unequivocally that — even after the introduction of the compensation component — the Alumix tariff did not undergo any substantive change either in respect of the net electricity price paid by Alcoa or in respect of the financing of the mechanism which guaranteed that supply price for Alcoa.

2. The General Court infringed Article 107(1) TFEU, was inconsistent with the judgments handed down in Cases T-332/06 and C-149/09 P and seriously distorted point (b) of Alcoa's first plea, regarding the Commission's finding that it was not necessary to conduct any economic analysis to demonstrate that the measure granted an economic advantage to Alcoa. The General Court erred in its judgment in so far as (i) it was inconsistent with previous judgments handed down on the same question (T-332/06 and C-194/09 P); (ii) when applying Article 107(1) TFEU, it confused two criteria, both necessary to prove the existence of aid, inferring that an advantage was conferred on Alcoa from the mere finding that the resources used were of State origin; (iii) it failed to provide an adequate statement of reasons in so far as it failed to observe that the Commission had erred in assuming that Alcoa had obtained an advantage from the measure and had not, therefore, to that end, carried out a proper economic analysis to calculate the extent of the advantage in this particular case.

3. The General Court committed a procedural error in that it misrepresented and distorted Alcoa's second plea and consequently failed to adjudicate and to provide an adequate statement of reasons. The General Court erred in giving a ruling on a point which was not raised by Alcoa at first instance, whereas that court completely failed to address the point of substance put forward by Alcoa, namely, that, even in the event that an economic advantage had been found to exist, which is not accepted, the method used by the Commission to calculate the size of the benefit was erroneous, which resulted in an overestimation of the amount of aid to be recovered.

Appeal brought on 23 December 2014 by Portovesme Srl against the judgment delivered by the General Court (Eighth Chamber) of 16 October 2014 in Case T-291/11 Portovesme v Commission

(Case C-606/14 P)

(2015/C 089/10)

Language of the case: Italian

Parties

Appellant: Portovesme Srl (represented by: G. Dore, M. Liberati, A. Vinci, F. Ciulli, avvocati)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal and, consequently, annul the contested decision, granting the form of order sought in the application at first instance (and expunging the phrase 'or in so far as is deemed reasonable' at point 1 of the form of order sought);

— in the alternative, uphold the present appeal and refer the case back to the General Court for a reassessment of the application at first instance, adhering to the points of law to be established by the Court on appeal;

— order the Commission to pay the costs incurred both at first instance and on appeal.

Grounds of appeal and main arguments

In support of the present appeal, the appellant puts forward seven different grounds for setting aside the judgment under appeal:

1. By its first ground, the appellant challenges the judgment under appeal on the basis of the incorrect assessment of the principle that administrative proceedings must take place within a reasonable time and the principle of legitimate expectations, in so far as concerns the part of the contested decision in which the recovery of the aid granted is ordered.

2. By its second ground, the appellant considers that the judgment under appeal is unlawful and should be set aside on account of the General Court's failure to state reasons in so far as it concluded that the contested decision did not infringe the principles that administrative action should be conducted with diligence and impartiality.

3. By its third ground, the appellant alleges that the General Court infringed Article 19 TEU in the parts of the judgment under appeal in which that court provided its own interpretation of the national rules, at odds with the literal wording of those rules, in clear breach of the limits of its jurisdiction.

4. By its fourth ground, the appellant contends that the General Court erred in its assessment of the alleged unequal treatment which it suffered by comparison with another operator (Alcoa-Alumix) in respect of a similar aid measure, and also infringed Article 108 TFEU, in so far as it found that the aid had to be regarded as 'existing' aid.

5. By its fifth ground, the appellant alleges infringement of Article 107(1) TFEU, in so far as, contrary to the finding of the General Court, the disputed measure neither constitutes an undue advantage nor affects trade between Member States.

6. By its sixth ground, the appellant criticises the lack of/insufficient/erroneous assessment by the General Court of the challenge regarding the selective nature of the measure.

7. By its seventh and final ground, the appellant complains that the General Court infringed Article 174 TFEU and Article 107(3) TFEU, in so far as the compensatory measure, on the one hand, is consistent with the social cohesion policies for island regions lacking infrastructure and, on the other hand, comes within the derogations referred to in Article 107 TFEU.

Request for a preliminary ruling from the Tribunalul Sibiu (Romania) lodged on 23 December 2014 — Elena Delia Pondiche v The Romanian State and Consiliul Național pentru Combaterea Discriminării

(Case C-608/14)

(2015/C 089/11)

Language of the case: Romanian

Referring court

Tribunalul Sibiu

Parties to the main proceedings

Applicant: Elena Delia Pondiche

Defendants: The Romanian State and Consiliul Național pentru Combaterea Discriminării

Questions referred

1. May social protection, the rights of the child and the principles of equal treatment and non-discrimination as guaranteed in EU law by Article 6 of the Treaty on European Union, Articles 20, 21(1), 24(1) and (2), 34 and 52 of the Charter of Fundamental Rights of the European Union and Articles 3(1)(b) and 4 of Regulation (EC) No 883/2004 on the coordination of social security systems ([1]) be interpreted as precluding certain provisions of national law which limit, with no objective and reasonable justification, the amount of the child maintenance allowance on the basis of the date of birth of the child rather than the date of conception, even though that child, if born alive and viable, can be considered to have existed from that date?

2. Does Ordonanță de Urgență a Guvernului No 111/2010 introduce a measure discriminating between people who are in identical situations, that is to say, between children conceived and born before 31 December 2010 and children conceived before 31 December 2010 and born after that date?

([1]) Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland) (OJ 2004 L 166, p. 1).

Request for a preliminary ruling from the Handelsgericht Wien (Austria) lodged on 29 December 2014 — Stephan Naumann v Austrian Airlines AG

(Case C-612/14)

(2015/C 089/12)

Language of the case: German

Referring court

Handelsgericht Wien

Parties to the main proceedings

Applicant: Stephan Naumann

Defendant: Austrian Airlines AG

Questions referred

1. Must the right to compensation provided for in Article 7 (Right to compensation) of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 ([1]) be interpreted as referring to a right to a standardised compensation payment, a contractual penalty, a right to punitive damages, a right in the nature of a claim to performance and remedies (*Gewährleistung*), or a *sui generis* right?

2. Must the deduction of compensation referred to in the second sentence of paragraph 1 of Article 12 (Further compensation) of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 be interpreted as being required only in relation to the passenger's right to further compensation from the operating air carrier or also in relation to the passenger's right to further compensation from the tour operator?

3. Must the passenger's right to further compensation provided for by Article 12 (Further compensation) of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 be interpreted as including a right to a price reduction (*Gewährleistung*) for a delayed flight under national law?

4. Can a right to a price reduction (*Gewährleistung*) and/or a right to compensation for a flight delay which the tour operator grants to a passenger under national law be deducted (Article 12 of Regulation No 261/2004) from an entitlement to compensation from the operating air carrier pursuant to Article 7 (Right to compensation) of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 in respect of the same delay?

5. In so far as deduction is possible: can the air carrier always apply it, or does it depend on the extent to which national law permits it or the court regards it as appropriate?

6. In so far as national law is decisive or the court has to take a decision at its own discretion: should the compensation payment pursuant to Article 7 of the regulation compensate the passenger only for inconvenience and the time lost due to the delay, or should it also compensate him for material damage?

([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 Hoge Raad der Nederlanden (Netherlands) lodged on 14 January 2015 — Universal Music International Holding BV v Michael Tétreault Schilling and Others

(Case C-12/15)

(2015/C 089/13)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: Universal Music International Holding BV

Respondents: Michael Tétreault Schilling, Irwin Schwartz, Josef Brož

Questions referred

1. Must Article 5(3) of Regulation (EC) No 44/2001 ([1]) be interpreted as meaning that the 'place where the harmful event occurred' can be construed as being the place in a Member State where the damage occurred, if that damage consists exclusively of financial damage which is the direct result of unlawful conduct which occurred in another Member State?

2. If the answer to Question 1 is in the affirmative:

   (a) What criterion or what perspectives should the national court apply, when assessing its jurisdiction on the basis of Article 5(3) of Regulation (EC) No 44/2001, in order to determine whether in the present case there has been financial damage which is the direct result of unlawful conduct ('initial financial damage' or 'direct financial damage') or whether there has been financial damage which is the result of initial damage which occurred elsewhere or damage which has resulted from damage which occurred elsewhere ('consequential damage' or 'derived financial damage')?

(b) What criterion or what perspectives should the national court apply, when assessing its jurisdiction on the basis of Article 5(3) of Regulation (EC) No 44/2001, in order to determine where, in the present case, the financial damage — whether it be direct or derived financial damage — occurred or is deemed to have occurred?

3. If the answer to Question 1 is in the affirmative: must Regulation (EC) No 44/2001 be interpreted as meaning that the national court which is required to determine whether it has jurisdiction pursuant to that regulation in the present case is obliged, when making its determination, to proceed on the basis of the relevant submissions of the claimant or applicant in that regard, or is it obliged also to take into account the arguments put forward by the defendant to refute those submissions?

(1) Council Regulation of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1).

Appeal brought on 22 January 2015 by the Kingdom of Spain against the judgment of the General Court (Eighth Chamber) delivered on 13 November 2014 in Case T-481/11 Spain v Commission

(Case C-26/15 P)

(2015/C 089/14)

Language of the case: Spanish

Parties

Appellant: Kingdom of Spain (represented by: A. Rubio González, acting as Agent)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— declare that the present appeal is well founded and set aside the judgment of the General Court of 13 November 2014 in Case T-481/11 *Spain* v *Commission*;

— annul the fifth indent of point D of section VI of Part 2 of Annex I to Commission Implementing Regulation (EU) No 543/2011 (1) of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors;

— order the respondent to pay the costs.

Pleas in law and main arguments

Error of law as regards the scope of the obligation to state reasons. The reasoning on which the General Court relies does not correspond with the necessary clarity and lack of ambiguity that the statement of reasons for a regulation must satisfy in order to meet the requirements of Article 296 TFEU. In fact, the General Court filled the gaps in the statement of reasons for the contested regulation and substituted its own reasoning for the statement of reasons of the contested measure.

Error of law as regards the principle of equal treatment. The General Court's reasoning on this issue is not based on appropriate criteria for making the comparison. The General Court based its reasoning on an allegedly well-known fact, which is not supported by fact or science, namely the distinction between fruits with thick rind and those with thin rind and the inclusion of citrus fruit in the first category.

Error of law as regards judicial review of the principle of proportionality. The review by the General Court as to the proportionality of a restriction on the trade in goods imposed by an institution must be carried out having regard to the Commission's broad margin of discretion. However, the General Court did not carry out its judicial review in accordance with the Tetra Laval ([2]) case-law. First, it did not review properly the relevance and appropriateness of the elements on which the adopted decision is based as regards the grounds justifying the restriction. Second, it did not examine correctly the conclusions drawn from the data, so that the restriction goes beyond what is necessary in order to achieve the objective pursued.

([1]) OJ 2011 L 157, p. 1.
([2]) Judgment of 15 February 2005 in *Commission* v *Tetra Laval* (C-12/03 P, EU:C:2005:87), paragraph 39.

Appeal brought on 27 January 2015 by Photo USA Electronic Graphic, Inc. against the judgment of the General Court (Third Chamber) delivered on 18 November 2014 in Case T-394/13: Photo USA Electronic Graphic, Inc. v Council of the European Union

(Case C-31/15 P)

(2015/C 089/15)

Language of the case: English

Parties

Appellant: Photo USA Electronic Graphic, Inc. (represented by: K. Adamantopoulos, avocat)

Other parties to the proceedings: Council of the European Union, European Commission, Ancàp SpA, Cerame-Unie AISBL, Confindustria Ceramica, Verband der Keramischen Industrie eV

Form of order sought

The appellant claims that the Court should:

— set aside the Judgment of the General Court of the European Union of 18 November 2014 in Case T-394/13 Photo USA Electronic Graphic, Inc. v Council by which the General Court dismissed the application for annulment of Council Implementing Regulation (EU) No 412/2013 of 13 May 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of ceramic tableware and kitchenware originating in the People's Republic of China ([1]);

— complete the analysis and annul Regulation (EU) No 412/2013; and

— order the Council of the European Union to pay the Appellant's costs of this appeal as well as those of the proceedings before the General Court in Case T-394/13.

Pleas in law and main arguments

The Appellant submits that the General Court's findings with respect to Appellant's first, third and fourth pleas before the General Court are vitiated by several errors of law as well as a distortion of the evidence submitted. The Appellant therefore submits that the contested judgment should be set aside. In addition, the Appellant submits that the facts underlying the first, second and third pleas are sufficiently established so as to enable the Court of Justice to decide on those pleas.

As concerns the first plea, the Appellant advances two grounds of appeal. First, by imposing, in essence, on the Appellant the burden of proof that the Institutions made an error in their assessment in respect of each of the factors they deemed relevant, the General Court erred in law. As established in the previous jurisprudence of the General Court, it is sufficient for the Appellant to demonstrate either that (1) the Institutions erred in their assessment of the factors they deemed relevant or that (2) the application of other more relevant factors necessitated their exclusion. In that context, the determination that the Institutions made an error in their assessment in respect of 2 factors out of the 3 that the Institutions deemed relevant is sufficient to discharge the Appellant's burden of proof. Furthermore, in arriving at its findings the contested judgment distorted the evidence and the facts before the General Court.

In respect of the third and the fourth pleas, the Appellant advances four grounds of appeal. First, the General Court misinterpreted the provisions of Article 3(2) and 3(7) of Council Regulation (EC) No. 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ([2]) ('basic Regulation') by finding that the Institutions are obliged to analyse the impact of the anticompetitive practices on the situation of the industry in the Union only after the existence of such anti-competitive practices is affirmatively established in a final decision of a relevant competition authority. Secondly, having rejected the Appellant's request to disclose the identities of the sampled Union producers, the General Court distorted the evidence on record and erred in law by concluding that it could examine the Institution's compliance with Articles 3(2) and 3(4) of the basic Regulation without the knowledge of the identities of the sampled Union producers. Thirdly, by imposing on the Appellant an obligation to adduce positive evidence of the impact of the anti-competitive practices on the sampled Union producers in a situation where the identities of the sampled producers are kept secret, the contested judgment misinterpreted provisions of Articles 3(2) and 3(7) of the basic Regulation and imposed an unreasonable burden of proof on the Appellant. Fourthly, the contested judgment also misinterpreted the provisions of Article 3(2) and 3(7) of the basic Regulation by concluding that the relevant obligations can be discharged simply by relying on unelaborated assumptions instead of the performance of an actual analysis.

([1]) OJ L 131, p. 1.
([2]) OJ L 343, p. 51.

Appeal brought on 28 January 2015 by Electrabel SA, Dunamenti Erőmű Zrt against the order of the General Court (Ninth Chamber) delivered on 13 November 2014 in Case T-40/14: Electrabel SA, Dunamenti Erőmű Zrt v European Commission

(Case C-32/15 P)

(2015/C 089/16)

Language of the case: English

Parties

Appellants: Electrabel SA, Dunamenti Erőmű Zrt (represented by: J. Philippe, avocat)

Other party to the proceedings: European Commission

Form of order sought

The applicants claim that the Court should:

— quash the Order of the General Court of 13 November 2014 in case T-40/14, in so far as it dismisses the Appellants' action as inadmissible;

— declare that the Appellants' action is admissible, or alternatively that it is admissible for the period starting on 10th January 2009;

— order the Commission to pay the costs of the proceedings before the General Court and the Court of Justice.

Pleas in law and main arguments

The Appellants rely on four pleas in law. In the order under appeal, the General Court dismissed the application brought by the Appellants for, in essence the compensation tor the losses incurred by them that flow from the wrongful termination of the Power Purchase Agreement (***PPA***) in application of unlawful Commission Decision 2009/609/EC of 4 June 2008 on the State aid C-41/05 ([1]). The General Court found the Appellants' action time-barred and dismissed their application as inadmissible.

By their first plea, the Appellants respectfully raise the General Court's failure to state reasons why Article 102(2) of the Rules of Procedure of the General Court (the ***Rules of Procedure***) providing an extension on account of distance to time-limits does not apply to the Appellants' application although the reading of the Treaties, Statute of the Court of Justice (the ***Statute***) and Rules of Procedure shows Article 102(2) applies to the limitation period laid down in the first paragraph of Article 46 of the Statute.

By their second plea, the Appellants respectfully note that the General Court commits an error of law in the application of Article 268 and 340(2) of the Treaty on the Functioning of the EU (***TFEU***) when requiring the Appellants to invoke the recurrent nature of their damage in their initial request.

By their third plea, the Appellants respectfully raise the General Court's failure to state reasons why the case-law referred to by the applicants to support the recurrent nature of their damage is not comparable to their situation, although the applicants had provided an extensive demonstration.

By their fourth plea, the Appellants respectfully note that the General Court commits an error of law when it rejected the Appellant's argumentation that their damage is continuous on the basis that the Commission's decision is still under review.

([1]) OJ L 225, p. 53.

GENERAL COURT

Judgment of the General Court of 28 January 2015 — Evonik Degussa GmbH v Commission

(Case T-341/12) ([1])

(Competition — Administrative procedure — European hydrogen peroxide and perborate market — Publication of a decision finding an infringement of Article 81 EC — Rejection of a request for confidential treatment of information given to the Commission pursuant to the latter's Leniency Notice — Obligation to state reasons — Confidentiality — Professional secrecy — Legitimate expectations)

(2015/C 089/17)

Language of the case: German

Parties

Applicant: Evonik Degussa GmbH (Essen, Germany) (represented by: C. Steinle, M. Holm-Hadulla and C. von Köckritz, avocats)

Defendant: European Commission (represented by: C. Giolito, M. Kellerbauer and G. Meessen, Agents)

Re:

Annulment of Commission Decision C(2012) 3534 final of 24 May 2012 refusing Evonik Degussa's request for confidential treatment under Article 8 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings (Case COMP/F/38.620 — Hydrogen Peroxide and Perborate).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Evonik Degussa GmbH to pay the costs, including those incurred in the proceedings for interim relief.*

([1]) OJ C 311, 13.10.2012.

Judgment of the General Court of 28 January 2015 — Akzo Nobel and Others v Commission

(Case T-345/12) ([1])

(Competition — Administrative proceedings — European market for hydrogen peroxide and perborate — Publication of a decision finding an infringement of Article 81 EC — Rejection of a request for confidential treatment of information provided to the Commission pursuant to its Leniency Notice — Obligation to state reasons — Confidentiality — Professional secrecy — Legitimate expectations)

(2015/C 089/18)

Language of the case: English

Parties

Applicants: Akzo Nobel NV (Amsterdam, Netherlands); Akzo Chemicals Holding AB, established in (Bohus, Sweden); Eka Chemicals AB (Farjevagen, Sweden) (represented by: C. Swaak and R. Wesseling, Agents)

Defendant: European Commission (represented by: C. Giolito, M. Kellerbauer and G. Meessen, Agents)

Intervener in support of the defendant: CDC Hydrogene Peroxide Cartel Damage Claims (CDC Hydrogene Peroxide) (Brussels, Belgium) (represented by: T. Funke, lawyer)

Re:

Application for the annulment of Commission Decision C(2012) 3533 final of 24 May 2012 rejecting a request for confidential treatment submitted by Akzo Nobel, Akzo Nobel Chemicals Holding and Eka Chemicals pursuant to Article 8 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings (Case COMP/38.620 — Hydrogen Peroxide and perborate).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Akzo Nobel NV, Akzo Chemicals Holding AB and Eka Chemicals AB to pay the costs, including those relating to the proceedings for interim measures.*

(1) OJ C 295, 29.9.2012.

Judgment of the General Court of 4 February 2015 — El Corte Inglés v OHIM — Apro Tech (APRO)

(Case T-372/12) (1)

(Community trade mark — Opposition proceedings — Application for Community figurative mark APRO — Earlier national figurative mark B-PRO by Boomerang, earlier Community word mark PRO MOUNTAIN and applications for earlier Community figurative and word marks B-PRO by Boomerang and PRO OUTDOOR — No likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 089/19)

Language of the case: English

Parties

Applicant: El Corte Inglés, SA (Madrid, Spain) (represented by: E. Seijo Veiguela, J. Rivas Zurdo and I. Munilla Muñoz, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: Apro Tech Co. Ltd (Tachia, Taiwan)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 25 May 2012 (Case R 196/2011-2), relating to opposition proceedings between El Corte Inglés, SA and Apro Tech Co. Ltd.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders El Corte Inglés, SA, to pay the costs.*

(1) OJ C 331, 27.10.2012.

Judgment of the General Court of 30 January 2015 — Now Wireless v OHIM — STARBUCKS (HK) (now)

(Case T-278/13) (1)

(Community trade mark — Revocation proceedings — Community figurative mark now — Genuine use of the mark — Article 51(1)(a) and Article 51(2) of Regulation (EC) No 207/2009)

(2015/C 089/20)

Language of the case: English

Parties

Applicant: Now Wireless Ltd (Guildford, United Kingdom) (represented by: T. Alkin, Barrister)

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, intervener before the General Court: Starbucks (HK) Ltd (Hong Kong, China) (represented by: P. Kavanagh, Solicitor)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 7 March 2013 (Case R 234/2012-2), concerning revocation proceedings between Now Wireless Ltd and Starbucks (HK) Ltd.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Now Wireless Ltd to pay the costs.*

(1) OJ C 207, 20.7.2013.

Judgment of the General Court of 4 February 2015 — KSR v OHIM — Lampenwelt (Moon)

(Case T-374/13) (1)

(Community trade mark — Proceedings seeking a declaration of invalidity — Community word mark Moon — Absolute ground for invalidity — Descriptive nature — Lack of distinctiveness — Article 52(1)(a) and Article 7(1)(b) and (c) of Regulation (EC) No 207/2009)

(2015/C 089/21)

Language of the case: German

Parties

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

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented initially by: A. Pohlmann, subsequently by: D. Walicka, and finally by: A. Schifko, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Lampenwelt GmbH & Co. KG (Schlitz, Germany) (represented by: G. Rother, P. Mes, C. Graf von der Groeben, J. Künzel, J. Bühling, D. Jestaedt, M. Bergermann, A. Kramer, J. Vogtmeier and A. Verhauwen, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 13 May 2013 (Case R 676/2012-4) concerning invalidity proceedings between Lampenwelt GmbH & Co. KG and KSR Kunststoff Rotation GmbH.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders KSR Kunststoff Rotation GmbH to pay the costs.*

([1]) OJ C 274, 21.9.2013.

Judgment of the General Court of 30 January 2015 — Siemag Tecberg Group v OHIM (Winder Controls)

(Case T-593/13) ([1])

(Community trade mark — Application for Community word mark Winder Controls — Absolute grounds for refusal — Descriptive character — Lack of distinctive character — Article 7(1)(c) and (b) and Article 7 (2) of Regulation (EC) No 207/2009 — Article 135a of the Rules of Procedure of the General Court — Request for a hearing made prematurely in the application)

(2015/C 089/22)

Language of the case: German

Parties

Applicant: Siemag Tecberg Group GmbH (Haiger, Germany) (represented by: T. Sommer, lawyer)

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

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 5 September 2013 (Case R 1261/2013-4), concerning an application for registration of the word sign Winder Controls as a Community trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Siemag Tecberg Group GmbH to bear its own expenses and to pay those incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM).*

(1) OJ C 31, 1.2.2014.

Judgment of the General Court of 29 January 2015 — Blackrock v OHIM (SO WHAT DO I DO WITH MY MONEY)

(Case T-609/13) (1)

(Community trade mark — Application for the Community word mark SO WHAT DO I DO WITH MY MONEY — Mark consisting of an advertising slogan — Absolute ground for refusal — No distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009)

(2015/C 089/23)

Language of the case: English

Parties

Applicant: Blackrock, Inc. (Wilmington, Delaware, United States) (represented by: S. Malynicz, Barrister, and K. Gilbert and M. Blair, Solicitors)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: initially I. Harrington, and subsequently J. Crespo Carrillo, acting as Agents)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 11 September 2013 (Case R 572/2013-4), concerning an application for registration of the word sign SO WHAT DO I DO WITH MY MONEY as a Community trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Blackrock, Inc. to pay the costs.*

(1) OJ C 24, 25.1.2014.

Judgment of the General Court of 28 January 2015 — Enercon v OHIM (Shades of the colour green)

(Case T-655/13) (1)

(Community trade mark — Application for Community trade mark consisting of a gradient of five shades of the colour green — Absolute ground for refusal — Distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009 — Reclassification of the mark applied for — Article 43(2) of Regulation No 207/2009)

(2015/C 089/24)

Language of the case: German

Parties

Applicant: Enercon GmbH (Aurich, Germany) (represented by: R. Böhm and S. Overhage, lawyers)

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

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 11 September 2013 (Case R 247/2013-1), concerning an application for registration of a gradient of five shades of the colour green as a Community trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Enercon GmbH to pay the costs.*

([1]) OJ C 39, 8.2.2014.

Order of the General Court of 29 January 2015 — Zitro IP v OHIM — Gamepoint (SPIN BINGO)

(Case T-665/13) ([1])

(Community trade mark — Application for Community figurative mark 'SPIN BINGO' — Earlier Community word mark 'ZITRO SPIN BINGO' — Relative ground for refusal — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 089/25)

Language of the case: English

Parties

Applicant: Zitro IP Sàrl (Luxembourg, Luxembourg) (represented by: A. Canela Giménez, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM: Gamepoint BV (The Hague, Netherlands)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 14 October 2013 (Case R 1388/2012-4) concerning opposition proceedings between Zitro IP Sàrl and Gamepoint BV.

Operative part of the order

1. *Dismisses the action of Zitro IP Sàrl.*

2. *Orders Zitro IP Sàrl to pay the costs.*

([1]) OJ C 61, 1.3.2014.

Judgment of the General Court of 28 January 2015 — Argo Development and Manufacturing v OHIM — Clapbanner (Representation of advertising articles)

(Case T-41/14) ([1])

(Community design — Invalidity proceedings — Registered Community design representing an advertising article — Earlier Community designs — Grounds for invalidity — Novelty — Individual character — Informed user — Degree of freedom of the designer — Different overall impression — Articles 4, 5, 6 and Article 25(1)(b) of Regulation (EC) No 6/2002)

(2015/C 089/26)

Language of the case: English

Parties

Applicant: Argo Development and Manufacturing Ltd (Ra'anana, Israel) (represented by: B. Brisset, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented initially by A. Pohlmann, and subsequently by S. Hanne, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM: Clapbanner Ltd (London, United Kingdom)

Re:

Action brought against the decision of the Third Board of Appeal of OHIM of 22 October 2013 (Case R 981/2012-3) in relation to invalidity proceedings between Argo Development and Manufacturing Ltd and Clapbanner Ltd.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Argo Development and Manufacturing Ltd to pay the costs.*

([1]) OJ C 129, 28.4.2014.

Judgment of the General Court of 29 January 2015 — Blackrock v OHIM (INVESTING FOR A NEW WORLD)

(Case T-59/14) ([1])

(Community trade mark — Application for the Community word mark INVESTING FOR A NEW WORLD — Mark consisting of an advertising slogan — Absolute ground for refusal — No distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009)

(2015/C 089/27)

Language of the case: English

Parties

Applicant: Blackrock, Inc. (Wilmington, Delaware, United States) (represented by: S. Malynicz, Barrister, and K. Gilbert and M. Blair, Solicitors)

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

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 31 October 2013 (Case R 573/2013-1), concerning an application for registration of the word sign INVESTING FOR A NEW WORLD as a Community trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Blackrock, Inc. to pay the costs.*

(1) OJ C 129, 28.4.2014.

Judgment of the General Court of 28 January 2015 — BSH v OHIM (AquaPerfect)

(Case T-123/14) (1)

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

(2015/C 089/28)

Language of the case: English

Parties

Applicant: BSH Bosch und Siemens Hausgeräte GmbH (Munich, Germany) (represented by: S. Biagosch, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Arçelik A.Ş. (Istanbul, Turkey) (represented by: A. Franke, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 9 December 2013 (Case R 314/2013-4) concerning opposition proceedings between BSH Bosch und Siemens Hausgeräte GmbH and Arçelik A.Ş.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 9 December 2013 (Case R 314/2013-4) concerning opposition proceedings between BSH Bosch und Siemens Hausgeräte GmbH and Arçelik A.Ş.;*

2. *Orders OHIM to bear its own costs and to pay those incurred by BSH Bosch und Siemens Hausgeräte;*

3. *Orders Arçelik to bear its own costs.*

(1) OJ C 129, 28.4.2014.

Order of the General Court of 20 January 2015 — NICO v Council

(Case T-6/13) ([1])

(Action for annulment — Common foreign and security policy — Restrictive measures taken against Iran — Freezing of funds — Time-limit in which to bring proceedings — Starting point — Manifest inadmissibility)

(2015/C 089/29)

Language of the case: English

Parties

Applicant: Naftiran Intertrade Co. (NICO) Sàrl (Pully, Switzerland) (represented by: J. Grayston, Solicitor, G. Pandey, P. Gjørtler, D. Rovetta, D. Sellers and N. Pilkington, lawyers)

Defendant: Council of the European Union (represented by: M. Bishop and I. Rodios, acting as Agents)

Re:

Application for annulment in part of Council Decision 2012/635/CFSP of 15 October 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2012 L 282, p. 58), and Council Implementing Regulation (EU) No 945/2012 of 15 October 2012 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2012 L 282, p. 16), in so far as the applicant's name is included in the list of persons and entities to whom those restrictive measures apply.

Operative part of the order

1. *The action is dismissed.*

2. *Naftiran Intertrade Co. (NICO) Sàrl shall bear its own costs and pay those incurred by the Council of the European Union.*

([1]) OJ C 71, 9.3.2013.

Order of the General Court of 21 January 2015 — Richter + Frenzel v OHIM — Ferdinand Richter (Richter + Frenzel)

(Case T-418/13) ([1])

(Community trade mark — Opposition — Withdrawal — No need to adjudicate)

(2015/C 089/30)

Language of the case: German

Parties

Applicant: Richter + Frenzel GmbH (Würzburg, Germany) (represented by: D. Altenburg, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented initially by: A. Pohlmann, and subsequently by: D. Botis, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM intervening before the General Court: Ferdinand Richter GmbH (Pasching, Austria) (represented by: M. Grötschl, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 12 March 2013 (Case R 2001/2011-4) concerning opposition proceedings between Ferdinand Richter GmbH and Richter + Frenzel GmbH + Co. KG.

Operative part of the order

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

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

([1]) OJ C 325, 9.11.2013.

Order of the General Court of 22 January 2015 — GEA Group AG v OHIM (engineering for a better world)

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

(Community trade mark — Time-limit for instituting proceedings — Point from which time starts to run — Notification of the decision of the Board of Appeal by fax — Receipt of the fax — Lateness — No force majeure or unforeseeable circumstances — Manifest inadmissibility)

(2015/C 089/31)

Language of the case: German

Parties

Applicant: GEA Group AG (Düsseldorf, Germany) (represented by: J. Schneiders, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: initially by A. Pohlmann, and subsequently by S. Hanne, Agents)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 21 March 2013 (Case R 935/2012-4), concerning an application for registration of the word sign 'engineering for a better world' as a Community trade mark.

Operative part of the order

1. *The action is dismissed.*

2. *GEA Group AG shall bear the costs.*

([1]) OJ C 352, 30.11.2013.

Order of the General Court of 5 January 2015 — La Perla v OHIM — Alva Management (LA PERLA)

(Case T-492/14) ([1])

(Community trade mark — Opposition — Withdrawal of the opposition — No need to adjudicate)

(2015/C 089/32)

Language of the case: English

Parties

Applicant: La Perla sp. z o.o. (Warsaw, Poland) (represented by: M. Siciarek, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM intervening before the General Court: Alva Management GmbH (Icking, Germany) (represented by: B. Hanika, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 28 April 2014 (Case R 626/2013-4), relating to opposition proceedings between Alva Management GmbH and La Perla sp. z o.o.

Operative part of the order

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

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

([1]) OJ C 282, 25.8.2014.

Action brought on 26 November 2014 — Slovakia v Commission

(Case T-779/14)

(2015/C 089/33)

Language of the case: Slovak

Parties

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

Defendant: European Commission

Form of order sought

— annul the Commission's decision contained in the letter of 24 September 2014 requiring the Slovak Republic to provide financial means corresponding to the loss of traditional own resources;

— 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 lack of competence of the Commission

According to the Slovak Republic, the Commission does not have competence to adopt the contested decision. No provision of EU law confers competence on the Commission to act as it did by issuing the contested decision, namely competence, following the calculation of the amount of the loss of traditional own resources in the form of import duty not collected, to oblige a Member State which was not responsible for assessing and collecting that duty to provide financial means in the amount established by the Commission and corresponding in its view to the loss stated.

2. Second plea in law, alleging breach of the requirement of legal certainty

Even if the Commission had competence to adopt the contested decision (quod non), in this case the Commission, according to the Slovak Republic, infringed the principle of legal certainty. The obligation of the Slovak Republic imposed on it by the contested decision could not, in its opinion, have been reasonably foreseen before it was adopted.

3. Third plea in law, alleging incorrect exercise of competence by the Commission

Even if the Commission had competence to adopt the contested decision and also proceeded, when adopting the contested decision, in accordance with the principle of legal certainty (quod non), according to the Slovak Republic, it did not exercise its competence correctly in this case. In the first place, the Commission made an obviously incorrect assessment in so far as it requires financial means from the Slovak Republic despite the fact that in part there was no loss of traditional own resources at all and for the rest there was no loss as a direct consequence of the events the Commission attributes to the Slovak Republic. In the second place, the Commission committed a breach of the rights of defence of the Slovak Republic and the principle of sound administration.

4. Fourth plea in law, alleging inadequate statement of reasons for the contested decision

The Slovak Republic asserts in this plea in law that the reasoning of the contested decision has several defects, as a result of which it must be regarded as inadequate, which constitutes a breach of essential procedural requirements and is also in conflict with the requirements of legal certainty. In the contested decision, according to the Slovak Republic, the Commission did not state the legal basis of that decision. In addition, it did not explain the grounds and basis of some of its conclusions. Finally, according to the Slovak Republic, the reasoning of the contested decision is confused in some respects.

Appeal brought on 24 November 2014 by DF against the judgment of the Civil Service Tribunal of 1 October 2014 in Case F-91/13, DF v Commission

(Case T-782/14 P)

(2015/C 089/34)

Language of the case: English

Parties

Appellant: DF (Brussels, Belgium) (represented by: A. von Zwehl, lawyer)

Other party to the proceedings: European Commission

Form of order sought by the appellant

The appellant claims that the Court should:

— set aside the judgment of the Civil Service Tribunal (Third Chamber) of 1 October 2014 in Case F-91/13 DF v Commission, in so far as the action of the appellant as to the remainder was dismissed by the Tribunal;

— annul the decision of the European Commission of 20 December 2012;

— order the European Commission to reimburse the amounts already recovered by it to the appellant, plus late interest at the European Central Bank rate, increased by 2 points; and

— declare that the European Commission bears all costs.

Pleas in law and main arguments

In support of the appeal, the appellant relies on three pleas in law:

1. First plea in law, alleging breach of Article 85 of the Staff Regulations and the principle of legal certainty, in that the Civil Service Tribunal, in line with relevant case-law, should have come to the conclusion that it cannot be reasonably argued that one or the other of the two possible interpretations of Article 4 (1) (b) of Annex VII to the Staff Regulations, namely whether the reference period of 10 years ends with the initial entry into service or with the entering into service at the entity of secondment, is so manifestly unfounded, that article 85 applies;

2. Second plea in law, alleging breach of the principle of non-discrimination and of Article 19 TUE, in that, due to the application of diverging and incompatible national and EU law on unjust enrichment, the appellant is discriminated against compared to a situation in which only the national legal order applies, as he is not allowed to invoke against the Commission the fact that enrichment does not exist anymore;

3. Third plea in law, invoking non-contractual liability of the EU, in that by deciding that the overpayment must be considered unlawful and imposing on the applicant to reimburse the overpayment to the Commission, damage to the detriment of the appellant has occurred.

Action brought on 5 December 2014 — DenizBank v Council

(Case T-798/14)

(2015/C 089/35)

Language of the case: English

Parties

Applicant: DenizBank A.Ş. (Esentepe, Turkey) (represented by: M. Lester and O. Jones, Barristers, R. Mattick and S. Utku, Solicitors)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision 2014/659/CFSP of 8 September 2014 ([1]) and Council Regulation (EU) No 960/2014 of 8 September 2014 ([2]) (together the contested measures) insofar as they apply to the applicant;

— declare the inapplicability pursuant to Article 277 TFEU as regards Article 1 of the 8 September Decision, and Article 1 (5) of the 8 September Regulation; and

— order the Council 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 that the Council has breached its duty to give reasons for imposing the contested measures on the applicant. Further, the applicant contends that the Council has given it no reasons at all for imposing the contested measures on it, nor even informed it of its inclusion.

2. Second plea in law, alleging that the Council has failed to safeguard the applicant's rights of defence, including its right to a fair hearing and to effective judicial review. The applicant submits that the Council has given the applicant no reasons or evidence for imposing the contested measures on it, no opportunity for it to comment on the case against it, and has thereby also impeded the Court from 'exercising effective judicial review'.

3. Third plea in law, alleging that insofar as it has imposed the contested measures on the applicant, the Council has breached the Ankara Agreement between Turkey and the EU (and its Additional Protocol) in a number of respects.

4. Fourth plea in law, alleging that the Council has breached the principles of non-discrimination and proportionality, and has imposed an unjustified and disproportionate restriction on the applicant's fundamental rights.

([1]) Council Decision 2014/659/CFSP of 8 September 2014 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L 271, p. 54).

([2]) Council Regulation (EU) No 960/2014 of 8 September 2014 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L 271, p. 3).

Action brought on 18 December 2014 — Zoofachhandel Züpke and Others v Commission

(Case T-817/14)

(2015/C 089/36)

Language of the case: German

Parties

Applicants: Zoofachhandel Züpke GmbH (Wesel, Germany), Zoohaus Bürstadt, Helmut Ofenloch GmbH & Co. KG (Bürstadt, Germany), Zoofachgeschäft — Vogelgroßhandel Import-Export Heinz Marche (Heinsberg, Germany), Rita Bürgel (Uthleben, Germany), Norbert Kass (Altenbeken, Germany) (represented by: C. Correll, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the General Court should:

— order the defendant to repair the damage suffered since 1 January 2010 by the applicants as a result of the adoption of a prohibition on importation of wild birds captured in the EU, a prohibition which applies almost worldwide, included in Regulation (EC) No 318/2007 of 23 March 2007 (OJ 2007 L 84, p. 7) and/or in Implementing Regulation (EU) No 139/2013 of 7 January 2013 (OJ 2013 L 47, p. 1);

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicants claim, first, that as a result of the continuation, without a critical approach, of the prohibition on importation in its extremely broad geographical scope, the Commission infringed the freedom to carry out an economic activity and, in part, the right to property enjoyed by the applicants. In the light of scientific knowledge acquired in any event since 2010, that prohibition is not capable of being justified by overriding considerations such as the protection of health.

Secondly, the applicants claim that, by maintaining the prohibition on importation, the Commission infringed the principle of proportionality and the principles of effective work because it failed to take into consideration the current state of the data or the current state of scientific knowledge. The worldwide prohibition on the importation of wild birds continues to be based on knowledge and assumptions dating from 2005, at a time when avian influenza, originating in Asia, spread for the first time in Europe and where it was necessary to act quickly. According to the applicants, the data collected over the following years do not justify, in any event since 2010, such a geographically wide prohibition on importation. Furthermore, it was clearly necessary in the meantime to make provision for other more effective and much less restrictive methods for the applicants such as consistent surveillance of migrating birds.

Third, the applicants maintain that they suffered an actual and certain damage and that there is a causal link between that damage and the Commission's unlawful behaviour.

Action brought on 16 December 2014 — Mezhdunaroden tsentar za izsledvane na maltsinstvata i kulturnite vzaimodeystvia v Commission

(Case T-819/14)

(2015/C 089/37)

Language of the case: Bulgarian

Parties

Applicant: Mezhdunaroden tsentar za izsledvane na maltsinstvata i kulturnite vzaimodeystvia (Sofia, Bulgaria) (represented by: Hristo Hristev, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the European Commission act contained in its letter under reference number ARES (2014) 2848632 01/09/2014 and in debit note No 3241409948 attached to that letter under reference number ARES (2014) 2848632 01/09/2014;

— reimburse the applicant the costs it incurred during the proceedings;

— in the alternative, in the event that the action for annulment is dismissed, order the defendant, in accordance with the second subparagraph of Article 87(3) of the Rules of Procedure of the General Court, to pay the costs incurred by the applicant, in so far as the defendant deliberately ensured that the applicant would have to bear those costs.

Pleas in law and main arguments

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

First plea in law, alleging that the applicant's action is admissible, in the light of the fact that the contested act must be regarded as an adopted act, in the context of the exercise of public powers, in relation to a third party who thereby acquires an interest in challenging the finding that it committed an infringement, and that finding constitutes a necessary prerequisite for the adoption of measures which adversely affect it.

Second plea in law, alleging that the Commission infringed the principle of sound administration, in so far as, first, it failed to carry out an examination of the facts of the dispute which was complete in all respects, objective and consistent, or an examination of the legal arguments put forward by the person concerned and in so far as, secondly, it failed to provide reasons for its act.

Third plea in law, alleging that the Commission infringed the principle of legal certainty in so far as the operative part of the act is unclear, in particular concerning the nature of that act.

Fourth plea in law, alleging that the Commission infringed the principle of the protection of legitimate expectations, in so far as, in the absence of comments from the Commission regarding earlier projects, whether concerning their implementation or the treatment of financial documents, the applicant acquired a legitimate expectation that its documentation was correctly treated and that it was not necessary to provide corrections, whether to ongoing or future projects, since its legitimate expectation was created by a reliable source, namely the European Commission.

Action brought on 24 December 2014 — August Brötje v OHIM (HydroComfort)

(Case T-845/14)

(2015/C 089/38)

Language of the case: German

Parties

Applicant: August Brötje GmbH (Rastede, Germany) (represented by: S. Pietzcker and C. Spintig, lawyers)

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

Details of the proceedings before OHIM

Trade mark at issue: Community word mark 'HydroComfort' — Application No 12 233 763

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 23 October 2014 in Case R 1302/2014-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Pleas in law

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

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

Action brought on 9 January 2015 — Ball Europe v OHIM — Crown Hellas Can

(Case T-9/15)

(2015/C 089/39)

Language in which the application was lodged: German

Parties

Applicant: Ball Europe GmbH (Zürich, Switzerland) (represented by: A. Renck, lawyer)

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

Other party to the proceedings before the Board of Appeal: Crown Hellas Can SA (Athens, Greece)

Details of the proceedings before OHIM

Proprietor of the design at issue: the applicant

Design at issue: Community design No 230 990-0006

Contested decision: Decision of the Third Board of Appeal of OHIM of 8 September 2014 in Case R 1408/2012-3

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order the defendant and — in the event of a formal intervention — also the other party to the proceedings before the Board of Appeal to pay the costs, including the costs incurred by the applicant.

Pleas in law

— Infringement of Article 25(1)(b) in conjunction with Article 6 of Regulation No 6/2002;

— Infringement of Article 62 of Regulation No 6/2002.

Action brought on 16 January 2015 — Gómez Echevarría/OHIM — M and M Direct (wax by Yuli's)

(Case T-19/15)

(2015/C 089/40)

Language in which the application was lodged: Spanish

Parties

Applicant: Yuleidy Caridad Gómez Echevarría (Benalmádena, Spain) (represented by: E. López-Chicheri y Selma, lawyer)

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

Other party to the proceedings before the Board of Appeal: M and M Direct Ltd (London, United Kingdom)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community figurative mark containing the word elements 'wax by Yuli's' — Community trade mark No 9 099 367

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the First Board of Appeal of OHIM of 6 November 2014 in Case R 951/2014-1

Form of order sought

The applicant claims that the Court should:

— annul the decision of the First Board of Appeal of OHIM of 6 November 2014, and order the applicant for a declaration of invalidity to pay the costs of the proceedings contesting the trade mark as well as those of the present proceedings;

— in the alternative, should the form of order sought above not be granted, alter the decision of the First Board of Appeal of OHIM of 6 November 2014 and dismiss the application for a declaration that Community trade mark No 9 099 367 'wax by Yuli's' is invalid, and order the applicant for a declaration of invalidity to pay the costs of the proceedings contesting the trade mark as well as those of the present proceedings;

— in the further alternative, should the forms of order sought above not be granted, alter the decision of the First Board of Appeal of OHIM of 6 November 2014 as to the costs and set aside those incurred in connection with representation in the appeal against the decision of the Cancellation Division of OHIM.

Pleas in law

— Infringement of Article 64 of Regulation No 207/2009, read in conjunction with Article 41(2)(a) of the Charter of Fundamental Rights of the European Union.

— Infringement of Article 8(1)(b) of Regulation No 207/2009 in that the application for a declaration that the trade mark was invalid was made by way of an abuse of power.

— Incorrect application and interpretation of Article 53(1)(a), read in conjunction with Article 8(1)(b) of Regulation No 207/2009, in that there is no likelihood of confusion.

— Incorrect application and interpretation of Rule 94(1) and (7) of Commission Regulation No 2868/95, read in conjunction with Article 85(1) of Regulation No 207/2009.

Action brought on 14 January 2015 — Henkell & Co. Sektkellerei v OHIM — Ciacci Piccolomini d'Aragona di Bianchini (PICCOLOMINI)

(Case T-20/15)

(2015/C 089/41)

Language in which the application was lodged: English

Parties

Applicant: Henkell & Co. Sektkellerei KG (Wiesbaden, Germany) (represented by: J. Flick, lawyer)

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

Other party to the proceedings before the Board of Appeal: Ciacci Piccolomini d'Aragona di Bianchini Società Agricola (Milano, Italy)

Details of the proceedings before OHIM

Applicant: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Community word mark 'PICCOLOMINI' — Application for registration No 10 564 573

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of OHIM of 31 October 2014 in Case R 2265/2013-1

Form of order sought

The applicant claims that the Court should:

— Annul the contested decision;

— Order OHIM and the third party to bear the costs of proceedings including the costs of the Applicant.

Plea in law

— Infringement of Article 42(2) of Regulation No 207/2009.

Action brought on 19 January 2015 — NICO v Council

(Case T-24/15)

(2015/C 089/42)

Language of the case: English

Parties

Applicant: Naftiran Intertrade Co. (NICO) Sàrl (Pully, Suisse) (represented by: J. Grayston, Solicitor, P. Gjørtler, G. Pandey and D. Rovetta, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision 2014/776/CFSP of 7 November 2014, amending Decision 2010/413/CFSP concerning restrictive measures against Iran ([1]), and Council Implementing Regulation (EU) No 1202/2014 of 7 November 2012, implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran ([2]), in so far as these acts include the applicant in the category of persons and entities made subject to the restrictive measures;

— order the Council to bear the costs of the present proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law: violation of the right of hearing, insufficient statement of grounds, violation of the right of defence, manifest error of assessment, and breach of fundamental right to property.

The applicant finds that the Council failed to perform a hearing of the applicant, and that no contrary indications would justify this, especially in relation to the imposition on current contractual engagements. Furthermore, the Council failed to supply a sufficient statement of reasons. By these omissions, the Council violated the right of defence of the applicant, including the right to effective judicial protection. Contrary to the claim of the Council, the applicant is not a subsidiary of NICO Ltd as designated by the Council, as this company no longer exists in Jersey and does not exist in Iran; and in any case the Council has not substantiated that even if it were a subsidiary, this would entail an economic benefit for the Iranian State that would be contrary to the aim of the contested acts. Finally, by imposing on the property rights and current contractual engagements managed by the applicant, the Council has violated the basic right of property by taking measures for which the proportionality cannot be ascertained.

([1]) OJ L 325, p. 19.
([2]) OJ L 325, p. 3.

Action brought on 20 January 2015 — Infinite Cycle Works v OHIM — Chance Good Ent. (INFINITY)

(Case T-30/15)

(2015/C 089/43)

Language in which the application was lodged: English

Parties

Applicant: Infinite Cycle Works Ltd (Delta, British Columbia, Canada) (represented by: E. Manresa Medina and J. Manresa Medina, lawyers)

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

Other party to the proceedings before the Board of Appeal: Chance Good Ent. Co., Ltd (Changhua, Taiwan)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community word mark 'INFINITY' — Application for registration No 10 835 478

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 30 October 2014 in Case R 2308/2013-2

Form of order sought

The applicant claims that the Court should:

— Annul the contested decision and grant the trademark applied for;

— Order OHIM and possible co-defendants to pay the costs.

Pleas in law

— Infringement of Articles 8.1.b) and 8.5 of the Regulation (CE) No 40/94.

Action brought on 22 January 2015 — GRE v OHIM (Mark1)

(Case T-32/15)

(2015/C 089/44)

Language of the case: German

Parties

Applicant: GRE Grand River Enterprises Deutschland GmbH (Kloster Lehnin, Germany) (represented by: I. Memmler and S. Schulz, lawyers)

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

Details of the proceedings before OHIM

Trade mark at issue: Community word mark 'Mark1' — Application No 12 052 437

Contested decision: Decision of the First Board of Appeal of OHIM of 29 October 2014 in Case R 647/2014-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order the defendant to pay the costs.

Plea in law

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

Action brought on 26 January 2015 — Grupo Bimbo v OHIM (BIMBO)

(Case T-33/15)

(2015/C 089/45)

Language of the case: Spanish

Parties

Applicant: Grupo Bimbo, SAB de CV (Mexico, Mexico) (represented by: N. Fernández Fernández-Pacheco, lawyer)

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

Details of the proceedings before OHIM

Trade mark at issue: Community work mark 'BIMBO' — Application for registration No 11 616 414

Contested decision: Decision of the Second Board of Appeal of OHIM of 19 November 2014 in Case R 251/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision, declaring in its judgment the sufficient distinctiveness, whether inherent or acquired by use, of the mark applied for, upholding the present action and ordering the registration of Community trade mark application No 11 616 414 'BIMBO' in Class 30 of the International Classification; and

— order the party opposing that claim to pay the costs of the proceedings and to reimburse the appeal fees paid to OHIM.

Pleas in law

— Infringement of Article 7(1)(b) and (c), (2) and (3) of Regulation No 207/2009.

Action brought on 22 January 2015 — Wolf Oil v OHIM — SCT Lubricants (CHEMPIOIL)

(Case T-34/15)

(2015/C 089/46)

Language in which the application was lodged: English

Parties

Applicant: Wolf Oil Corp. (Hemiksem, Belgium) (represented by: P. Maeyaert and J. Muyldermans, lawyers)

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

Other party to the proceedings before the Board of Appeal: UAB SCT Lubricants (Klaipeda, Lithuania)

Details of the proceedings before OHIM

Applicant: Other party to the proceedings before the Board of Appeal

Trade mark at issue: International registration designating the European Union in respect of the mark 'CHEMPIOIL' — International registration designating the European Union No 1 076 327

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 31 October 2014 in Case R 1596/2013-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM and the intervener to bear its own costs and to pay those incurred by Wolf Oil.

Pleas in law

— Infringement of Articles 8(1)(b), 75 and 76(1) of Regulation No 207/2009.

Action brought on 14 January 2015 — Alkarim for Trade and Industry v Council

(Case T-35/15)

(2015/C 089/47)

Language of the case: French

Parties

Applicant: Alkarim for Trade and Industry LLC (Tal Kurdi, Syria) (represented by: J.-P. Buyle and L. Cloquet)

Defendant: Council of the European Union

Form of order sought

— annul Council Implementing Regulation (EU) No 1105/2014 of 20 October 2014 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria, as regards the applicant;

— annul Council Implementing Decision 2014/730/CFSP of 20 October 2014 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria, as regards the applicant;

— order the Council to pay all the costs and expenses of the proceedings, including those incurred by the applicant.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the rights of the defence and of the right to a fair hearing, since it was not possible for the applicant to be heard prior to the adoption of the sanctions.

2. Second plea in law, alleging a manifest error in assessment of the facts.

3. Third plea in law, alleging infringement of the principle of proportionality.

4. Fourth plea in law, alleging a disproportionate infringement of the right to property and the right to engage in an occupation.

5. Fifth plea in law, alleging that the contested decisions are unlawful, since the requirements of Article 32 of Decision 2013/255/CFSP ([1]) and Articles 14 and 26 of Regulation No 36/2012 ([2]) are not met in that the applicant did not knowingly and voluntarily participate in any attempts to evade the European or international sanctions.

6. Sixth plea in law, alleging misuse of power, since there is reason to believe, on the basis of objective, relevant and consistent evidence, that the dispute measures have been taken with the main purpose of achieving ends other than those stated (market exclusion — favouring other players).

7. Seventh plea in law, alleging infringement of the obligation to state reasons.

([1]) Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria (OJ 2013 L 147, p. 14).
([2]) Council Regulation (EU) No 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No 442/2011 (OJ 2012 L 16, p. 1).

Action brought on 23 January 2015 — Hispasat v Commission

(Case T-36/15)

(2015/C 089/48)

Language of the case: Spanish

Parties

Applicant: Hispasat, SA (Madrid, Spain) (represented by: J. Buendía Sierra, A. Lamadrid de Pablo and A. Balcells Cartagena, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the contested decision, in particular Article 1 thereof, insofar as it finds the existence of State aid granted to HISPASAT incompatible with the internal market;

— consequently, annul the orders for the recovery of that aid set out in Articles 3 and 4 of the decision;

— order the Commission to pay the costs of these proceedings.

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 by designating HISPASAT SA as a direct beneficiary of the contested measure, the Commission made a manifest error of fact which must result in the annulment of the decision, since that company did not take part in the measures and has derived no benefit from them. The principle of good administration was also infringed insofar as the European Commission identified HISPASAT SA as the beneficiary of the measures after the investigation was commenced without analysing the factual situation that arose and without permitting the applicant to be heard during the administrative procedure.

2. Second plea in law, alleging, in the alternative, that the Commission infringed Articles 106 and 107 TFEU and Protocol 26 TFEU since the measures disputed by the decision do not constitute State aid as there is no economic activity; at issue, rather, is the activity of public authorities in their capacity as administrations. Still more subsidiarily, the applicant submits that the contested decision incorrectly concludes that the measures at issue were not related to the provision of a public service of general interest (PSGI) and, consequently, incorrectly assesses the applicability of the *Altmark* case-law and that of Decision PSGI 2005/842/EEC (on the application of 86(2) EC), which could have led to a finding of the absence of aid or of the compatibility of any aid found to have been granted.

3. Third plea in law, alleging that the disputed measures are not likely to distort competition or trade between Member States.

4. Fourth plea in law, alleging that the contested decision manifestly errs in its assessment of the compatibility of the aid under Article 107(3)(c) TFEU: (i) by holding the principle of technological neutrality as an absolute principle; (ii) by holding that the measures at issue infringed technological neutrality despite the conclusions to the contrary set out in the technical reports provided by the regional government, by the Spanish central authorities and by a private operator; (iii) by concluding that the measures at issue were not appropriate or proportionate; and (iv) by stating that the measure creates unnecessary distortions of competition.

5. Fifth plea in law, alleging, in the alternative, that the decision infringes Regulation No 659/1999 insofar as it errs in its assessment of existing aid under Article 1(b)(v).

Action brought on 23 January 2015 — Abertis Telecom Terrestre v Commission

(Case T-37/15)

(2015/C 089/49)

Language of the case: Spanish

Parties

Applicant: Abertis Telecom Terrestre, SA (Barcelona, Spain) (represented by: J. Buendía Sierra, A. Lamadrid de Pablo, A. Balcells Cartagena and M. Bolsa Ferruz, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and, in particular, Article 1 of the decision in so far as it declares the existence of State aid incompatible with the internal market;

— consequently, annul the orders for the recovery of that aid set out in Articles 3 and 4 of the decision;

— order the Commission to pay the costs of these proceedings.

Pleas in law and main arguments

The pleas in law and main supporting arguments are those set out in Case T-36/15, Hispasat v Commission.

Action brought on 23 January 2015 — Telecom Castilla-La Mancha v Commission

(Case T-38/15)

(2015/C 089/50)

Language of the case: Spanish

Parties

Applicant: Telecom Castilla-La Mancha, SA (Toledo, Spain) (represented by: J. Buendía Sierra, A. Lamadrid de Pablo, A. Balcells Cartagena and M. Bolsa Ferruz, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul the contested decision and, in particular, Article 1 thereof, in so far as it declares the existence of State aid which is incompatible with the internal market;

— annul, consequently, the recovery orders contained in Articles 3 and 4 of the contested decision, and

— order the Commission to pay the costs.

Pleas in law and main arguments

The pleas in law and principal arguments are those put forward in Case T-36/15 *HISPASAT* v *Commission*.

Action brought on 27 January 2015 — ASPLA and Armando Álvarez v Court of Justice of the European Union

(Case T-40/15)

(2015/C 089/51)

Language of the case: Spanish

Parties

Applicants: Plásticos Españoles, SA (ASPLA) (Torrelavega, Spain) and Armando Álvarez, SA (Madrid, Spain) (represented by: M. Troncoso Ferrer, C. Ruixó Claramunt and S. Moya Izquierdo, lawyers)

Defendant: Court of Justice of the European Union

Form of order sought

The applicants claim that the General Court should:

— primarily, order the Court of Justice of the European Union to pay compensation in the amount of EUR 3 495 038,66 for the damage caused to the applicants by the General Court's infringement of Article 47, second paragraph, of the Charter of Fundamental Rights of the European Union, to which amount must be added compensatory and default interest applied by the European Central Bank to its main refinancing operations, to which two basis points have been added, from the date the application was lodged;

— consequently order the Court of Justice of the European Union to pay the costs of the proceedings;

— in the alternative, order the European Commission to pay compensation in the amount of EUR 3 495 038,66 for the damage caused to the applicants by the General Court's infringement of Article 47, second paragraph, of the Charter of Fundamental Rights of the European Union, to which amount must be added compensatory and default interest applied by the European Central Bank to its main refinancing operations, to which two basis points have been added, from the date the application was lodged; and

— consequently order the European Commission to pay the costs of these proceedings.

Pleas in law and main arguments

The plaintiffs complain of the Court's delay in giving judgment on the actions brought by them in Cases T-76/06 *ASPLA* v *Commission* and T-78/06 *Armando Álvarez* v *Commission* in which judgment was delivered on 16 December 2011, and, on appeal, on 22 May 2014.

In support of their application, the applicants allege infringement of Article 47, second paragraph, of the Charter of Fundamental Rights of the European Union, which in their opinion is a reaffirmation of the principle of effective judicial protection, a general principle of EU law.

In their view, the existence of conduct contrary to the above provision and, accordingly, the infringement of the principle of effective judicial protection are demonstrated sufficiently clearly by the judgments of the Court in Cases C-58/12 P *Groupe Gascogne* v *Commission* and C-50/12 P *Kendrion NV* v *Commission*. It should be noted in that regard that both companies were subject to the same decision imposing penalties as Kendrion and Groupe Gascogne. Like both those companies, they brought an action against the decision imposing penalties and, in proceedings before the General Court which are very similar, if not virtually identical, to those in respect of which the Court of Justice gave judgment in the two cases cited above, were faced with a failure on the part of the General Court to observe a reasonable time for adjudication.

Action brought on 28 January 2015 — CRM v Commission

(Case T-43/15)

(2015/C 089/52)

Language of the case: Italian

Parties

Applicant: CRM Srl (Modena, Italy) (represented by: G. Forte, C. Marinuzzi and A. Franchi, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Implementing Regulation (EU) No 1174/2014 of 24 October 2014 entering a name in the register of protected designations of origin and protected geographical indications (Piadina Romagnola/Piada Romagnola (PGI)), published in the Official Journal of the European Union of 4 November 2014 (Volume L 316);

— order the Commission to pay the costs.

Pleas in law and main arguments

The present action is brought against the registration of the protected geographical indication 'Piadina Romagnola/Piada Romagnola' with regard to the fact that the reputation enjoyed by handcrafted Piadina has been extended to cover Piadina produced on an industrial scale.

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

1. First plea in law, alleging infringement and incorrect application of Article 7(1)(f)(ii) and Article 8(1)(c)(ii) of Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ 2012 L 343, p. 1).

   — The applicant claims, in that regard, that there is no evidence in the case which justifies the link to the geographical origin, and

   — that the reputation enjoyed by handcrafted Piadina has been extended to cover Piadina produced on an industrial scale.

2. Second plea in law, alleging a manifest error of assessment and a failure to conduct a proper preliminary investigation.

   — In that regard, the applicant argues that there has been a manifest error of assessment of the application for registration with regard to compliance with the requirements for publishing the application for registration of a geographical indication in relation to Piadina Romagnola, and

   — that there has been a failure to conduct a proper preliminary investigation, owing to a failure to assess the annulment, by the judicial authorities of a Member State, of the national rules on which the contested regulation is based.

   — The applicant also alleges infringement of the principle of sound administration.

3. Third plea in law, alleging infringement of Articles 6 and 13 of the European Convention on Human Rights and of Article 47 of the Charter of Fundamental Rights of the European Union, on the ground of breach of the right to effective judicial protection.

Order of the General Court of 27 January 2015 — Hamas v Council

(Case T-702/14) ([1])

(2015/C 089/53)

Language of the case: French

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

([1]) OJ C 395, 10.11.2014.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Judgment of the Civil Service Tribunal (Second Chamber) of 22 January 2015 — Kakol v Commission

(Joined Cases F-1/14 and F-48/14) ([1])

(Civil Service — Competition — Open competition EPSO/AD/177/10 — Conditions for eligibility — Not admitted to the competition — Failure to state reasons — Admitted to an earlier similar competition — Specific duty to state reasons — Action for annulment — Action for compensation)

(2015/C 089/54)

Language of the case: French

Parties

Applicant: Danuta Kakol (Luxembourg, Luxembourg) (represented initially by: F. Frabetti, lawyer, and subsequently by: R. Duta, lawyer)

Defendant: European Commission (represented by: J. Currall and G. Gattinara, acting as Agents)

Re:

F-1/14: Application for annulment of the decision of EPSO not to admit the applicant to the assessment stage because of her level of education which does not correspond to completed university studies of at least three years attested to by a diploma relevant to the post, or equivalent training/an equivalent professional qualification relevant to the post.

F-48/14: Application for annulment, firstly, of the decision of 14 February 2014 by which the selection board in selection procedure EU Careers EPSO/AD/177/10-AUDIT2013-Administrators-AD 5 confirmed, after re-examination, the initial decision of the selection board of 3 October 2013 not to admit the applicant to the assessment centre stage of the competition because her level of education did not correspond to a full cycle of university studies equivalent to at least three years, as evidenced by a diploma related to the nature of the duties, or professional training/qualification related to the nature of the duties and of an equivalent level and, secondly, insofar as necessary, of the initial decision of the selection board of 3 October 2013.

Operative part of the judgment

The Tribunal:

1. *Removes Case F-1/14 from the Register of the Tribunal;*

2. *Annuls the decision of 14 February 2014 of the selection board in competition EPSO/AD/177/10 not to admit Ms Kakol to that competition;*

3. *Dismisses the remainder of the action in Case F-48/14;*

4. *Orders the European Commission, in Case F-1/14, to pay the costs incurred by Ms Kakol and to bear its own costs;*

5. *Orders the European Commission, in Case F-48/14, to bear its own costs and to pay the costs incurred by Ms Kakol.*

([1]) OJ C 52, 22.2.2014, p. 54, and OJ C 235, 21.7.2015, p. 35.

Action brought on 17 December 2014 — ZZ v Parliament

(Case F-139/14)

(2015/C 089/55)

Language of the case: French

Parties

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

Defendant: European Parliament

Subject-matter and description of the proceedings

Annulment of the decision not to carry over to 2013 days of leave not taken by the applicant in 2012 due to illness and the claim for damages in respect of material and non-pecuniary harm allegedly suffered

Form of order sought

The applicant claims that the Tribunal should:

— Annul the decisions of 12 February 2014 and of 15 September 2014, and,

— Annul, as appropriate, the pension statement for April 2013;

— Order the Parliament to compensate the applicant for the harm evaluated at EUR 26 677,56;

— Order the Parliament to pay the costs.

Action brought on 24 December 2014 — ZZ v Commission

(Case F-141/14)

(2015/C 089/56)

Language of the case: French

Parties

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

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the decision rejecting the claim for damages brought by the applicant, who was the victim of a serious accident due to an administrative fault committed by the Commission, responsible for his medical file, and the claim for damages for the material and non-material damage allegedly suffered.

Form of order sought

— Order the defendant to pay compensation for the applicant's material and non-material damage;

— in so far as it is necessary, annul the decision of 24 February 2014 rejecting his claim for damages of 15 November 2013;

— in so far as it is necessary, annul the decision of 23 September 2014 rejecting his claim of 23 May 2014, supplemented by his note of 17 June 2014;

— order the defendant to pay all the costs.

Action brought on 21 January 2015 — ZZ and Others v Commission

(Case F-7/15)

(2015/C 089/57)

Language of the case: French

Parties

Applicants: ZZ and Others (represented by: L. Levi and A. Blot, lawyers)

Defendant: European Commission

Subject-matter and description of the proceedings

The annulment of decisions establishing the rights of the applicants with regard to reimbursement of their annual travel expenses pursuant to Article 8 of Annex VII to the Staff Regulations, as amended by Regulation No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union as well as the decisions to be adopted annually from 2015 and the rejection of an application for an order that the Commission reimburse their actual expenses in respect of annual travel to their place of origin, calculated on the basis of the aforementioned provision, as applied prior to the entry into force of the amended Staff Regulations in 2014.

Forms of order sought

The applicant claims that the Tribunal should:

— Annul the decisions establishing the rights of the applicants with regard to their annual travel under Article 8 of Annex VII to the EU Staff Regulations, as in force from 1 January 2015, since that decision was disclosed for the first time in their pay slips for June 2014, issued on 12 June 2014;

— Annul any other decision to be adopted annually, from 2015, under that provision;

— Annul, as appropriate, the decision of 15 October 2014 rejecting their claim;

— Order the defendant to reimburse the applicants' expenses in respect of their annual travel to their place of origin covering their actual expenses and on the basis of the aforementioned provision, as applied prior to the entry into force of the new Staff Regulations in 2014, that amount being increased by default interest as from 12 June 2014, at the rate set by the European Central Bank for its main refinancing operations as applicable during the period in question, increased by three percentage points, until the day of payment of the sum so due;

— Order the defendant to pay the entire costs.

Action brought on 23 January 2015 — ZZ and ZZ v Commission

(Case F-8/15)

(2015/C 089/58)

Language of the case: French

Parties

Applicants: ZZ and ZZ (represented by: J.-N. Louis, R. Metz, N. de Montigny, D. Verbeke and T. Van Lysebeth, lawyers)

Defendant: Commission

Subject-matter and description of the proceedings

Annulment of the decisions determining the applicants' rights to reimbursement of annual travel expenses pursuant to Article 8 of Annex VII 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.

Form of order sought

— Annul the applicants' salary statement for the month of June 2014 in so far as they apply, for the first time, Article 8 of Annex VII to the Staff Regulations, in the version in force since 1 January 2014, in order to determine the reimbursement of their travel expenses;

— to the extent necessary, annul the standard decisions dated 15 October 2014 rejecting their claim;

— order the defendant to pay the costs.

Action brought on 23 January 2015 — ZZ and Others v Commission

(Case F-10/15)

(2015/C 089/59)

Language of the case: French

Parties

Applicants: ZZ and Others (represented by: J.-N. Louis, R. Metz, N. de Montigny, D. Verbeke and T. Van Lysebeth, lawyers)

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of decisions establishing the rights of the applicants with regard to reimbursement of their annual travel expenses pursuant to Article 8 of Annex VII to the Staff Regulations, as amended by Regulation No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union.

Form of order sought

The applicant claims that the Tribunal should:

— Annul the applicants' pay slips for June 2014 in so far as they apply, for the first time, the version of Article 8 of Annex VII to the Staff Regulations in force since 1 January 2014 for the purposes of determining the reimbursement of their travel expenses;

— Annul, if necessary, the standard decisions of 15 October 2014 rejecting their claim;

— order the defendant to pay the costs.

Action brought on 26 January 2015 — ZZ v Commission

(Case F-11/15)

(2015/C 089/60)

Language of the case: French

Parties

Applicant: ZZ (represented by: S. Orlandi and T. Martin, lawyers)

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the decisions determining the applicant's rights to reimbursement of annual travel expenses under Article 8 of Annex VII to the Staff Regulations, as amended by Regulation 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 CEOS.

Form of order sought

— Declare illegal and inapplicable Article 8 of Annex VII to the Staff Regulations;

— annul the decisions cancelling all reimbursement of the applicant's annual travel expenses as of 2014 onwards;

— order the Commission to pay the costs.

Action brought on 26 January 2015 — ZZ v Commission

(Case F-12/15)

(2015/C 089/61)

Language of the case: French

Parties

Applicant: ZZ (represented by: J.-N. Louis, R. Metz, N. de Montigny, D. Verbeke and T. Van Lysebeth, lawyers)

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the decision determining the applicant's rights to reimbursement of annual travel expenses pursuant to Article 8 of Annex VII 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.

Form of order sought

— Annul the applicant's salary statement for the month of June 2014 in so far as it applies, for the first time, Article 8 of Annex VII to the Staff Regulations, in the version in force since 1 January 2014, in order to determine the reimbursement of his travel expenses;

— to the extent necessary, annul the standard decision dated 15 October 2014 rejecting his claim;

— order the Commission to pay the costs.

Action brought on 26 January 2015 — ZZ and Others v Commission

(Case F-13/15)

(2015/C 089/62)

Language of the case: French

Parties

Applicants: ZZ and Others (represented by: J.-N. Louis, R. Metz, N. de Montigny, D. Verbeke and T. Van Lysebeth, lawyers)

Defendant: Commission

Subject-matter and description of the proceedings

Annulment of the decisions determining the applicants' rights to reimbursement of annual travel expenses under Article 8 of Annex VII to the Staff Regulations, as amended by Regulation 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 CEOS.

Form of order sought

— Declare illegal and inapplicable Article 8 of Annex VII to the Staff Regulations;

— annul the decisions cancelling all reimbursement of the applicants' annual travel expenses as of 2014 onwards;

— order the Commission to pay the costs.

Action brought on 26 January 2015 — ZZ and Others v Commission

(Case F-14/15)

(2015/C 089/63)

Language of the case: French

Parties

Applicants: ZZ and Others (represented by: S. Orlandi and T. Martin, lawyers)

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the decisions determining the applicants' rights to reimbursement of annual travel expenses pursuant to Article 8 of Annex VII 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.

Form of order sought

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

— annul the decisions determining the amount of the reimbursement of annual travel expenses granted to the applicants for 2014;

— order the Commission to pay the costs.

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