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(2015/C 118/01)

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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (First Chamber) of 12 February 2015 (request for a preliminary ruling from the Arbeidshof te Antwerpen — Belgium) — Theodora Hendrika Bouman v Rijksdienst voor Pensioenen

(Case C-114/13) [1]

(Reference for a preliminary ruling — Social security — Regulation (EEC) No 1408/71 — Old age and survivors' insurance — Article 46a(3)(c) — Award of benefits — National rules against overlapping — Derogation — Concept of 'voluntary insurance or continued optional insurance' — National pension under a compulsory insurance scheme — Possibility of requesting an exemption from affiliation for a certain period — Scope of the statement issued by the competent institution of another Member State — Regulation (EEC) No 574/72 — Article 47)

(2015/C 118/02)

Language of the case: Dutch

Referring court

Arbeidshof te Antwerpen

Parties to the main proceedings

Appellant: Theodora Hendrika Bouman

Respondent: Rijksdienst voor Pensioenen

Operative part of the judgment

Article 46a(3)(c) of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, as amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996, as amended by Regulation (EC) No 1992/2006 of the European Parliament and of the Council of 18 December 2006, must be interpreted as encompassing the part of the benefit resulting from a period of insurance during which the person concerned had the right to obtain an exemption from affiliation to the compulsory insurance scheme, in a situation where such affiliation, during the period in question, affects the extent of the social security benefit.

[1] OJ C 147, 25.5.2013.

Judgment of the Court (Fifth Chamber) of 12 February 2015 (request for a preliminary ruling from the First-tier Tribunal (Tax Chamber) — United Kingdom) — Raytek GmbH, Fluke Europe BV v Commissioners for Her Majesty's Revenue and Customs

(Case C-134/13) ([1])

(Reference for a preliminary ruling — Common Customs Tariff — Tariff classification — Combined Nomenclature — Infrared thermal imagers)

(2015/C 118/03)

Language of the case: English

Referring court

First-tier Tribunal (Tax Chamber)

Parties to the main proceedings

Applicants: Raytek GmbH, Fluke Europe BV

Defendant: Commissioners for Her Majesty's Revenue and Customs

Operative part of the judgment

Examination of the question referred has not revealed any factor capable of affecting the validity of Commission Regulation (EU) No 314/2011 of 30 March 2011 concerning the classification of certain goods in the Combined Nomenclature.

([1]) OJ C 141, 18.5.2013.

Judgment of the Court (Seventh Chamber) of 12 February 2015 — European Commission v IPK International — World Tourism Marketing Consultants GmbH

(Case C-336/13 P) ([1])

(Appeals — Commission decision ordering the repayment of financial assistance — Compliance with a judgment of the General Court of the European Union — Distinction between default interest and compensatory interest — Calculation of interest)

(2015/C 118/04)

Language of the case: German

Parties

Appellant: European Commission (represented by: F. Dintilhac, G. Wilms and G. Zavvos, acting as Agents)

Other party to the proceedings: IPK International — World Tourism Marketing Consultants GmbH (represented by: C. Pitschas, Rechtsanwalt)

Operative part of the judgment

The Court:

1) *Sets aside the judgment of the General Court of the European Union in IPK International v Commission (T-671/11, EU:T:2013:163) to the extent that it orders the default interest payable by the European Commission to IPK International — World Marketing Consultants GmbH to be fixed on the basis of the amount of the principal debt, plus the interest that has already accrued;*

2) *Dismisses the appeal as to the remainder;*

3) *Orders that the default interest payable by the European Commission to IPK International — World Marketing Consultants GmbH be calculated solely on the basis of the amount of the principal debt;*

4) *Orders the European Commission and IPK International — World Marketing Consultants GmbH to bear their own costs in relation to the present proceedings.*

(1) OJ C 260, 7.9.2013.

Judgment of the Court (Second Chamber) of 11 February 2015 (request for a preliminary ruling from the cour d'appel de Bruxelles — Belgium) — bpost SA v Institut belge des services postaux et des télécommunications (IBPT)

(Case C-340/13) (1)

(Reference for a preliminary ruling — Postal services — Directive 97/67/EC — Article 12 — Universal service provider — Quantitative discounts — Application to intermediaries who consolidate postal items — Requirement of non-discrimination)

(2015/C 118/05)

Language of the case: French

Referring court

Cour d'appel de Bruxelles

Parties to the main proceedings

Applicant: bpost SA

Defendant: Institut belge des services postaux et des télécommunications (IBPT)

Operative part of the judgment

The principle of non-discrimination in postal tariffs laid down in Article 12 of Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service, as amended by Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008, must be interpreted as not precluding a system of quantitative discounts per sender, such as that at issue in the main proceedings.

(1) OJ C 233, 10.8.2013.

Judgment of the Court (Tenth Chamber) of 12 February 2015 (request for a preliminary ruling from the Naczelny Sąd Administracyjny — Poland) — Minister Finansów v Oil Trading Poland sp. z o.o.

(Case C-349/13) (1)

(Reference for a preliminary ruling — Excise duties — Directives 92/12/EEC and 2008/118/EC — Scope — Mineral oils and energy products — Lubricating oils intended for use other than as motor or heating fuel — Exclusion — Excise duty levied on the consumption of energy products, imposed by a Member State in accordance with the rules of the harmonised tax system — Notion of 'formalities connected with the crossing of frontiers' — Article 110 TFEU — Deadline for payment shorter in certain cases for intracommunity purchases than for products acquired on the national market)

(2015/C 118/06)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Applicant: Minister Finansów

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

Operative part of the judgment

Article 3(3) of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products and Article 1(3) of Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12 must be interpreted as not precluding products not falling within the scope of those directives, such as lubricating oils intended for use other than as motor or heating fuel, being subject to a tax governed by rules identical to those of the harmonised tax system covered by those directives, since the fact of making those products subject to that tax does not entail any formalities connected with the crossing of frontiers in the context of trade between Member States.

([1]) OJ C 274, 21.9.2013.

Judgment of the Court (Fifth Chamber) of 12 February 2015 (request for a preliminary ruling from the Rechtbank Oost-Brabant, zittingsplaats 's-Hertogenbosch — Netherlands) — Criminal proceedings against N.F. Gielen, M.M.J. Geerings, F.A.C. Pruijmboom, A.A. Pruijmboom,

(Case C-369/13) ([1])

(Reference for a preliminary ruling — Drug precursors — Monitoring of trade between the Member States — Regulation (EC) No 273/2004 — Monitoring of trade between the European Union and third countries — Regulation (EC) No 111/2005 — Concept of 'scheduled substance' — Substance 'alpha-phenylacetoacetonitrile' (APAAN) — Scheduled substance '1-phenyl-2-propanone' (BMK))

(2015/C 118/07)

Language of the case: Dutch

Referring court

Rechtbank Oost-Brabant, zittingsplaats 's-Hertogenbosch

Parties in the main criminal proceedings

N.F. Gielen, M.M.J. Geerings, F.A.C. Pruijmboom, A.A. Pruijmboom,

Operative part of the judgment

Article 2(a) of Regulation (EC) No 273/2004 of the European Parliament and of the Council of 11 February 2004 on drug precursors and Article 2(a) of Council Regulation (EC) No 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between the Community and third countries in drug precursors must be interpreted as meaning that the classification of 'scheduled substance', within the meaning of those provisions, does not apply to a substance, such as alpha-phenylacetoacetonitrile, which is not referred to in Annex I to Regulation No 273/2004 or the Annex to Regulation No 111/2005, even if it may, by readily applicable or economically viable means, within the meaning of those regulations, easily be converted into a substance referred to in those annexes.

([1]) OJ C 260, 7.9.2013.

Judgment of the Court (First Chamber) of 12 February 2015 (request for a preliminary ruling from the Satakunnan käräjäoikeus — Finland) — Sähköalojen ammattiliitto ry v Elektrobudowa Spółka Akcyjna

(Case C-396/13) ([1])

(Reference for a preliminary ruling — Articles 56 TFEU and 57 TFEU — Directive 96/71/EC — Articles 3, 5 and 6 — Workers of a company with its seat in Member State A, posted to carry out works in Member State B — Minimum wage provided for by the collective agreements of Member State B — Locus standi of a trade union with its seat in Member State B — Legislation of Member State A prohibiting the assignment to a third party of claims relating to pay)

(2015/C 118/08)

Language of the case: Finnish

Referring court

Satakunnan käräjäoikeus

Parties to the main proceedings

Applicant: Sähköalojen ammattiliitto ry

Defendant: Elektrobudowa Spółka Akcyjna

Operative part of the judgment

1. *In circumstances such as those of the case before the referring court, Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, read in the light of Article 47 of the Charter of Fundamental Rights of the European Union, prevents a rule of the Member State of the seat of the undertaking that has posted workers to the territory of another Member State — under which the assignment of claims arising from employment relationships is prohibited — from barring a trade union, such as the Sähköalojen ammattiliitto, from bringing an action before a court of the second Member State, in which the work is performed, in order to recover for the posted workers, pay claims which relate to the minimum wage, within the meaning of Directive 96/71, and which have been assigned to it, that assignment being in conformity with the law in force in the second Member State.*

2. *Article 3(1) and (7) of Directive 96/71, read in the light of Articles 56 TFEU and 57 TFEU, must be interpreted as meaning that:*

   — *it does not preclude a calculation of the minimum wage for hourly work and/or for piecework which is based on the categorisation of employees into pay groups, as provided for by the relevant collective agreements of the host Member State, provided that that calculation and categorisation are carried out in accordance with rules that are binding and transparent, a matter which it is for the national court to verify;*

   — *a daily allowance such as that at issue in the main proceedings must be regarded as part of the minimum wage on the same conditions as those governing the inclusion of the allowance in the minimum wage paid to local workers when they are posted within the Member State concerned;*

   — *compensation for daily travelling time, which is paid to the workers on condition that their daily journey to and from their place of work is of more than one hour's duration, must be regarded as part of the minimum wage of posted workers, provided that that condition is fulfilled, a matter which it is for the national court to verify;*

   — *coverage of the cost of those workers' accommodation is not to be regarded as an element of their minimum wage;*

— *an allowance taking the form of meal vouchers provided to the posted workers is not to be regarded as part of the latter's minimum salary; and*

— *the pay which the posted workers must receive for the minimum paid annual holidays corresponds to the minimum wage to which those workers are entitled during the reference period.*

([1]) OJ C 260, 7.9.2013.

Judgment of the Court (Second Chamber) of 11 February 2015 (request for a preliminary ruling from the Verwaltungsgerichtshof — Austria) — Marktgemeinde Straßwalchen and Others v Bundesminister für Wirtschaft, Familie und Jugend

(Case C-531/13) ([1])

(Environment — Directive 85/337/EEC — Assessment of the impact of certain public and private projects on the environment — Projects in respect of which an assessment must or must not be carried out — Exploratory drilling operations — Point 14 of Annex I — Notion of 'extraction of oil and natural gas for commercial purposes' — Obligation to carry out an assessment where a certain quantity of gas is extracted — Point 2(d) of Annex II — Notion of 'deep drilling' — Point 1 of Annex III — Notion of 'cumulation with other projects')

(2015/C 118/09)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicants: Marktgemeinde Straßwalchen, Heinrich Kornhuber, Helga Kornhuber, Karoline Pöckl, Heinze Kornhuber, Marianne Kornhuber, Wolfgang Kornhuber, Andrea Kornhuber, Alois Herzog, Elfriede Herzog, Katrin Herzog, Stefan Asen, Helmut Zopf, Ingrid Zopf, Silvia Zopf, Daniel Zopf, Maria Zopf, Anton Zopf sen., Paula Loibichler, Theresa Baumann, Josep Schindlauer, Christine Schindlauer, Barbara Schindlauer, Bernhard Schindlauer, Alois Mayrhofer, Daniel Mayrhofer, Georg Rindberger, Maria Rindlberger, Georg Rindlberger sen., Max Herzog, Romana Herzog, Michael Herzog, Markus Herzog, Marianne Herzog, Max Herzog sen., Helmut Lettner, Maria Lettner, Anita Lettner, Alois Lettner sen., Christian Lettner, Sandra Lettner, Anton Nagelseder, Amalie Nagelseder, Josef Nagelseder, Gabriele Schachinger, Thomas Schachinger, Andreas Schinagl, Michaela Schinagl, Lukas Schinagl, Michael Schinagl, Maria Schinagl, Josef Schinagl, Johannn Mayr, Christine Mayr, Martin Mayr, Christian Mayr, Johann Mayr sen., Gerhard Herzog, Anton Mayrhofer, Siegfried Zieher

Defendant: Bundesminister für Wirtschaft, Familie und Jugend

Appearing before the Court: Rohöl-Aufsuchungs AG

Operative part of the judgment

1) *Point 14 of Annex I to Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009, must be interpreted as meaning that an exploratory drilling operation, such as that at issue in the main proceedings, in which an attempt to extract petroleum and natural gas is to be made to ascertain whether a reservoir is commercially viable is not covered by that provision;*

2) *Article 4(2) of Directive 85/337, as amended by Directive 2009/31, read in conjunction with point 2(d) of Annex II to that directive, must be interpreted as meaning that the obligation to carry out an environmental impact assessment in respect of deep drilling, such as the exploratory drilling operation at issue in the main proceedings, may follow from that provision. The competent qnational authorities must therefore examine in particular whether, having regard to the criteria set out in Annex III to Directive 85/337, as amended by Directive 2009/31, an environmental impact assessment must be carried out. In that context, it is appropriate in particular to examine whether the effects on the environment of exploratory drilling operations could, because of the effects of other projects, be greater than where there were no other such projects. That assessment cannot be limited by municipal boundaries.*

([1]) OJ C 15, 18.1.2014.

Judgment of the Court (Third Chamber) of 12 February 2015 (request for a preliminary ruling from the Court of Appeal — United Kingdom) — Merck Canada Inc., Merck Sharp & Dohme Ltd v Sigma Pharmaceuticals plc

(Case C-539/13) ([1])

(Reference for a preliminary ruling — 2003 Act of Accession to the European Union — Annex IV — Chapter 2 — Specific Mechanism — Importation of a patented pharmaceutical product — Prior notification requirement)

(2015/C 118/10)

Language of the case: English

Referring court

Court of Appeal

Parties to the main proceedings

Applicants: Merck Canada Inc., Merck Sharp & Dohme Ltd

Defendant: Sigma Pharmaceuticals plc

Operative part of the judgment

1) *The second paragraph of the Specific Mechanism provided for in Chapter 2 of Annex IV to the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded must be interpreted as not requiring the holder, or beneficiary, of a patent or supplementary protection certificate to give notification of his intention to oppose a proposed importation before invoking his rights under the first paragraph of that mechanism. However, if such a holder or beneficiary does not indicate such an intention during the one-month waiting period laid down in the second paragraph of the mechanism, the person proposing to import the pharmaceutical product in question may legitimately apply to the competent authorities for authorisation to import the product and, where appropriate, import and market it. The Specific Mechanism thus denies that holder or his beneficiary the possibility of relying on his rights under the first paragraph of the mechanism with regard to any importation and marketing of the pharmaceutical product carried out before such an intention was indicated.*

2) *The second paragraph of the Specific Mechanism must be interpreted as meaning that the notification must be given to the holder, or beneficiary, of the patent or the supplementary protection certificate, the latter term designating any person enjoying the rights conferred by law on the holder of the patent or the supplementary protection certificate.*

3) *The second paragraph of the Specific Mechanism is to be interpreted as not requiring the person intending to import or market the pharmaceutical product in question to give notification himself, provided that it is possible from the notification to identify that person clearly.*

([1]) OJ C 9, 11.1.2014.

Judgment of the Court (Third Chamber) of 12 February 2015 (request for a preliminary ruling from the Fővárosi Törvényszék — Hungary) — Nóra Baczó, János István Vizsnyiczai v Raiffeisen Bank Zrt

(Case C-567/13) ([1])

(Reference for a preliminary ruling — Consumer protection — Directive 93/13/EEC — Article 7 — Mortgage loan agreement — Arbitration clause — Unfairness — Action by consumer — National procedural rule — Lack of jurisdiction of the court hearing the action by a consumer for a declaration of invalidity of a standard contract to hear the application for a declaration of unfairness of terms in the same contract)

(2015/C 118/11)

Language of the case: Hungarian

Referring court

Fővárosi Törvényszék

Parties to the main proceedings

Applicants: Nóra Baczó, János István Vizsnyiczai

Defendant: Raiffeisen Bank Zrt

Operative part of the judgment

Article 7(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts must be interpreted as meaning that it does not preclude a national procedural rule pursuant to which a local court which has jurisdiction to rule on an action brought by a consumer seeking a declaration of invalidity of a standard contract does not have jurisdiction to hear an application by the consumer for a declaration of unfairness of contract terms in the same contract, unless declining jurisdiction by the local court gives rise to procedural difficulties that would make the exercise of the rights conferred on consumers by the European Union legal order excessively difficult. It is for the national court to carry out the necessary verifications in that respect.

([1]) OJ C 71, 8.3.2014.

Judgment of the Court (Ninth Chamber) of 12 February 2015 (request for a preliminary ruling from the Supremo Tribunal Administrativo — Portugal) — Surgicare — Unidades de Saúde SA v Fazenda Pública

(Case C-662/13) ([1])

(Reference for a preliminary ruling — VAT — Directive 2006/112/EC — Deduction of input tax — Transactions constituting an abusive practice — National tax law — Special national procedure where the existence of abusive practices is suspected in the field of taxation — Principles of effectiveness and equivalence)

(2015/C 118/12)

Language of the case: Portuguese

Referring court

Supremo Tribunal Administrativo

Parties to the main proceedings

Applicant: Surgicare — Unidades de Saúde SA

Defendant: Fazenda Pública

Operative part of the judgment

Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that it does not preclude the mandatory preliminary application of a national administrative procedure, such as that laid down by Article 63 of the Code of Taxation Procedure and Proceedings (Código de Procedimento e de Processo Tributário), in the event that the revenue authorities suspect the existence of an abusive practice.

([1]) OJ C 78, 15.3.2014.

Judgment of the Court (Eighth Chamber) of 12 February 2015 — European Commission v French Republic

(Case C-37/14) ([1])

(Failure of a Member State to fulfil obligations — State aid — 'Contingency plans' — Fruit and vegetable sector — Unlawful aid incompatible with the internal market — Recovery — Failure to act)

(2015/C 118/13)

Language of the case: French

Parties

Applicant: European Commission (represented by: J.-F. Brakeland and B. Stromsky, acting as Agents)

Defendant: French Republic (represented by: J. Bousin, G. de Bergues and D. Colas, acting as Agents)

Operative part of the judgment

The Court:

1) *Declares that, by having failed to adopt, within the period prescribed, all the measures necessary to recover from the beneficiaries of the State aid declared unlawful and incompatible with the internal market in Article 1 of Commission Decision 2009/402/EC of 28 January 2009 on the contingency plans in the fruit and vegetable sector implemented by France (C 29/05 (ex NN 57/05)) and by having failed to provide the European Commission, within the period prescribed, with the information listed in Article 4 of that decision, the French Republic has failed to fulfil its obligations under the fourth paragraph of Article 288 TFEU and Articles 2 to 4 of that decision;*

2) *Orders the French Republic to pay the costs.*

([1]) OJ C 102, 7.4.2014.

Judgment of the Court (Second Chamber) of 12 February 2015 — European Parliament v Council of the European Union

(Case C-48/14) ([1])

(Action for annulment — Directive 2013/51/Euratom — Choice of legal basis — EAEC Treaty — Articles 31 EA and 32 EA — FEU Treaty — Article 192(1) TFEU — Protecting human health — Radioactive substances in water intended for human consumption — Legal certainty — Sincere cooperation among the institutions)

(2015/C 118/14)

Language of the case: French

Parties

Applicant: European Parliament (represented by: L. Visaggio and J. Rodrigues, acting as Agents)

Defendant: Council of the European Union (represented by: O. Segnana and R. Liudvinaviciute-Cordeiro, acting as Agents)

Interveners in support of the defendant: Czech Republic (represented by: M. Smolek and E. Ruffer, acting as Agents), French Republic (represented by: G. de Bergues and D. Colas and by N. Rouam, acting as Agents), European Commission (represented by: P. Van Nuffel and M. Patakia, acting as Agents)

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders the European Parliament to pay the costs;*

3) *Orders the Czech Republic, the French Republic and the Commission to bear their own costs.*

([1]) OJ C 102, 7.4.2014.

Appeal brought on 29 August 2014 by Romano Pisciotti against the order of the General Court (Second Chamber) delivered on 2 July 2014 in Case T-403/14 Pisciotti v Commission

(Case C-411/14 P)

(2015/C 118/15)

Language of the case: Italian

Parties

Appellant: Romano Pisciotti (represented by: M. Maresca, avvocato)

Other party to the proceedings: European Commission

By order of 28 January 2015, the Court (Second Chamber) dismissed the appeal and ordered Mr Romano Pisciotti to bear his own costs.

Appeal brought on 25 November 2014 by Debonair Trading Internacional Ld[a] against the judgment of the General Court (Third Chamber) delivered on 23 September 2014 in Case T-341/13: Groupe Léa Nature SA v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-537/14 P)

(2015/C 118/16)

Language of the case: English

Parties

Appellant: Debonair Trading Internacional Ld[a] (represented by: D. Selden, advocate, T. Alkin, barrister)

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

Form of order sought

The appellant claims that the Court should:

— Set aside the decision annulling the decision of the Bord of Appeal;

— Remit the case to the General Court for further consideration with a direction that the marks in issue are similar;

— Order the Respondent to pay the costs both of the proceedings before the General Court and those before the Court of Justice.

Pleas in law and main arguments

1. The Appellant relies on two pleas in law, namely infringement of Articles 8(1)(b) and 8(5) CTMR ([1]). In summary the appellant submits that the General Court failed to apply settled case law in its analysis of the marks in issue with the result that it wrongly concluded that the marks are entirely dissimilar.

2. First, having found the marks phonetically similar by virtue of the common element 'so', the General Court should have concluded that they were similar overall, at least to that extent. Its conclusion that they were dissimilar, despite the common phonetic element, was the result of a failure to apply settled case law on the nature and degree of similarity required for the application of Article 8(1)(b)/8(5).

3. Secondly, having held the marks to be phonetically similar, the General Court should have concluded that they were also visually similar, for essentially similar reasons (and therefore *a fortiori* similar within the meaning of Article 8(1)(b)/8(5)). Its conclusion that they were visually dissimilar, despite the common visual element 'so', was the result of a failure to apply settled case law when analyzing the visual impact of the 'so' element within the marks.

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

Request for a preliminary ruling from the Okresný súd Prešov (Slovakia) lodged on 29 December 2014 — Helena Kolcunová v Provident Financial s. r. o.

(Case C-610/14)

(2015/C 118/17)

Language of the case: Slovak

Referring court

Okresný súd Prešov

Parties to the main proceedings

Applicant: Helena Kolcunová

Defendant: Provident Financial s. r. o.

Questions referred

1. Must Council Directive 93/13/EEC ([1]) of 5 April 1993 on unfair terms in consumer contracts ('Directive 93/13') be interpreted as meaning that a service of ensuring the repayment of a consumer credit, the object of which is the cash acceptance of repayment instalments of the credit made by the consumer, constitutes the main subject-matter of performance in the case of a consumer credit or is it rather the main subject-matter of a specific contract?

2. Must Council Directive 87/102/EEC ([2]) of 22 December 1986 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit, as amended and supplemented by Directive 98/7/EC ([3]) of the European Parliament and of the Council of 16 February 1998, be interpreted as meaning that the APR includes also a payment for cash acceptance of repayment instalments of the credit, or part of it, if the payment substantially exceeds the unavoidable costs of that ancillary service, and must Article 14 of that directive be interpreted as meaning that it is a circumvention of the concept of APR if the payment for an ancillary service substantially exceeds the costs of the ancillary service and the payment is not included in the APR?

3. Must Directive 93/13 be interpreted as meaning that it suffices, to satisfy the requirement of transparency of an ancillary service (assuming that it is an ancillary service and not the price or the payment for that credit) for which an administrative charge is paid, that the price of that administrative service (the administrative charge) is plain and intelligible, even if the object of performance of that administrative service is not defined?

4. Must Article 4(1) of Directive 93/13 be interpreted as meaning that the mere fact that an administrative charge is included in the calculation of the APR signifies that this constitutes the price or payment of the credit and therefore precludes the court from exercising a power of review of such an administrative charge for the purposes of that directive?

5. If the answer to Question 3 is that the object of the administrative service for which an administrative charge is to be paid is sufficiently transparent, in such a case does the administrative service, with all administrative work and functions coming into consideration, constitute the main subject-matter of the consumer credit?

6. Must Article 4(2) of Directive 93/13 be interpreted as meaning that, for the purposes of that directive, the payment or price of the credit covers not only the interest but also the creditor's charges (whether agreed to in the contract, in the general terms of sale or as part of the fees) and that no review can therefore be carried out of the proportionality of those charges in relation to the service provided for in return, because those charges constitute the payment or price of the credit?

([1]) OJ 1993 L 95, p. 29.
([2]) OJ 1987 L 42, p. 48.
([3]) OJ 1998 L 101, p. 17.

Application for authorisation to serve an attachment order brought on 9 February 2015 — ANKO AE Antiprosopeion, Emporiou kai Viomichanias v European Commission

(Case C-2/15 SA)

(2015/C 118/18)

Language of the case: Greek

Parties

Applicant: ANKO AE Antiprosopeion, Emporiou kai Viomichanias (represented by: V. Christianos, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— authorise ANKO AE Antiprosopeion, Emporiou kai Viomichanias to effect the attachment of assets of the Commission in Greece, in order to achieve satisfaction of the claim for the amount of EUR 6 752,74, together with interest on late payment calculated from 12.8.2010 until its full and complete payment, at an interest rate of 1 % per annum;

— order the Commission to pay the costs.

Request for a preliminary ruling from the Amtsgericht Hannover (Germany) lodged on 8 January 2015 — Alexandra Stück v Swiss International Air Lines AG

(Case C-3/15)

(2015/C 118/19)

Language of the case: German

Referring court

Amtsgericht Hannover

Parties to the main proceedings

Applicant: Alexandra Stück

Defendant: Swiss International Air Lines AG

Question referred

Is the Agreement on air transport between the Swiss Confederation and the European Community ([1]) of 21 June 1999, as amended by Decision No 2/2010 of the Community/Switzerland Air Transport Committee ([2]) of 26 November 2010, to be interpreted as meaning that 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 ([3]) ['the Air Passenger Rights Regulation'] is applicable, in accordance with Article 3(1)(b), also to passengers departing from an airport located in a third country to an airport in Switzerland with a Swiss air carrier?

([1]) OJ 2002 L 114, p. 73.

([2]) Decision No 2/2010 of the Joint Community/Switzerland Air Transport Committee set up under the Agreement between the European Community and the Swiss Confederation on Air Transport of 26 November 2010 replacing the Annex to the Agreement between the European Community and the Swiss Confederation on Air Transport, OJ 2010 L 347, p. 54.

([3]) OJ 2004 L 46, p. 1.

Request for a preliminary ruling from the Raad van State van België (Belgium) lodged on 12 January 2015 — TNS Dimarso NV v Vlaams Gewest

(Case C-6/15)

(2015/C 118/20)

Language of the case: Dutch

Referring court

Raad van State van België

Parties to the main proceedings

Applicant: TNS Dimarso NV

Defendant: Vlaams Gewest

Questions referred

1. Must Article 53(2) of Directive 2004/18/EC ([1]) of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, both in isolation and in conjunction with the scope of the principles laid down by European law concerning equality and transparency in the field of public procurement, be interpreted as meaning that, if the contract is awarded to the tenderer who submits the most economically advantageous tender from the point of view of the contracting authority, the contracting authority is always required to establish in advance, and indicate in the contract notice or contract documents, the method of assessment or the weighting rules, irrespective of their scope, predictability or commonness, in the light of which the tenders will be assessed in accordance with the award criteria or subcriteria,

2. or, if no such general obligation exists, that there are circumstances, such as, inter alia, the scope, unpredictability or uncommonness of these weighting rules, in which this obligation does apply?

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

Request for a preliminary ruling from the Rechtbank van Koophandel te Gent (Belgium) lodged on 16 January 2015 — New Valmar BVBA v Global Pharmacies Partner Health srl

(Case C-15/15)

(2015/C 118/21)

Language of the case: Dutch

Referring court

Rechtbank van Koophandel te Gent

Parties to the main proceedings

Applicant: New Valmar BVBA

Defendant: Global Pharmacies Partner Health srl

Question referred

Must Article 45 TFEU be interpreted as precluding legislation of a federal unit of a Member State, such as, in the present case, the Flemish Community in the Federal State of Belgium, which requires every undertaking which has its place of establishment within the territory of that unit to draw up, pursuant to Article 52 of the Laws of 18 July 1966 on the use of languages in administrative matters (Belgisch Staatsblad of 2 August 1966) in conjunction with Article 10 of the Decree of the Flemish Community of 19 July 1973 (Belgisch Staatsblad of 6 September 1973), invoices which are of a cross-border character exclusively in the official language of that federal unit, on pain of nullity of those invoices, which nullity is to be determined by the courts of their own motion?

Request for a preliminary ruling from the Supremo Tribunal Administrativo (Portugal) lodged on 19 January 2015 — Brisal — Auto Estradas do Litoral S.A., KBC Finance Ireland v Fazenda Pública

(Case C-18/15)

(2015/C 118/22)

Language of the case: Portuguese

Referring court

Supremo Tribunal Administrativo

Parties to the main proceedings

Applicants: Brisal — Auto Estradas do Litoral S.A., KBC Finance Ireland

Defendant: Fazenda Pública

Questions referred

1. Does Article 56 TFEU preclude national tax legislation under which financial institutions not resident in Portuguese territory are subject to tax on interest income received in that territory, withheld at source at the definitive rate of 20 % (or at a lower rate if there is an agreement to avoid double taxation), a tax applied to *gross* income with no possibility of deducting business expenses directly related to the financial activity carried out, whereas the interest received by resident financial institutions is incorporated in the total taxable income, with deduction of any expenses related to the activity pursued when determining the profit for the purposes of corporation tax, so that the basic rate of 25 % is applied to the *net* interest income?

2. Does the same hold good even if the tax base of resident financial institutions, after deduction of the financing costs related to the interest income, or of expenses directly related, economically, to such income, is or may be subject to a higher tax than is deducted at source from the gross income of non-resident institutions?

3. For this purpose, can the financing costs associated with the loans granted, or the expenses directly related, economically, to the interest income received, be proved by the data provided by the EURIBOR ('Euro Interbank Offered Rate') and by the LIBOR ('London Interbank Offered Rate') — which represent the average interest rates charged on interbank financing used by banks to carry out their activity?

Appeal brought on 4 February 2015 by Safa Nicu Sepahan Co. against the judgment of the General Court (First Chamber) delivered on 25 November 2014 in Case T-384/11: Safa Nicu Sepahan Co. v Council of the European Union

(Case C-45/15 P)

(2015/C 118/23)

Language of the case: English

Parties

Appellant: Safa Nicu Sepahan Co. (represented by: A. Bahrami, avocat)

Other party to the proceedings: Council of the European Union

Form of order sought

For the reasons set out in the present appeal Safa Nicu Sepahan Co. submits that the European Court of Justice should:

1. Set aside in part the judgment of the General Court issued by the General Court on 25 November 2014 in Case T-384/11 in sofar as it:

   — Failed to recognize and award the material damage suffered by Safa Nicu Sepahan Co.;

   — Recognized that Safa Nicu Sepahan Co. suffered non-material damage but awarded an arbitrarily low amount of EUR 50 000 as the sole compensation for that damage.

2. Exercise its full jurisdiction and, based on the elements available to it:

   Principally

   — Award Safa Nicu Sepahan Co. an amount of EUR 5 662 737,40, plus interest, for the material damages suffered as a result of a serious breach of a rule of law and illegal conduct by the Council of the European Union.

   — Award Safa Nicu Sepahan Co. an amount of EUR 2 000 000, plus interest, for the non-material damages suffered as a result of a serious breach of a rule of law and illegal conduct by the Council of the European Union.

   — Order the Council of the European Union to pay the appellant's legal and other costs incurred in connection with this appeal, including those incurred in connection with the initial procedure before the General Court, plus interest.

   Alternatively

   — Award Safa Nicu Sepahan Co. an amount determined *ex aequo et bono*, plus interest, for the material damages suffered as a result of the serious breach of a rule of law and illegal conduct by the Council of the European Union.

   — Award Safa Nicu Sepahan Co. an amount determined *ex aequo et bono*, but not less than EUR 50 000, plus interest, (as already awarded by the referenced judgment of the General Court), for the non-material damages suffered as a result of the serious breach of a rule of law and illegal conduct by the Council of the European Union.

   — Order the Council of the European Union. to pay Safa Nicu Sepahan Co.'s legal and other costs incurred in connection with this appeal, including those incurred in connection with the initial procedure before the General Court, plus interest.

   More alternatively

3. Refer the Case back to the General Court in order to re-examine the quantum of damages and issue a new judgment in favour of Safa Nicu Sepahan Co.

Pleas in law and main arguments

The Appellant raises two grounds of appeal against the judgment of the General Court delivered on 25 November 2014, with several pleas in law for each ground:

— Under the first ground of appeal, the appellant claims that the General Court erred in law in paragraphs 93 to 149 of the judgment under appeal by dismissing the appellant's claim for compensation in respect of material damages in their totality, despite the fact that the General Court had acknowledged and admitted that the appellant had effectively suffered material damages as a result of the serious unlawful conduct by the Union, based on the following pleas in law:

  — The judgment has failed to award any damage caused by the Union and its servants in violation of Article 340 (2) TFEU and Article 41(3) CFREU, both of which postulate the principle of 'full indemnity';

  — Furthermore, by failing to award any material damages the existence of which was recognized, the judgment violates the principles of proportionality, equitable evaluation and commits a denial of justice;

  — The judgment further violates the law through manifest distortions of the facts and evidence, and its rejection of the totality of Appellant's damages is based on defective, illogical and contradictory reasoning.

— As for the second ground of appeal, the Appellant claims that the General Court erred in law in paragraphs 92 and 149 of the judgment under appeal by considering that an award of EUR 50 000 would constitute an appropriate compensation. The General Court has thus committed a breach of the duty to state reasons, a breach of the principle of proportionality and violation of the principle to pay compensation in respect of actual damage and costs, which led to an arbitrary and unlawful result.

Request for a preliminary ruling from the Cour de cassation (France) lodged on 6 February 2015 — Sélina Affum (Amissah by marriage) v Préfet du Pas de Calais, Procureur général de la Cour d'appel de Douai

(Case C-47/15)

(2015/C 118/24)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicant: Sélina Affum (Amissah by marriage)

Defendants: Préfet du Pas de Calais, Procureur général de la Cour d'appel de Douai

Questions referred

1. Is Article 3(2) of Directive 2008/115 ([1]) to be interpreted as meaning that a third-country national is staying illegally in the territory of a Member State and thus falls within the scope of that directive, as defined in Article 2(1) thereof, where that foreign national is merely in transit as a passenger on a coach travelling in the territory of that Members State from another Member State forming part of the Schengen area and bound for a different Member State?

2. Is Article 6(3) of Directive 2008/115 to be interpreted as meaning that that directive does not preclude national legislation under which a third-country national who entered the territory of a Member State illegally is liable to a term of imprisonment where the foreign national in question may be taken back by another Member State pursuant to an agreement or an arrangement concluded with that State prior to the entry into force of the directive?

3. Depending on the answer given to Question 2, is Directive 2008/115 to be interpreted as precluding national legislation under which a third-country national who entered the territory of a Member State illegally is liable to a term of imprisonment under the same conditions as those laid down by the Court of Justice of the European Union in its judgment in *Achughbabian* (C-329/11) ([2]) in so far as concerns illegal stay, which are contingent on the person concerned not having been previously subject to the coercive measures referred to in Article 8 of the directive and the duration of that person's detention?

([1]) Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ 2008 L 348, p. 98).
([2]) EU:C:2011:807.

Appeal brought on 6 February 2015 by Moreda-Riviere Trefilerías, S.A. against the order of the General Court (Sixth Chamber) delivered on 25 November 2014 in Joined Cases T-426/10 and T-575/10 and in Case T-440/12 Moreda-Riviere Trefilerías v Commission

(Case C-53/15 P)

(2015/C 118/25)

Language of the case: Spanish

Parties

Appellant: Moreda-Riviere Trefilerías, S.A. (represented by: F. González Díaz and A. Tresandi Blanco, lawyers)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside, pursuant to Article 263 of the Treaty on the Functioning of the European Union, the order of the General Court of 25 November 2014 in Joined Cases T-426/10 and T-575/10 and in Case T-440/12 *Moreda-Riviere Trefilerías* v *Commission*;

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

Pleas in law and main arguments

In support of its appeal, the appellant puts forward a single ground of appeal.

The appellant claims that the General Court erred in law in assessing the legal interest of Moreda-Riviere Trefilerías, S.A. in bringing proceedings, as regards both the action for annulment in Case T-575/10 against the decision of the Commission of 30 September 2010 amending Decision C(2010) 4387 (final) relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53(1) of the EEA Agreement (Case COMP/38.344 — Prestressing Steel), and the amendment of the pleas in law and forms of order sought in Case T-426/10 in relation to the decision of the Commission of 30 September 2010 amending Decision C(2010) 4387 (final) relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53(1) of the EEA Agreement (Case COMP/38.344 — Prestressing Steel).

Appeal brought on 6 February 2015 by Trefilerías Quijano, S.A. against the order of the General Court (Sixth Chamber) delivered on 25 November 2014 in Joined Cases T-427/10 and T-576/10 and in Case T-439/12 Trefilerías Quijano v Commission

(Case C-54/15 P)

(2015/C 118/26)

Language of the case: Spanish

Parties

Appellant: Trefilerías Quijano, S.A. (represented by: F. González Díaz and A. Tresandi Blanco, lawyers)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside, pursuant to Article 263 of the Treaty on the Functioning of the European Union, the order of the General Court of 25 November 2014 in Joined Cases T-427/10 and T-576/10 and in Case T-439/12 *Trefilerías Quijano* v *Commission*;

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

Pleas in law and main arguments

In support of its appeal, the appellant puts forward a single ground of appeal.

The appellant claims that the General Court erred in law in assessing the legal interest of Trefilerías Quijano SA in bringing proceedings, as regards both the action for annulment in Case T-576/10 against the decision of the Commission of 30 September 2010 amending Decision C(2010) 4387 (final) relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53(1) of the EEA Agreement (Case COMP/38.344 — Prestressing Steel), and the amendment of the pleas in law and forms of order sought in Case T-427/10 in relation to the decision of the Commission of 30 September 2010 amending Decision C(2010) 4387 (final) relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53(1) of the EEA Agreement (Case COMP/38.344 — Prestressing Steel).

Appeal brought on 6 February 2015 by Trenzas y Cables de Acero PSC, S.L. against the order of the General Court (Sixth Chamber) delivered on 25 November 2014 in Joined Cases T-428/10 and T-577/10 and in Case T-441/12 Trenzas y Cables de Acero v Commission

(Case C-55/15 P)

(2015/C 118/27)

Language of the case: Spanish

Parties

Appellant: Trenzas y Cables de Acero PSC, S.L. (represented by: F. González Díaz and A. Tresandi Blanco, lawyers)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside, pursuant to Article 263 of the Treaty on the Functioning of the European Union, the order of the General Court of 25 November 2014 in Joined Cases T-428/10 and T-577/10 and in Case T-441/12 *Trenzas y Cables de Acero* v *Commission*;

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

Pleas in law and main arguments

In support of its appeal, the appellant puts forward a single ground of appeal.

The appellant claims that the General Court erred in law in assessing the legal interest of Trenzas y Cables de Acero PSC in bringing proceedings, as regards both the action for annulment in Case T-577/10 against the decision of the Commission of 30 September 2010 amending Decision C(2010) 4387 (final) relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53(1) of the EEA Agreement (Case COMP/38.344 — Prestressing Steel), and the amendment of the pleas in law and forms of order sought in Case T-428/10 in relation to the decision of the Commission of 30 September 2010 amending Decision C(2010) 4387 (final) relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53(1) of the EEA Agreement (Case COMP/38.344 — Prestressing Steel).

Appeal brought on 6 February 2015 by Global Steel Wire, S.A. against the order of the General Court (Sixth Chamber) delivered on 25 November 2014 in Joined Cases T-429/10 and T-578/10 and in Case T-438/12 Global Steel Wire v Commission

(Case C-56/15 P)

(2015/C 118/28)

Language of the case: Spanish

Parties

Appellant: Global Steel Wire, S.A. (represented by: F. González Díaz and A. Tresandi Blanco, lawyers)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside, pursuant to Article 263 of the Treaty on the Functioning of the European Union, the order of the General Court of 25 November 2014 in Joined Cases T-429/10 and T-578/10 and in Case T-438/12 *Global Steel Wire* v *Commission*;

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

Pleas in law and main arguments

In support of its appeal, the appellant puts forward a single ground of appeal.

The appellant claims that the General Court erred in law in assessing the legal interest of Global Steel Wire in bringing proceedings, as regards both the action for annulment in Case T-578/10 against the decision of the Commission of 30 September 2010 amending Decision C(2010) 4387 (final) relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53(1) of the EEA Agreement (Case COMP/38.344 — Prestressing Steel), and the amendment of the pleas in law and forms of order sought in Case T-429/10 in relation to the decision of the Commission of 30 September 2010 amending Decision C(2010) 4387 (final) relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53(1) of the EEA Agreement (Case COMP/38.344 — Prestressing Steel).

GENERAL COURT

Judgment of the General Court of 26 February 2015 — Pangyrus v OHIM — RSVP Design (COLOURBLIND)

(Case T-257/11) ([1])

(Community trade mark — Invalidity proceedings — Community word mark COLOURBLIND — Word sign COLOURBLIND — Absolute ground for refusal — No bad faith — Article 52(1)(b) of Regulation (EC) No 207/2009 — No use in the course of trade of a sign of more than mere local significance — Relative ground for refusal — Article 8(4) and Article 53(1)(c) of Regulation No 207/2009)

(2015/C 118/29)

Language of the case: English

Parties

Applicant: Pangyrus Ltd (York, United Kingdom) (represented by: S. Clubb, Solicitor, and M. Lindsay QC)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: RSVP Design Ltd (Brookfield, United Kingdom) (represented initially by M. Blair, and subsequently by J. MacKenzie, Solicitors)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 23 March 2011 (Case R 751/2009-4) concerning invalidity proceedings between Pangyrus Ltd and RSVP Design Ltd.

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders Pangyrus Ltd to pay the costs.*

([1]) OJ C 211, 16.7.2011.

Judgment of the General Court of 26 February 2015 — Sabbagh v Council

(Case T-652/11) ([1])

(Common foreign and security policy — Restrictive measures taken against Syria — Freezing of funds — Manifest error of assessment — Non-contractual liability)

(2015/C 118/30)

Language of the case: French

Parties

Applicant: Bassam Sabbagh (Damascus, Syria) (represented by: M.-A. Bastin and J.-M. Salva, lawyers)

Defendant: Council of the European Union (represented by: B. Driessen and S. Kyriakopoulou, acting as Agents)

Re:

Firstly, annulment in part of Council Implementing Regulation (EU) No 1151/2011 of 14 November 2011 implementing Regulation (EU) No 442/2011 concerning restrictive measures in view of the situation in Syria (OJ 2011 L 296, p. 3) and of Council Decision 2011/782/CFSP of 1 December 2011 concerning restrictive measures against Syria and repealing Decision 2011/273/CFSP (OJ 2011 L 319, p. 56) and 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), in so far as the applicant's name has been included in the lists of persons and entities to which those restrictive measures apply and, secondly, an action for damages seeking compensation for the harm allegedly suffered by the applicant.

Operative part of the judgment

The Court:

1. *Rejects as inadmissible the application for annulment of the Council Implementing Regulations later than the adoption of 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;*

2. *Annuls, in so far as those acts concern Mr Bassam Sabbagh:*

   — *Council Implementing Regulation (EU) No 1151/2011 of 14 November 2011 implementing Regulation (EU) No 442/2011;*

   — *Council Decision 2011/782/CFSP of 1 December 2011 concerning restrictive measures against Syria and repealing Decision 2011/273/CFSP;*

   — *Regulation No 36/2012;*

3. *Orders the effects of the regulations annulled to be maintained with respect to Mr Sabbagh until the time-limit for an appeal has expired or, if an appeal is brought within that time-limit, until any dismissal of the appeal;*

4. *Dismisses the claim for compensation;*

5. *Orders the Council of the European Union to bear its own costs and to pay half of the costs incurred by Mr Sabbagh;*

6. *Orders Mr Sabbagh to bear half of his own costs.*

([1]) OJ C 58, 25.2.2012.

Judgment of the General Court of 26 February 2015 — France v Commission

(Case T-135/12) ([1])

(State aid — Pensions — Aid for the reform of the arrangements for financing the retirement pensions of civil servants working for France Télécom — Reduction of the compensation to be paid to the State by France Télécom — Decision declaring the aid compatible with the internal market under certain conditions — Advantage)

(2015/C 118/31)

Language of the case: French

Parties

Applicant: French Republic (represented by: initially E. Belliard, G. de Bergues, J. Gstalter and J. Rossi, then D. Colas Diégo and R. Coesme, Agents)

Defendant: European Commission (represented by: B. Stromsky, L. Flynn and D. Grespan, Agents)

Re:

Application for annulment of Commission Decision 2012/540/EU of 20 December 2011 on State aid C 25/08 (ex NN 23/08) reform of the arrangements for financing the retirement pensions of civil servants working for France Télécom implemented by the French Republic in favour of France Télécom (OJ 2012, L 279, p. 1).

Operative part of the judgment

The Court:

1) *Dismisses the action;*

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

([1]) OJ C 174, 16.6.2012.

Judgment of the General Court of 26 February 2015 — Orange v Commission

(Case T-385/12) ([1])

(State aid — Pensions — Aid for the reform of the arrangements for financing the retirement pensions of civil servants working for France Télécom — Reduction of the compensation to be paid to the State by France Télécom — Decision declaring the aid compatible with the internal market under certain conditions — Advantage — Selective nature — Adverse effect on competition — Rights of the defence)

(2015/C 118/32)

Language of the case: French

Parties

Applicant: Orange, formerly France Télécom (Paris, France) (represented by: S. Hautbourg and S. Cochard-Quesson, lawyers)

Defendant: European Commission (represented by: L. Flynn, D. Grespan and B. Stromsky, Agents)

Re:

Application for annulment of Commission Decision 2012/540/EU of 20 December 2011 on State aid C 25/08 (ex NN 23/08) reform of the arrangements for financing the retirement pensions of civil servants working for France Télécom implemented by the French Republic in favour of France Télécom (OJ 2012, L 279, p. 1).

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders Orange to bear its own costs and to pay those incurred by the European Commission.*

([1]) OJ C 311, 13.10.2012.

Judgment of the General Court of 25 February 2015 — Poland v Commission

(Case T-257/13) ([1])

(EAGGF — Guarantee Section — EAGF and EAFRD — Expenditure excluded from the financing — Rural Development — Expenditure effected by Poland — Article 7 of Regulation (EC) No 1258/1999 — Article 31 of Regulation (EC) No 1290/2005 — Effectiveness of checks — Obligation to state reasons — Principle of subsidiarity)

(2015/C 118/33)

Language of the case: Polish

Parties

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

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

Re:

Application for annulment of Commission Implementing Decision 2013/123/EU of 26 February 2013 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2013 L 67, p. 20), so far as concerns the 'Early retirement' action sector implemented by the Republic of Poland.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders the Republic of Poland to pay the costs.*

([1]) OJ C 207, 20.7.2013.

Judgment of the General Court of 26 February 2015 — Lithuania v Commission

(Case T-365/13) ([1])

(EAGGF — Guarantee Section — EAGF and EAFRD — Expenditure excluded from financing — Rural development measures — 'Natural handicaps' and agri-environment — Appropriateness of controls — Flat-rate financial corrections — Proportionality)

(2015/C 118/34)

Language of the case: Lithuanian

Parties

Applicant: Republic of Lithuania (represented by: D. Kriaučiūnas, R. Krasuckaitė and A. Petrauskaitė, acting as Agents)

Defendant: European Commission (represented by: A. Steiblytė and G. von Rintelen, acting as Agents)

Re:

Application for annulment of Commission Implementing Decision 2013/214/EU of 2 May 2013 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2013 L 123, p. 11).

Operative part of the judgment

The Court:

1) *Annuls Commission Implementing Decision 2013/214/EU of 2 May 2013 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) in so far as it imposes a financial correction of 5 % with respect to the agro-environmental measures connected with the criterion relating to the use of fertilisers;*

2) *Dismisses the remainder of the action;*

3) *Orders the Republic of Lithuania and the European Commission to bear their own costs.*

([1]) OJ C 284, 28.9.2013.

Judgment of the General Court of 26 February 2015 — Costa Crociere v OHIM — Guerlain (SAMSARA)

(Case T-388/13) ([1])

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

(2015/C 118/35)

Language of the case: English

Parties

Applicant: Costa Crociere SpA (Genoa, Italy) (represented by: A. Vanzetti, S. Bergia and G. Sironi, lawyers)

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, intervener before the General Court: Guerlain SA (Levallois-Perret, France) (represented by: C. Costa and M. Baccarelli, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 13 May 2013 (Case R 2049/2011-4), relating to opposition proceedings between Guerlain SA and Costa Crociere SpA.

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders Costa Crociere SpA to pay the costs.*

(1) OJ C 298, 12.10.2013.

Judgment of the General Court of 26 February 2015 — 9Flats v OHIM — Tibesoca (9flats.com)

(Case T-713/13) (1)

(Community trade mark — Opposition proceedings — Application for Community word mark 9flats.com — Earlier national figurative mark 50flats — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 118/36)

Language of the case: German

Parties

Applicant: 9Flats GmbH (Hamburg, Germany) (represented by: H. Stoffregen, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM: Tibesoca, SL (Valencia, Spain)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 25 October 2013 (Case R 1671/2012-2), relating to opposition proceedings between Tibesoca, SL and 9Flats GmbH.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders 9Flats GmbH to pay the costs.*

(1) OJ C 61, 1.3.2014.

Judgment of the General Court of 25 February 2015 — Walton v Commission

(Case T-261/14 P) (1)

(Appeal — Civil Service — Temporary staff — Action at first instance dismissed as manifestly inadmissible — Resignation from a post as a member of the temporary staff — Amount of the debt owed by applicant to the Commission following his resignation — Authority of res judicata — Decisions which have become final in the absence of legal action)

(2015/C 118/37)

Language of the case: French

Parties

Appellant: Robert Walton (Oxford, United Kingdom) (represented by: F. Moyse, lawyer)

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

Re:

Appeal brought against the order of the European Union Civil Service Tribunal (Third Chamber) of 27 February 2014 in *Walton* v *Commission* (F-32/13, ECR-SC, EU:F:2014:37), and seeking that that order be set aside.

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Declares that Mr Robert Walton is to bear his own costs and orders him to pay those incurred by the European Commission in connection with the present proceedings.*

(1) OJ C 235, 21.7.2014.

Action brought on 17 December 2014 — Banco Espírito Santo v Commission

(Case T-814/14)

(2015/C 118/38)

Language of the case: Portuguese

Parties

Applicant: Banco Espírito Santo, S.A. (represented by: M. Gorjão-Henriques and L. Bordalo e Sá, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

(i) Annul paragraphs 9 and 18 of Annex II to European Commission Decision C(2014) 5682 final, of 3 August 2014, State aid No SA.39250 (2014/N) — Portugal, Resolution of Banco Espírito Santo, S.A., in so far as they impose, or may be interpreted as imposing, on the applicant (Banco Espírito Santo, S.A. or 'BES') the responsibility for ensuring the remuneration or payment of any other costs of the Monitoring Trustee;

(ii) Order the European Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the legal rules relating to the application of the Treaty — imposing on BES the costs relating to monitoring compliance with the commitments made by the Portuguese Republic:

   — Imposing on BES obligations relating to an act by a third party regarding which BES did not give its consent and from which it does not benefit, and which was not chosen in accordance with criteria that ensure compliance with the principle of the most cost-effective solution, to the potential detriment of BES creditors and shareholders;

— Under the contested decision, the Monitoring Trustee is appointed by the Resolution Fund. However, while it is the responsibility of the Portuguese Republic only to appoint a single Monitoring Trustee, is not acceptable that the burden of remunerating the Monitoring Trustee should be the entire responsibility of BES. That solution breaches the principles underlying public aid: (i) it strengthens the advantage enjoyed by the Bridge Bank, relieving it of resolution charges that would otherwise be imposed on it by law; (ii) it distorts competition in favour of the Bridge Bank, relieving it of charges that were not quantified in the authorisation of State aid;

— In the EU legislation concerning State aid there is no basis for imposing the responsibility for remunerating the Monitoring Trustee on BES, which, it is pointed out, is not an addressee of the Decision nor a beneficiary of the aid;

— Regulation (EU) No 806/2014, on the Single Resolution Mechanism, applicable as of 2016, does not add anything in that regard, notwithstanding that it provides for the role of Trustee in Article 19, nor is anything added by Regulation No 1093/2010 or Directive 2014/59/EU, the transposition period of which has not yet expired;

— Within the context of EU law, and within the scope of the action of DG COMP (Directorate-General for Competition of the European Commission), the service responsible for drawing up the contested decision, there are clear interpretative provisions concerning the Monitoring Trustee and its remuneration, which may serve to remedy the legislative omissions concerning the situation at issue, particularly with regard to the quantitative remuneration structure of the Monitoring Trustee, which must be based on agreement between the parties, subject to approval by the European Commission and the necessary independence and means to be granted;

— The way in which the Monitoring Trustee should, in practice, be remunerated cannot be imposed on the applicant by the European Commission, so that the binding imposition of such a financial charge by the European Commission (that is, without prior acceptance of its amount by BES) has no legal basis, either in Regulation (EU) No 806/2014 or in any other legislative text;

— The European Commission itself, in the contested decision, merely stated that the Monitoring Trustee is to be remunerated by the Bad Bank 'in a way that must not impede the independent and effective fulfilment of its mandate'. There is, therefore, no specific definition of the structure of the remuneration, in particular how this will be implemented in practice, or of its limits.

2. Second plea in law, alleging breach of the principles of legitimate expectations, legal certainty and that administrative authorities are bound by their own rules:

— The Commission breached the principles of legitimate expectations, legal certainty and that administrative authorities are bound by their own rules, in so far as they impose, or may be interpreted as imposing, on BES the charges relating to the Monitoring Trustee;

— This is particularly the case given that BES, a third party to the decision, was totally excluded from the procedure to select the Monitoring Trustee, and therefore could not, without prejudice to the means and independence required by the Decision, ensure compliance with its responsibilities (and the fiduciary responsibilities of its directors), seeking to ensure that that monitoring of commitments represents a less significant financial burden for BES;

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

— The Commission infringed the principle of proportionality, by imposing on BES the unilateral and entire burden of charges that, considering the current financial situation of BES as an institution that is the subject of a resolution action, not only appear extremely onerous and substantial, but also exceed the limits of proportionality in the strict sense;

— That is all the more so since, according to BES, the responsibility for those expenses, as it has not been assumed by the Portuguese State by way of commitments, falls to the European Commission itself, under its responsibilities regarding the resolution of banking institutions and the commitments made by the Member States in the context of those measures.

Action brought on 8 January 2015 — Auyantepui Corp. v OHIM — Magda Rose (Mr Jones)

(Case T-8/15)

(2015/C 118/39)

Language in which the application was lodged: English

Parties

Applicant: Auyantepui Corp., SA (Panama, Panama) (represented by: E. Manresa Medina, lawyer)

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

Other party to the proceedings before the Board of Appeal: Magda Rose GmbH & Co. KG (Vienna, Austria)

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 'Mr Jones' — Application for registration No 10 669 794

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 28 October 2014 in Case R 49/2014-2

Form of order sought

The applicant claims that the Court should:

— Annul the contested decision and grant the application for the trade mark;

— Order OHIM and the other party, should it intervene, to pay the costs.

Pleas in law

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

Appeal brought on 20 January 2015 by European Commission against the judgment of the Civil Service Tribunal of 13 November 2014 in Case F-2/12, Hristov v Commission and EMA

(Case T-26/15 P)

(2015/C 118/40)

Language of the case: Bulgarian

Parties

Appellant: European Commission (represented by J. Currall, N. Nikolova and S. Petrova)

Other parties to the proceedings: Emil Hristov, European Medicines Agency (EMA)

Form of order sought by the appellant

The appellant claims that the Court should:

— set aside the judgment of the European Civil Service Tribunal of 13 November 2014 in Case F-2/12 *Hristov* v *Commission and EMA*,

— refer the case back to the Civil Service Tribunal, for a ruling on the other pleas in support of the appeal,

— reserve the costs of the appeal.

Pleas in law and main arguments

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

— the Civil Service Tribunal infringed EU law by attributing to the principle of good administration a scope which it does not have;

— in the alternative, the Civil Service Tribunal infringed the principle of proportionality by failing to determine, before making the annulment, whether the failure to observe the principle of good administration could have affected the contents of the contested decision;

— in the further alternative, the Civil Service Tribunal, in any event, infringed EU law by failing to balance the respective interests and failing to limit the effects of its judgments.

Appeal brought on 20 January 2015 by European Medicines Agency (EMA) against the judgment of the Civil Service Tribunal of 13 November 2014 in Case F-2/12, Hristov v Commission and EMA

(Case T-27/15 P)

(2015/C 118/41)

Language of the case: Bulgarian

Parties

Appellant: European Medicines Agency (EMA) (represented by J. Currall, N. Nikolova and S. Petrova)

Other parties to the proceedings: Emil Hristov, European Commission

Form of order sought by the appellant

The appellant claims that the Court should:

— set aside the judgment of the European Civil Service Tribunal of 13 November 2014 in Case F 2/12 *Hristov* v *Commission and EMA*,

— refer the case back to the Civil Service Tribunal, for a ruling on the other pleas in support of the appeal,

— reserve the costs of the appeal.

Pleas in law and main arguments

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

— the Civil Service Tribunal infringed EU law by attributing to the principle of good administration a scope which it does not have;

— in the alternative, the Civil Service Tribunal infringed the principle of proportionality by failing to determine, before making the annulment, whether the failure to observe the principle of good administration could have affected the contents of the contested decision;

— in the further alternative, the Civil Service Tribunal, in any event, infringed EU law by failing to balance the respective interests and failing to limit the effects of its judgments;

— in the final alternative, the Civil Service Tribunal infringed EU law by holding that the unlawfulness of the Commission's decision necessarily led to the decision adopted by the EMA being unlawful.

Action brought on 3 February 2015 — PAN Europe v Commission

(Case T-51/15)

(2015/C 118/42)

Language of the case: English

Parties

Applicant: Pesticide Action Network Europe (PAN Europe) (Brussels, Belgium) (represented by: B. Kloostra, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission's decision of 24 November 2014 with reference Ares(2014)3900631 ('the contested decision'), in which the Commission confirmed for the most part its decision of 3 June 2014 with reference Ares(2014)2150615 in which the Commission took a decision on the request for information of PAN Europe of 3 January 2014 (registered by the Commission on 6 January 2014);

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

Pleas in law and main arguments

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

1. First plea in law, alleging that by adopting the contested decision, the Commission acted in breach of and wrongly did not or only partially apply Regulation (EC) No 1367/2006, because:

   — the Commission acted in breach of Article 2(1)(d) of Regulation (EC) No 1367/2006 by overlooking the fact that the requested information qualifies as environmental information;

   — the Commission acted in breach of the Articles 6(1) of Regulation (EC) No 1367/2006 and 4(3) of Regulation (EC) No 1049/2001 by not interpreting the ground of refusal of Article 4(3) of Regulation (EC) No 1049/2001 in conformity with Article 4(3) second paragraph of the Aarhus Convention or/and in a sufficient restrictive way, by not weighing the specific interest of protection of the decision-making process invoked by the Commission against the general interests of the disclosure of environmental information and by not stating sufficient reasons for the refusal;

   — the Commission acted in breach of the Articles 6(1) of Regulation (EC) No 1367/2006 and 4 of Regulation 1049/2001 by not examining specifically and individually the documents referred to in the request for access and by not justifying for each specific document for which reason it should not be disclosed.

2. Second plea in law, alleging that the Commission by adopting the Contested Decision acted in breach of Regulation (EC) No 1049/2001, especially of Article 4 of that Regulation and/or more specifically of Article 4(3) thereof because it failed to demonstrate that the invoked ground of refusal applies, it wrongly did not weigh the interests served with disclosure and wrongly and in breach of Article 4 of Regulation (EC) No 1049/2001 did not examine specifically and individually the documents referred to in the request for access to documents.

Action brought on 2 February 2015 — Raimund Schmitt Verpachtungsgesellschaft v OHIM (Brauwelt)

(Case T-56/15)

(2015/C 118/43)

Language of the case: German

Parties

Applicant: Raimund Schmitt Verpachtungsgesellschaft mbH & Co. KG (Nuremberg, Germany) (represented by: M. Höfler, 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 word mark 'Brauwelt'– Application No 12 038 551

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 4 December 2014 in Case R 1121/2014-4

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 Article 7(1)(b) and (c) of Regulation No 207/2009;

— Infringement of Article 7(3) of Regulation No 207/2009.

Action brought on 4 February 2015 — Trajektna luka Split v Commission

(Case T-57/15)

(2015/C 118/44)

Language of the case: English

Parties

Applicant: Trajektna luka Split d.d. (Split, Croatia) (represented by: M. Bauer, H.-J. Freund and S. Hankiewicz, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission decision C(2013) 7285 final — Croatia — Alleged aid to Jadrolinija of 15 October 2014;

— order the Commission to bear its own costs and those of the applicant;

— refer the case back to the European Commission for further investigation and renewed decision; and

— take such other or further actions as justice may require.

Pleas in law and main arguments

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

1. First plea in law, alleging a manifest error of assessment and error of law by infringing Article 107 TFEU in finding that the disputed measure does not constitute State aid because the wrong test was applied to establish whether State resources were involved.

2. Second plea in law, alleging a manifest error of assessment and error of law by infringing Article 107 TFEU in finding that the disputed measure does not constitute State aid due to the lack of State resources being involved.

3. Third plea in law, alleging manifest error of law by infringing the concept of Article 107(1) TFEU in conjunction with Article 106(1) TFEU by failure to consider Article 106(1) TFEU.

4. Fourth plea in law, alleging an infringement of an essential procedural requirement by infringing Article 10(2) of Regulation No 659/1999 ([1]) in not sufficiently making use of investigation powers provided thereunder.

5. Fifth plea in law, alleging a manifest error of assessment by failing to open the formal investigation procedure provided for in Article 108(2) TFEU and Article 4(4) of Regulation No 659/1999.

6. Sixth plea in law, alleging an infringement of an essential procedural requirement by failing to state sufficient reasons pursuant to Article 296(2) TFEU with regard to the lack of State resources and the concept of Article 106(1) in conjunction with Article 107(1) TFEU.

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

Action brought on 4 February 2015 — Ludwig Bertram v OHIM — Seni Vita (Sanivita)

(Case T-58/15)

(2015/C 118/45)

Language in which the application was lodged: German

Parties

Applicant: Ludwig Bertram GmbH (Isernhagen, Germany) (represented by: V. Rust-Sorge, lawyer)

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

Other party to the proceedings before the Board of Appeal: Seni Vita OHG (Bayreuth, Germany)

Details of the proceedings before OHIM

Applicant for the trade mark at issue: Applicant

Trade mark at issue: Community figurative mark No 9949959

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of OHIM of 21 November 2014 in Case R 1087/2013-1

Form of order sought

The applicant claims that the Court should annul the contested decision.

Plea in law

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

Action brought on 12 February 2015 — Polo Club v OHIM — Lifestyle Equities (POLO CLUB SAINT-TROPEZ HARAS DE GASSIN)

(Case T-67/15)

(2015/C 118/46)

Language in which the application was lodged: English

Parties

Applicant: Polo Club (Gassin, France) (represented by: D. Masson, lawyer)

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

Other party to the proceedings before the Board of Appeal: Lifestyle Equities CV (Amsterdam, Netherlands)

Details of the proceedings before OHIM

Applicant of the trade mark at issue: Applicant

Trade mark at issue: Community figurative mark containing the word elements 'POLO CLUB SAINT-TROPEZ HARAS DE GASSIN' — Application for registration No 10 525 137

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 21 November 2014 in Case R 1882/2013-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and register the trademark applied for in its entirety;

— order OHIM to bear the costs of proceedings.

Pleas in law

— Infringement of Articles 8(1)(b) and 8(4) of Regulation No 207/2009.

Action brought on 12 February 2015 — Trajektna luka Split v Commission

(Case T-70/15)

(2015/C 118/47)

Language of the case: English

Parties

Applicant: Trajektna luka Split d.d. (Split, Croatia) (represented by: M. Bauer, H. Freund and S. Hankiewicz, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission decision C(2014) 9236 final of 28 November 2014 on case AT.40199 Port of Split;

— order the Commission to bear its own costs and those of the applicant;

— refer the case back to the European Commisison for further investigation and renewed decision; and

— take such other or further actions as justice may require.

Pleas in law and main arguments

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

1. First plea in law, alleging a manifest error in assessment and error of law by infringing the Commission's obligations in handling a complaint by incorrectly assessing the European Union interest with regard to all three reasons brought forward by the Commission;

2. Second plea in law, alleging a manifest error of assessment and error of law by infringing the Commission's obligations in handling a complaint, in particular failing to take into consideration all relevant matters of law and fact.

Action brought on 12 February 2015 — Jaguar Land Rover v OHIM — Nissan Jidosha (Land Glider)

(Case T-71/15)

(2015/C 118/48)

Language in which the application was lodged: English

Parties

Applicant: Jaguar Land Rover Ltd (Coventry, United Kingdom) (represented by: R. Ingerl, lawyer)

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

Other party to the proceedings before the Board of Appeal: Nissan Jidosha KK (Yokohama-shi, Kanagawa-ken, Japan)

Details of the proceedings before OHIM

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

Trade mark at issue: Community word mark 'Land Glider' — Community trade mark application No 8 324 196

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 9 December 2014 in Case R 1415/2013-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs incurred by the applicant.

Pleas in law

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

— Infringement of Article 8(5) of Regulation No 207/2009.

Action brought on 17 February 2015 — Aston Martin Lagonda v OHIM (Representation of a grille positioned on the front of a motor vehicle)

(Case T-73/15)

(2015/C 118/49)

Language of the case: English

Parties

Applicant: Aston Martin Lagonda Ltd (Gaydon, United Kingdom) (represented by: D. Farnsworth, Solicitor)

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

Details of the proceedings before OHIM

Trade mark at issue: Community mark indicated as 'other' (Representation of a grille positioned on the front of a motor vehicle) — Application for registration No 12 218 426

Contested decision: Decision of the Second Board of Appeal of OHIM of 11 December 2014 in Case R 1796/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision insofar as it upheld the conclusion of the examiner that the mark applied for *prima facie* lacked distinctive character for the goods and services in question;

— allow the community trade mark application No 12 218 426 to proceed to publication;

— order OHIM to pay the costs.

Plea in law

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

Action brought on 17 February 2015 — ROD Leichtmetallräder v OHIM — Rodi TR (ROD)

(Case T-75/15)

(2015/C 118/50)

Language in which the application was lodged: English

Parties

Applicant: ROD Leichtmetallräder GmbH (Weiden in der Oberpfalz, Germany) (represented by: J. Hellenbrand and J. Biener, lawyers)

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

Other party to the proceedings before the Board of Appeal: Rodi TR, SL (Lleida, Spain)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community figurative mark containing the word element 'ROD' — Community trade mark No 5 694 989

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 17 December 2014 in Case R 281/2014-5

Form of order sought

The applicant claims that the Court should:

— Annul the contested decision;

— Annul the decision of OHIM's Cancellation Division of 22 November 2013;

— Order OHIM to pay the costs of the proceedings before the General Court as well as the costs of the proceedings before OHMI's Board of Appeal.

Pleas in law

— Infringement of Article 65(2) in connection with Article 8(1)(b) of Regulation No 207/2009;

— Infringement of an essential procedural requirement — infringement of Rules 39(3) and 37(b)(ii) of Regulation No 2868/95.

Action brought on 12 February 2015 — Tronios Group International v OHIM — British Sky Broadcasting Group (SkyTec)

(Case T-77/15)

(2015/C 118/51)

Language in which the application was lodged: Dutch

Parties

Applicant: Tronios Group International BV (Breda, Netherlands) (represented by: R. van Leeuwen and H. Klingenberg, lawyers)

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

Other party to the proceedings before the Board of Appeal: British Sky Broadcasting Group plc (Isleworth, United Kingdom)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Tronios Group International BV

Trade mark at issue: Community word mark 'SkyTec'

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 28 November 2014 in Case R 1681/2013-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and dismiss the application for annulment of British Sky Broadcasting Group;

— order British Sky Broadcasting Group to pay the costs of these proceedings and the costs of the earlier proceedings before OHIM.

Pleas in law

— Infringement of Article 54(2) of Regulation No 207/2009;

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

Action brought on 18 February 2015 — Olympus Medical Systems v OHIM (3D)

(Case T-79/15)

(2015/C 118/52)

Language of the case: English

Parties

Applicant: Olympus Medical Systems Corp. (Tokyo, Japan) (represented by: A. Ebert-Weidenfeller and C. Opatz, lawyers)

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

Details of the proceedings before OHIM

Trade mark at issue: Figurative mark containing the element '3D' — Application for registration No 12 598 538

Contested decision: Decision of the Second Board of Appeal of OHIM of 11 December 2014 in Case R 1708/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Plea in law

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

Action brought on 20 February 2015 — Facchinello v OHIM — Olimpia Splendid (Synthesis)

(Case T-81/15)

(2015/C 118/53)

Language in which the application was lodged: Italian

Parties

Applicant: Danila Facchinello (Molinella, Italy) (represented by: F. Torlontano, lawyer)

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

Other party to the proceedings before the Board of Appeal: Olimpia Splendid SpA (Gualtieri, Italy)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community figurative mark containing the word element 'Synthesis' — Community trade mark No 2 871 069

Procedure before OHIM: Revocation proceedings

Contested decision: Decision of the First Board of Appeal of OHIM of 21 November 2014 in Case R 2169/2013-1

Form of order sought

The applicant claims that the Court should:

— annul the decision of the First Board of Appeal of OHIM of 21 November 2014 and, consequently, declare that the Community trade mark Synthesis is not revoked in respect of goods in Class 11 (apparatus for air conditioning);

— order OHIM to pay the costs.

Plea in law

— Infringement of Article 51(1)(a) of Regulation No 207/2009, insofar as the First Board of Appeal revoked the Community trade mark on the ground that the evidence adduced by its proprietor was not capable of establishing genuine use of that mark.

Action brought on 18 February 2015 — Laboratorios Thea v OHIM — Sebapharma (Sebacur)

(Case T-84/15)

(2015/C 118/54)

Language in which the application was lodged: English

Parties

Applicant: Laboratorios Thea, SA (Barcelona, Spain) (represented by: D. Mallo Saint-Jalmes, lawyer)

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

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

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community figurative mark containing the word element 'Sebacur' — Community trade mark application No 10 554 194

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of OHIM of 18 December 2014 in Case R 2403/2013-1

Form of order sought

The applicant claims that the Court should:

— Annul the contested decision to the extent that it dismissed the applicant's request to annul the decision of the Opposition Division and it ordered the applicant to reimburse EUR 550 to Sebapharma GmbH & Co.;

— Order the losing party to pay the costs.

Plea in law

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

Action brought on 19 February 2015 — Alfa Wassermann Hungary v OHIM — Pharma Mar (YLOELIS)

(Case T-85/15)

(2015/C 118/55)

Language in which the application was lodged: English

Parties

Applicant: Alfa Wassermann Hungary kft (Budapest, Hungary) (represented by: M. Best, U. Pfleghar and S. Schäffner, lawyers)

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

Other party to the proceedings before the Board of Appeal: Pharma Mar, SA (Colmenar Viejo, Spain)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community word mark 'YLOELIS' — Application for registration No 10 914 431

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of OHIM of 18 December 2014 in Case R 1100/2014-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and the decision of the Opposition Division of 24 February 2014 (opposition proceedings No B 2 066 184);

— reject the opposition No B 2 066 184 in its entirety;

— order OHIM and the opponent to pay the costs.

Plea in law

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

Action brought on 23 February 2015 — Niagara Bottling v OHIM (NIAGARA)

(Case T-89/15)

(2015/C 118/56)

Language of the case: English

Parties

Applicant: Niagara Bottling LLC (Ontario, United States) (represented by: M. Edenborough, QC)

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

Details of the proceedings before OHIM

Trade mark at issue: International registration No 1 153 535 designating the European Union in respect of the word mark 'NIAGARA'

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 12 December 2014 in Case R 784/2014-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Plea in law

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

Action brought on 18 February 2015 — Schoeller Corporation v OHIM — Sqope (SCOPE)

(Case T-90/15)

(2015/C 118/57)

Language in which the application was lodged: German

Parties

Applicant: Schoeller Corporation GmbH (Berlin, Germany) (represented by: D. van Ackeren, lawyer)

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

Other party to the proceedings before the Board of Appeal: Sqope SA (Luxembourg, Luxembourg)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community word mark 'SCOPE' — Application No 4 502 341

Procedure before OHIM: Invalidity proceedings

Contested decision: Decision of the First Board of Appeal of OHIM of 21 November 2014 in Case R 2381/2013-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— in the alternative, annul the contested decision in so far as it relates to the services financial analysis and financial information;

— order the unsuccessful parties to pay the costs.

Pleas in law

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

— Infringement of Article 52(1)(a) of Regulation No 207/2009.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Action brought on 23 January 2015 — ZZ v EMA

(Case F-9/15)

(2015/C 118/58)

Language of the case: French

Parties

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

Defendant: European Medicines Agency (EMA)

Subject-matter and description of the proceedings

The annulment of the decision of the European Medicines Agency (EMA) to suspend the applicant from his duties and an application for the payment of one euro as provisional compensation in respect of the material and non-material harm allegedly suffered.

Form of order sought

The applicant claims that the Tribunal should:

— annul the decision of the EMA of 31 March 2014 to place the applicant on 'non-active status' for an indefinite period;

— order the defendant to pay the applicant one euro as provisional compensation in respect of the material and non-material harm suffered;

— order the EMA to pay the costs.

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