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# COURT OF JUSTICE OF THE EUROPEAN UNION

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

(2015/C 221/01)

**Last publication**

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**Past publications**

OJ C 205, 22.6.2015

OJ C 198, 15.6.2015

OJ C 190, 8.6.2015

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These texts are available on:

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*(Announcements)*

# COURT PROCEEDINGS

# COURT OF JUSTICE

## Request for a preliminary ruling from the Tribunal de première instance de Liège (Belgium) lodged on 20 April 2015 — Guy Riskin, Geneviève Timmermans v État belge

**(Case C-176/15)**

(2015/C 221/02)

*Language of the case: French*

**Referring court**

Tribunal de première instance de Liège

**Parties to the main proceedings**

*Applicants:* Guy Riskin, Geneviève Timmermans

*Defendant:* État belge

**Questions referred**

1. Is the rule laid down in Article 285 of the Belgian 1992 Income Tax Code (Code des impôts sur les revenus 1992), implicitly endorsing the double taxation of foreign dividends in the case of a natural person residing in Belgium, consistent with the principles of Community law enshrined in Article 63 of the Treaty on the Functioning of the European Union, read in conjunction with Article 4 of the Treaty on European Union, in so far as it enables Belgium to give advantage as it sees fit — according to the provisions of Belgian law to which the double taxation convention negotiated by Belgium refers (Article 285 which lays down the conditions for tax credits or Article 286 which merely prescribes the fixed percentage of tax that may be allowed as a credit) — to investment in third countries (United States), to the detriment of possible investment in the Member States of the European Union (Poland)?

2. In so far as it makes the possibility of allowing foreign tax as a credit against Belgian tax conditional upon the capital and property from which the income is derived being applied in Belgium in the conduct of professional activity, is Article 285 of the 1992 Income Tax Code not contrary to Articles 49, 56 and 58 of the Treaty on the Functioning of the European Union?

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## Request for a preliminary ruling from the Cour de cassation (France) lodged on 24 April 2015 — Asma Bougnaoui, Association de défense des droits de l'homme (ADDH) v Micropole Univers SA

**(Case C-188/15)**

(2015/C 221/03)

*Language of the case: French*

**Referring court**

Cour de cassation

**Parties to the main proceedings**

*Applicants:* Asma Bougnaoui, Association de défense des droits de l'homme (ADDH)

*Defendant:* Micropole Univers SA

**Question referred**

'Must Article 4(1) of Council Directive 78/2000/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation ([1]) be interpreted as meaning that the wish of a customer of an information technology consulting company no longer to have the information technology services of that company provided by an employee, a design engineer, wearing an Islamic headscarf, is a genuine and determining occupational requirement, by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out?'

([1]) OJ 2000 L 303, p. 16.

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**Request for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 27 April 2015 — Verein für Konsumenteninformation v Amazon EU Sàrl**

**(Case C-191/15)**

(2015/C 221/04)

*Language of the case: German*

**Referring court**

Oberster Gerichtshof

**Parties to the main proceedings**

*Applicant:* Verein für Konsumenteninformation

*Defendant:* Amazon EU Sàrl

**Questions referred**

1. In an action for an injunction within the meaning of Directive 2009/22/EC of the European Parliament and of the Council of 23 April 2009 on injunctions for the protection of consumers' interests ([1]) must the law applicable be determined in accordance with Article 4 of Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II) ([2]) where the action is directed against the use of unfair contract terms by an undertaking established in a Member State that in the course of electronic commerce concludes contracts with consumers resident in other Member States, in particular, in the State of the court seised?

2. If Question 1 is answered in the affirmative:

   2.1. Must the country in which the damage occurs (Article 4(1) of the Rome II Regulation) be understood as each country towards which the commercial activities of the defendant undertaking are directed, with the result that the clauses challenged must be assessed according to the law of the court seised if the entity qualified to bring an action challenges the use of such clauses in commerce with consumers resident in that country?

   2.2. Does a manifestly closer connection (Article 4(3) of the Rome II Regulation) to the law of the country in which the defendant undertaking is established exist where that undertaking's terms and conditions provide that the law of that country shall apply to contracts concluded by the undertaking?

2.3. Does a choice of law clause of that kind entail on other grounds that the contractual clauses challenged must be assessed in accordance with the law of the country in which the defendant undertaking is established?

3. If Question 1 is answered in the negative:

How then must the law applicable to the action for an injunction be determined?

4. Regardless of the answers to the previous questions:

4.1. Must a term included in general terms and conditions specifying that a contract concluded in the course of electronic commerce between a consumer and a trader established in another Member State shall be governed by the law of the country in which that trader is established be regarded as unfair within the meaning of Article 3(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts ([3])?

4.2. Is the processing of personal data by an undertaking that in the course of electronic commerce concludes contracts with consumers resident in other Member States, in accordance with Article 4(1)(a) of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ([4]), and regardless of the law that otherwise applies, governed exclusively by the law of the Member State in which the establishment of the undertaking is situated in whose framework the processing takes place or must the undertaking also comply with the data protection rules of those Member States to which its commercial activities are directed?

([1]) OJ 2009 L 110, p. 30.
([2]) OJ 2007 L 199, p. 40.
([3]) OJ 1993 L 95, p. 29.
([4]) OJ 1995 L 281, p. 31.

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**Request for a preliminary ruling from the Simvoulio tis Epikratias (Greece) lodged on 29 April 2015 — Anonimi Geniki Etairia Tsimenton Iraklis (AGET Iraklis) v Ipourgos Ergasias, Kinonikis Asfalisis kai Kinonikis Allilengiis**

**(Case C-201/15)**

(2015/C 221/05)

*Language of the case: Greek*

**Referring court**

Simvoulio tis Epikratias

**Parties to the main proceedings**

*Applicant:* Anonimi Geniki Etairia Tsimenton Iraklis (AGET Iraklis)

*Defendant:* Ipourgos Ergasias, Kinonikis Asfalisis kai Kinonikis Allilengiis

**Questions referred**

1. Is a national provision, such as Article 5(3) of Law No 1387/1983, which lays down as a condition in order for collective redundancies to be effected in a specific undertaking that the administrative authorities must authorise the redundancies in question on the basis of criteria as to (a) the conditions in the labour market, (b) the situation of the undertaking and (c) the interests of the national economy compatible with Directive 98/59/EC ([1]) in particular and, more generally, Articles 49 TFEU and 63 TFEU?

2. If the answer to the first question is in the negative, is a national provision with the aforementioned content compatible with Directive 98/59/EC in particular and, more generally, Articles 49 TFEU and 63 TFEU if there are serious social reasons, such as an acute economic crisis and very high unemployment?

(1) Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies (OJ 1998 L 225, p. 16).

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**Request for a preliminary ruling from the Kammarrätten i Stockholm (Sweden) lodged on 4 May 2015 — Tele2 Sverige AB v Post- och telestyrelsen**

**(Case C-203/15)**

(2015/C 221/06)

*Language of the case: Swedish*

**Referring court**

Kammarrätten i Stockholm

**Parties to the main proceedings**

*Applicant:* Tele2 Sverige AB

*Defendant:* Post- och telestyrelsen

**Questions referred**

1) Is a general obligation to retain traffic data covering all persons, all means of electronic communication and all traffic data without any distinctions, limitations or exceptions for the purpose of combating crime (as described [below under points 1-6]) compatible with Article 15(1) of Directive 2002/58/EC (1), taking account of Articles 7, 8 and 15(1) of the Charter?

2) If the answer to question 1 is in the negative, may the retention nevertheless be permitted where:

   a) access by the national authorities to the retained data is determined as [described below under paragraphs 7-24], and

   b) security requirements are regulated as [described below under paragraphs 26-31], and

   c) all relevant data are to be retained for six months, calculated as from the day the communication is ended, and subsequently deleted as [described below under paragraphs 25]?

(1) Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ 2002 L 201, p. 37).

# GENERAL COURT

## Judgment of the General Court of 21 May 2015 — Yoshida Metal Industry v OHIM — Pi-Design and Others (Community figurative trade marks representing a surface with black dots)

**(Joined Cases T-331/10 RENV and T-416/10 RENV)** ([1])

***(Community trade mark — Invalidity proceedings — Community figurative trade marks representing a surface with black dots — Absolute ground for refusal — Sign consisting exclusively of the shape of the goods which is necessary to obtain a technical result — Article 7(1)(e)(ii) of Regulation (EC) No 207/2009)***

(2015/C 221/07)

*Language of the case: English*

### Parties

*Applicant:* Yoshida Metal Industry Co. Ltd (Tsubame-shi, Japan) (represented by: S. Verea, K. Muraro and M. Balestriero, lawyers)

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

*Other parties to the proceedings before the Board of Appeal of OHIM, intervening before the General Court:* Pi-Design AG (Triengen, Switzerland), Bodum France (Neuilly-sur-Seine, France), Bodum Logistics A/S (Billund, Denmark) (represented by: H. Pernez and R. Löhr, lawyers)

### Re:

Action brought against the decision of the First Board of Appeal of OHIM of 20 May 2010 (Cases R 1235/2008-1 and R 1237/2008-1), concerning invalidity proceedings between Pi-design AG, Bodum France and Bodum Logistics A/S, on the one hand, and Yoshida Metal Industry Co. Ltd, on the other.

### Operative part of the judgment

*The Court:*

1. *Dismisses the actions;*

2. *Orders Yoshida Metal Industry Co. Ltd to bear its own costs and to pay those incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) and by Pi-Design AG, Bodum France and Bodum Logistics A/S before the General Court and before the Court of Justice.*

([1]) OJ C 274, 9.10.2010.

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## Judgment of the General Court of 20 May 2015 — Timab Industries and CFPR v Commission

**(Case T-456/10)** ([1])

***(Competition — Agreements, decisions and concerted practices — European market for animal feed phosphates — Decision finding an infringement of Article 101 TFEU — Allocation of sales quotas, coordination of prices and conditions of sale and exchange of commercially sensitive information — Applicant's withdrawal from the settlement procedure — Fines — Obligation to state reasons — Gravity and duration of the infringement — Cooperation — Failure to apply the likely range of fines indicated during the settlement procedure)***

(2015/C 221/08)

*Language of the case: French*

### Parties

*Applicants:* Timab Industries (Dinard, France); and Cie financière et de participations Roullier (CFPR) (Saint-Malo, France) (represented by: N. Lenoir and M. Truffier, lawyers)

*Defendant:* European Commission (represented by: C. Giolito, B. Mongin and F. Ronkes Agerbeek, acting as Agents)

**Re:**

Application for annulment of Commission Decision C(2010) 5001 final of 20 July 2010 relating to a proceeding under Article 101 [TFEU] and Article 53 of the EEA Agreement (Case COMP/38866 — Animal feed phosphates), and, in the alternative, for reduction of the fine imposed on the applicants in that decision.

**Operative part of the judgment**

*The Court:*

1) *Dismisses the action;*

2) *Orders Timab Industries and Cie financière et de participations Roullier (CFPR) to pay the costs.*

(1) OJ C 346, 18.12.2010.

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**Judgment of the General Court of 20 May 2015 — Yuanping Changyuan Chemicals v Council**

**(Case T-310/12)** (1)

***(Dumping — Imports of oxalic acid originating in India and China — Definitive anti-dumping duty — Community industry — Determination of injury — Article 9(4), Article 14(1) and Article 20(1) and (2) of Regulation (EC) No 1225/2009 — Obligation to state reasons — Right to make representations — Article 20(5) of Regulation (EC) No 1225/2009)***

(2015/C 221/09)

*Language of the case: English*

**Parties**

*Applicant:* Yuanping Changyuan Chemicals Co. Ltd (Yuan Ping City, Xin Zhou, China) (represented by: V. Akritidis, lawyer)

*Defendant:* Council of the European Union (represented by: J.-P. Hix, Agent, and initially by N. Chesaites, Barrister, and G. Berrisch, lawyer, and subsequently by D. Geradin, lawyer)

*Intervener in support of the defendant*: European Commission (represented by: M. França and A. Stobiecka-Kuik, Agents)

**Re:**

Application for annulment of Council Implementing Regulation (EU) No 325/2012 of 12 April 2012 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of oxalic acid originating in India and the People's Republic of China (OJ 2012 L 106, p. 1).

**Operative part of the judgment**

*The Court:*

1) *Annuls Council Implementing Regulation (EU) No 325/2012 of 12 April 2012 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of oxalic acid originating in India and the People's Republic of China in so far as it concerns Yuanping Changyuan Chemicals Co. Ltd;*

2) *Orders the Council of the European Union to bear its own costs and to pay those incurred by Yuanping Changyuan Chemicals Co. Ltd, other than the costs incurred by the latter as a result of the European Commission's intervention;*

3) *Orders the European Commission to bear its own costs and to pay those incurred by Yuanping Changyuan Chemicals Co. Ltd as a result of the European Commission's intervention.*

(1) OJ C 273, 8.9.2012.

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**Judgment of the General Court of 21 May 2015 — Senz Technologies BV v OHIM — Impliva (Umbrellas)**

**(Case T-22/13 and T-23/13)** (1)

***(Community design — Invalidity proceedings — Registered Community design representing umbrellas — Grounds for invalidity — Disclosure of earlier design — American patent as earlier design — Circles specialised in the sector concerned — Informed user — Degree of attention of an informed user — Fashion accessories — Degree of freedom of the designer — Individual character — Different overall impression — Invalidity proceedings)***

(2015/C 221/10)

*Language of the case: English*

**Parties**

*Applicant:* Senz Technologies BV (Delft (Netherlands)) (represented initially by: W. Hoyng and C. Zeri, and subsequently by W. Hoyng and I. de Bruijn, lawyers)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented initially by: F. Mattina, and subsequently by A. Folliard-Monguiral, acting as Agents)

*Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court:* Impliva BV (Mijdrecht (Netherlands)) (represented by: C. Gielen and A. Verschuur, lawyers)

**Re:**

Actions brought against two decisions of the Third Board of Appeal of OHIM of 26 September 2012 (Cases R 2453/2010-3 and R 2459/2010-3), in relation to invalidity proceedings between Impliva BV and Senz Technologies BV.

**Operative part of the judgment**

*The Court:*

1. *Annuls the decisions of the Third Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 26 September 2012 (Cases R 2453/2010-3 and R 2459/2010-3);*

2. *Orders Impliva BV to bear its own costs and to pay one third of the costs of Senz Technologies BV;*

3. *Orders Senz Technologies to bear two thirds of its own costs;*

4. *Orders OHIM to bear its own costs.*

(1) OJ C 101, 6.4.2013.

## Judgment of the General Court of 21 May 2015 — Formula One Licensing BV v OHIM — Idea Marketing (F1H2O)

**(Case T-55/13)** ([1])

***(Community trade mark — Opposition proceedings — International registration designating the European Community — Word mark F1H2O — Community, international, Benelux and national word and figurative marks with the element 'F1' — Relative grounds for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — Unfair advantage taken of the distinctive character or reputation of the earlier trade marks — Article 8(5) of Regulation No 207/2009)***

(2015/C 221/11)

*Language of the case: English*

### Parties

*Applicant:* Formula One Licensing BV (Rotterdam, Netherlands) (represented initially by B. Klingberg and subsequently by K. Sandberg, lawyers)

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

*Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court:* Idea Marketing SA (Lausanne, Switzerland) (represented by B. Brisset and O. Vanner, lawyers)

### Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 20 November 2012 (Case R 1247/2011-4), concerning opposition proceedings between Formula One Licensing BV and Idea Marketing SA.

### Operative part of the judgment

*The Court:*

1. *Dismisses the action;*

2. *Orders Formula One Licensing BV to bear its own costs and to pay those incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) and by Idea Marketing SA.*

([1]) OJ C 101, 6.4.2013.

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## Judgment of the General Court of 21 May 2015 — Rubinum v Commission

**(Case T-201/13)** ([1])

***(Public health — Food safety — Additive for use in animal nutrition — Preparation of Bacillus cereus var. toyoi — Commission decision to suspend the authorisations of that preparation — Risk to health — Error of Law — Precautionary principle)***

(2015/C 221/12)

*Language of the case: German*

### Parties

*Applicant:* Rubinum, SA (Rubí, Spain) (represented by: C. Bittner and P.-C. Scheel, lawyers)

*Defendant:* European Commission (represented by: D. Bianchi, B. Schima and G. von Rintelen, acting as Agents)

**Re:**

Application for annulment of Commission Implementing Regulation (EU) No 288/2013 of 25 March 2013 concerning the suspension of the authorisations of the preparation of Bacillus cereus var. toyoi (NCIMB 40112/CNCM I-1012) as provided for by Regulations (EC) No 256/2002, (EC) No 1453/2004, (EC) No 255/2005, (EC) No 1200/2005, (EC) No 166/2008 and (EC) No 378/2009 (OJ 2013 L 86, p. 15).

**Operative part of the judgment**

*The Court:*

1. *Dismisses the action;*

2. *Orders Rubinum, SA to pay the costs.*

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([1]) OJ C 164, 8.6.2013.

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**Judgment of the General Court of 21 May 2015 — Nutrexpa v OHIM — Kraft Foods Italia Intellectual Property (Cuétara Maria ORO)**

**(Case T-218/13)** ([1])

***(Community mark — Opposition proceedings — Application for Community figurative mark Cuétara Maria ORO — Earlier Community and national figurative marks ORO — Partial refusal of registration — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)***

(2015/C 221/13)

*Language of the case: Spanish*

**Parties**

*Applicant:* Nutrexpa, SL (Barcelona, Spain) (represented by: J. Grau Mora, M. Ferrándiz Avendaño and Y. Sastre Canet, lawyers)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: O. Mondéjar Ortuño and V. Melgar, acting as Agents)

*Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court:* Kraft Foods Italia Intellectual Property Srl (Milan, Italy) (represented by: A Masetti Zannini de Concina, M. Bucarelli and G. Petrocchi, lawyers)

**Re:**

Action brought against the decision of the First Board of Appeal of OHIM of 11 February 2013 (case R 2455/2011-1), relating to opposition proceedings between Kraft Foods Italia Intellectual Property Srl and Nutrexpa, SL.

**Operative part of the judgment**

*The Court:*

1. *Disjoins Case T-218/13 from Case T-217/13 for the purpose of the judgment;*

2. *Dismisses the action;*

3. *Orders Nutrexpa, SL to pay the costs.*

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([1]) OJ C 189, 29.6.2013.

## Judgment of the General Court of 21 May 2015 — Nutrexpa v OHIM — Kraft Foods Italia Intellectual Property (Cuétara MARÍA ORO)

**(Case T-271/13)** ([1])

***(Community mark — Opposition proceedings — Application for Community figurative mark Cuétara MARÍA ORO — Earlier Community and national figurative marks ORO — Partial refusal of registration — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)***

(2015/C 221/14)

*Language of the case: Spanish*

**Parties**

*Applicant:* Nutrexpa, SL (Barcelona, Spain) (represented by: J. Grau Mora, M. Ferrándiz Avendaño and Y. Sastre Canet, lawyers)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: Ó. Mondéjar Ortuño and V. Melgar, acting as Agents)

*Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court:* Kraft Foods Italia Intellectual Property Srl (Milan, Italy) (represented by: A. Masetti Zannini de Concina, M. Bucarelli and G. Petrocchi, lawyers)

**Re**

Action brought against the decision of the First Board of Appeal of OHIM of 18 March 2013 (case R 1285/2012-1), relating to opposition proceedings between Kraft Foods Italia Intellectual Property Srl and Nutrexpa, SL.

**Operative part of the judgment**

*The Court:*

1) *Dismisses the action;*

2) *Orders Nutrexpa, SL to pay the costs.*

([1]) OJ C 215, 27.7.2013.

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## Judgment of the General Court of 21 May 2015 — Evyap v OHIM — Megusta Trading (nuru)

**(Case T-56/14)** ([1])

***(Community trade mark — Opposition proceedings — Application for a Community figurative mark representing a wiggly line — Earlier national and international word and figurative marks DURU — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)***

(2015/C 221/15)

*Language of the case: English*

**Parties**

*Applicant:* Evyap Sabun Yağ Gliserin Sanayi ve Ticaret A.Ş. (Istanbul, Turkey) (represented by: J. Güell Serra, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: Ó. Mondéjar Ortuño, acting as Agent)

*Other party to the proceedings before the Board of Appeal of OHIM:* Megusta Trading GmbH (Zurich, Switzerland)

**Re:**

Action brought against the decision of the Fourth Board of Appeal of OHIM of 6 November 2013 (Case R 1861/2012-4) concerning opposition proceedings between Evyap Sabun Yağ Gliserin Sanayi ve Ticaret A.Ş. and Megusta Trading GmbH.

**Operative part of the judgment**

*The Court:*

1) *Dismisses the action;*

2) *Orders Evyap Sabun Yağ Gliserin Sanayi ve Ticaret A.Ş. to pay the costs.*

([1]) OJ C 129, 28.4.2014.

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**Judgment of the General Court of 21 May 2015 — adidas v OHIM — Shoe Branding Europe (Two parallel stripes on a shoe)**

**(Case T-145/14)** ([1])

***(Community trade mark — Opposition proceedings — Application for Community position mark consisting of two parallel stripes on a shoe — Community and national figurative marks and earlier international registration representing three parallel stripes applied to shoes and clothing — Relative grounds for refusal — Likelihood of confusion — Article 8(1)(b) and (5) of Regulation (EC) No 207/2009)***

(2015/C 221/16)

*Language of the case: English*

**Parties**

*Applicant:* adidas AG (Herzogenaurach, Germany) (represented initially by: V. von Bomhard and J. Fuhrmann, lawyers, and subsequently by I. Fowler, Solicitor)

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

*Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court:* Shoe Branding Europe BVBA (Oudenaarde, Belgium) (represented by J. Løje, lawyer)

**Re:**

Action brought against the decision of the Second Board of Appeal of OHIM of 28 November 2013 (Case R 1208/2012-2), relating to opposition proceedings between adidas AG and Shoe Branding Europe BVBA.

**Operative part of the judgment**

*The Court:*

1. *Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 28 November 2013 (Case R 1208/2012-2);*

2. *Orders OHIM to bear its own costs and to pay those incurred by adidas AG;*

3. *Orders Shoe Branding Europe BVBA to bear its own costs.*

([1]) OJ C 129, 28.4.2014.

## Judgment of the General Court of 21 May 2015 — La Zaragozana v OHIM — Charles Cooper (GREEN'S)

**(Case T-197/14)** ([1])

***(Community trade mark — Opposition proceedings — Application for the Community figurative trade mark GREEN'S — Earlier national word mark AMBAR GREEN — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation No 207/2009)***

(2015/C 221/17)

*Language of the case: English*

### Parties

*Applicant:* La Zaragozana, SA (Zaragoza, Spain) (represented by: L. Broschat García, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: J. García Murillo and A. Folliard-Monguiral, Agents)

*Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court:* Charles Cooper Ltd (Leeds, United Kingdom) (represented by: H. Granado Carpenter and L. Polo Carreño, lawyers)

### Re:

Action brought against the decision of the Fifth Board of Appeal of OHIM of 21 January 2014 (Case R 1284/2012-5), relating to opposition proceedings between La Zaragozana, SA and Charles Cooper Ltd.

### Operative part of the judgment

*The Court:*

1. *Dismisses the action;*

2. *Orders La Zaragozana, SA to pay the costs.*

([1]) OJ C 235, 21.7.2014.

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## Judgment of the General Court of 21 May 2015 — Mo Industries v OHIM (Splendid)

**(Case T-203/14)** ([1])

***(Community trade mark — Application for Community figurative mark Splendid — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) and Article 7(2) of Regulation (EC) No 207/2009 — Equal treatment — Principle of sound administration)***

(2015/C 221/18)

*Language of the case: English*

### Parties

*Applicant:* Mo Industries LLC (Los Angeles, California, United States) (represented by: P. González-Bueno Catalán de Ocón, lawyer)

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

### Re:

Action brought against the decision of 7 January 2014 of the First Board of Appeal of OHIM (Case R 1542/2013-1) concerning an application for registration of the figurative sign Splendid as a Community trade mark.

**Operative part of the judgment**

*The Court:*

1) *Dismisses the action;*

2) *Orders Mo Industries LLC to pay the costs.*

(1) OJ C 212, 7.7.2014.

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**Judgment of the General Court of 21 May 2015 — Wine in Black v OHIM — Quinta do Noval-Vinhos (Wine in Black)**

**(Case T-420/14)** (1)

***(Community trade mark — Opposition proceedings — Application for Community word mark Wine in Black — Earlier Community word mark NOVAL BLACK — Relative ground for refusal — No likelihood of confusion — Similarity of the signs — Article 8(1)(b) of Regulation (EC) No 207/2009)***

(2015/C 221/19)

*Language of the case: English*

**Parties**

*Applicant:* Wine in Black GmbH (Berlin, Germany) (represented by: A. Bauer and V. Ahmann, lawyers)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: M.L. Vuijst and A. Folliard-Monguiral, Agents)

*Other party to the proceedings before the Board of Appeal of OHIM:* Quinta do Noval-Vinhos, SA (Pinhão, Portugal)

**Re:**

Action brought against the decision of the First Board of Appeal of OHIM of 6 March 2014 (Case R 1601/2013-1), concerning opposition proceedings between Quinta do Noval-Vinhos, SA and Wine in Black GmbH.

**Operative part of the judgment**

*The Court:*

1. *Annuls the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 6 March 2014 (Case R 1601/2013-1);*

2. *Orders OHIM to pay the costs.*

(1) OJ C 303, 8.9.2014.

## Judgment of the General Court of 21 May 2015 — Urb Rulmenti Suceava SA v OHIM — Adiguzel (URB)

**(Case T-635/14)** ([1])

***(Community trade mark — Invalidity proceedings — Figurative Community trade mark URB — Application for the earlier national mark URB, earlier national collective word mark URB, earlier national collective figurative mark URB and earlier international figurative marks URB — Absolute ground for refusal — No bad faith on the part of the proprietor of the Community trade mark — Article 52(1)(b) of Regulation (EC) No 207/2009 — Relative ground for refusal — No authorisation by the proprietor of the earlier marks — Article 8(1)(b) and Article 53(1)(a) of Regulation No 207/2009 — No infringement of Articles 22(3) and 72(1) of Regulation No 207/2009)***

(2015/C 221/20)

*Language of the case: English*

**Parties**

*Applicant:* Urb Rulmenti Suceava SA (Suceava, Romania) (represented by: I. Burdusel, lawyer)

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

*Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court:* Harun Adiguzel (Diosd, Hungary) (represented by: G. Bozocea, lawyer)

**Re:**

Action brought against the decision of the Fourth Board of Appeal of OHIM of 23 June 2014 (Case R 1974/2013-4) concerning invalidity proceedings between Urb Rulmenti Suceava SA and Mr Harun Adiguzel.

**Operative part of the judgment**

*The Court:*

1. *Dismisses the action;*

2. *Orders Urb Rulmenti Suceava SA to pay the costs;*

3. *Orders Mr Harun Adiguzel to bear his own costs.*

([1]) OJ C 361, 13.10.2014.

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## Order of the General Court of 12 May 2015 — Stichting Woonlinie and Others v Commission

**(Case T-202/10 RENV)** ([1])

***(State aid — Social housing — Scheme of aid granted to housing corporations — Existing aid — Decision accepting Member State's commitments — Action manifestly lacking any foundation in law)***

(2015/C 221/21)

*Language of the case: Dutch*

**Parties**

*Applicants:* Stichting Woonlinie (Woudrichem, Netherlands); Stichting Allee Wonen (Roosendaal, Netherlands); Woningstichting Volksbelang (Wijk bij Duurstede, Netherlands); Stichting WoonInvest (Leidschendam-Voorburg, Netherlands); Stichting Woonstede (Ede, Netherlands) (represented initially by P. Glazener and E. Henny and subsequently by P. Glazener, lawyers)

*Defendant:* European Commission (represented by: P.-J. Loewenthal and S. Noë, Agents)

*Intervener in support of the applicants*: Kingdom of Belgium (represented initially by T. Materne and J.-C. Halleux and subsequently by J.-C. Halleux, Agents)

*Intervener in support of the defendant*: Vereniging van Institutionele Beleggers in Vastgoed, Nederland (IVBN) (Voorburg, Netherlands) (represented by: M. Meulenbelt, lawyer)

**Re:**

Application for annulment of Commission Decision C(2009) 9963 final of 15 December 2009 relating to State aid E 2/2005 and N 642/2009 — Netherlands — Existing and special project aid to housing corporations.

**Operative part of the order**

1. *The action is dismissed.*

2. *Orders Stichting Woonlinie, Stichting Allee Wonen, Woningstichting Volksbelang, Stichting WoonInvest and Stichting Woonstede to bear their own costs and pay those incurred by the European Commission.*

3. *Orders the Kingdom of Belgium and Vereniging van Institutionele Beleggers in Vastgoed, Nederland (IVBN) to bear their own costs.*

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([1]) OJ C 179, 3.7.2010.

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## Order of the General Court of 12 May 2015 — Stichting Woonpunt and Others v Commission

**(Case T-203/10 RENV)** ([1])

***(State aid — Social housing — Scheme of aid granted to housing corporations — Existing aid — Decision accepting Member State's commitments — Action manifestly lacking any foundation in law)***

(2015/C 221/22)

*Language of the case: Dutch*

**Parties**

*Applicants:* Stichting Woonpunt (Maastricht, Netherlands); Stichting Havensteder, formerly Stichting Com.wonen (Rotterdam, Netherlands); Woningstichting Haag Wonen (The Hague, Netherlands); and Stichting Woonbedrijf SWS.Hhvl (Eindhoven, Netherlands) (represented initially by P. Glazener and E. Henny and subsequently by P. Glazener, lawyers)

*Defendant:* European Commission (represented by: P.-J. Loewenthal and S. Noë, Agents)

*Intervener in support of the applicants*: Kingdom of Belgium (represented initially by T. Materne and J.-C. Halleux, and subsequently by J.-C. Halleux, Agents)

*Intervener in support of the defendant*: Vereniging van Institutionele Beleggers in Vastgoed, Nederland (IVBN) (Voorburg, Pays-Bas) (represented by: M. Meulenbelt, lawyer)

**Re:**

Application for annulment of Commission Decision C(2009) 9963 final of 15 December 2009 relating to State aid E 2/2005 and N 642/2009 — Netherlands — Existing and special project aid to housing corporations.

**Operative part of the order**

1. *The action is dismissed.*

2. *Orders Stichting Woonpunt, Stichting Havensteder, Woningstichting Haag Wonen and Stichting Woonbedrijf SWS.Hhvl to bear their own costs and pay those incurred by the European Commission.*

3. *Orders the Kingdom of Belgium and Vereniging van Institutionele Beleggers in Vastgoed, Nederland (IVBN) to bear their own costs.*

([1]) OJ C 179, 3.7.2010.

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**Order of the General Court of 12 May 2015 — Red Bull v OHIM — Automobili Lamborghini (Representation of two bulls)**

**(Case T-73/14)** ([1])

***(Community trade mark — Application for revocation — Withdrawal of registration — No need to adjudicate)***

(2015/C 221/23)

*Language of the case: German*

**Parties**

*Applicant:* Red Bull GmbH (Fuschl am See, Austria) (represented by: initially, A. Renck, V. von Bomhard and J. Fuhrmann, lawyers, and I. Fowler, Solicitor, then by A. Renck and I. Fowler)

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

*Other party to the proceedings before the Board of Appeal of OHIM intervening before the General Court:* Automobili Lamborghini SpA (Sant'Agata Bolognese, Italy) (represented by: M. Hartmann, lawyer)

**Re:**

Action brought against the decision of the First Board of Appeal of OHIM of 14 November 2013 (Case R 1263/2012-1) concerning invalidity proceedings between Automobili Lamborghini SpA and Red Bull GmbH.

**Operative part of the order**

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

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

([1]) OJ C 102, 7.4.2014.

## Order of the General Court of 16 April 2015 — Yoworld v OHIM — Nestlé (yogorino)

**(Case T-246/14)** ([1])

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

(2015/C 221/24)

*Language of the case: English*

**Parties**

*Applicant:* Yoworld SA (Luxembourg, Luxembourg) (represented by: A. Tornato and D. Hazan, lawyers)

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

*Other party to the proceedings before the Board of Appeal of OHIM:* Société des produits Nestlé SA (Vevey, Switzerland)

**Re:**

Action brought against the decision of the Second Board of Appeal of OHIM of 20 December 2013 (Case R 115/2013-2) concerning opposition proceedings between Société des produits Nestlé SA and Yoworld SA.

**Operative part of the order**

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

2. *The applicant and the other party to the proceedings before the Board of Appeal shall bear their own costs and shall each pay half of the costs incurred by the defendant.*

([1]) OJ C 235, 21.7.2014.

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## Order of the General Court of 30 April 2015 — ERTICO — ITS EUROPE v Commission

**(Case T-499/14)** ([1])

***(Recommendation 2003/361/EC — Criteria for defining micro, small and medium-sized enterprises in European Union policies — Decision of the Validation Panel of the Commission — Withdrawal of the decision — Action becoming devoid of purpose — No need to adjudicate)***

(2015/C 221/25)

*Language of the case: English*

**Parties**

*Applicant:* European Road Transport Telematics Implementation Coordination Organisation — Intelligent Transport & Services Europe (ERTICO — ITS EUROPE) (Brussels, Belgium) (represented by: M. Wellinger and K. T'Syen, lawyers)

*Defendant:* European Commission (represented by: R. Lyal and M. Clausen, acting as Agents)

**Re:**

Application for annulment of the decision of the Validation Panel of the European Commission of 15 April 2014 declaring that the applicant cannot be qualified as a micro, small or medium-sized enterprise within the meaning of Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ 2003 L 124, p. 36).

**Operative part of the order**

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

2) *The European Commission shall bear its own costs and those incurred by European Road Transport Telematics Implementation Coordination Organisation - Intelligent Transport Systems & Services Europe (ERTICO — ITS EUROPE).*

([1]) OJ C 380, 27.10.2014.

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## Order of the General Court of 13 May 2015 — Klar and Fernandez Fernandez v Commission

**(Case T-665/14 P)** ([1])

***(Appeal — Civil Service — Officials — Staff Committee of the Commission — Revocation by the Luxembourg local section of one of its members appointed to the central staff committee — Decision refusing to recognise the lawfulness of the revocation decision — Action at first instance dismissed as manifestly inadmissible — Non respect of the pre-litigation procedure — Measure adversely affecting a person — Appeal in part manifestly inadmissible and in part manifestly unfounded)***

(2015/C 221/26)

*Language of the case: French*

**Parties**

*Appellants:* Robert Klar (Grevenmacher, Luxembourg) and Francisco Fernandez Fernandez (Steinsel, Luxembourg) (represented by: A. Salerno, lawyer)

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

**Re:**

Appeal against the order of the Civil Service Tribunal of the European Union (Third Chamber) of 16 July 2014 in *Klar and Fernandez Fernandez* v *Commission* (F-114/13, ECR-SC, EU:F:2014:192), seeking to have that order set aside.

**Operative part of the order**

1. *The appeal is dismissed;*

2. *Mr Robert Klar and Mr Francisco Fernandez Fernandez are ordered to bear their own costs and those incurred by the European Commission in the context of the present proceedings.*

([1]) OJ C 380, 27.10.2014.

## Order of the General Court of 30 April 2015 — Alnapharm v OHIM — Novartis (Alrexil)

**(Case T-839/14)** ([1])

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

(2015/C 221/27)

*Language of the case: English*

**Parties**

*Applicant:* Alnapharm GmbH & Co. KG (Hamburg, Germany) (represented by: H. Heldt, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: H. O'Neill, acting as Agent)

*Other party to the proceedings before the Board of Appeal of OHIM:* Novartis AG (Basel, Switzerland)

**Re:**

Action brought against the decision of the Fourth Board of Appeal of OHIM of 23 October 2014 (Case R 1723/2013-4) concerning opposition proceedings between Novartis AG and Alnapharm GmbH & Co. KG.

**Operative part of the order**

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

2. *The applicant and the other party to the proceedings before the Board of Appeal shall bear their own costs and shall each pay half of the costs incurred by the defendant.*

([1]) OJ C 65, 23.2.2015.

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## Order of the President of the General Court of 20 May 2015 — Hamcho and Hamcho International v Council

**(Case T-153/15 R)**

***(Application for interim measures — Restrictive measures taken against Syria — Freezing of funds and restriction on entry into and transit through the territory of the European Union — Application for suspension of operation of a measure — Failure to comply with the procedural requirements — Inadmissibility)***

(2015/C 221/28)

*Language of the case: French*

**Parties**

*Applicants:* Mohamad Hamcho (Damascus, Syria); and Hamcho International (Damascus) (represented by: A. Boesch, D. Amaudruz and M. Ponsard, lawyers)

*Defendant:* Council of the European Union

**Re:**

Application for suspension of operation of the measures imposed on the applicants under Council Implementing Regulation (EU) 2015/108 of 26 January 2015 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2015 L 20, p. 2), and of Council Implementing Decision (CFSP) 2015/117 of 26 January 2015 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2015 L 20, p. 85).

**Operative part of the order**

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

2. *Costs are reserved.*

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**Order of the President of the General Court of 20 May 2015 — Jaber v Council**

**(Case T-154/15 R)**

***(Application for interim measures — Restrictive measures taken against Syria — Freezing of funds and restriction on entry into and transit through the territory of the European Union — Application for suspension of operation of a measure — Failure to comply with the procedural requirements — Inadmissibility)***

(2015/C 221/29)

*Language of the case: French*

**Parties**

*Applicant:* Aiman Jaber (Lattakia, Syria) (represented by: A. Boesch, D. Amaudruz and M. Ponsard, lawyers)

*Defendant:* Council of the European Union

**Re:**

Application for suspension of operation of the measures imposed on the applicant under Council Implementing Regulation (EU) 2015/108 of 26 January 2015 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2015 L 20, p. 2), and of Council Implementing Decision (CFSP) 2015/117 of 26 January 2015 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2015 L 20, p. 85).

**Operative part of the order**

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

2. *Costs are reserved.*

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**Order of the President of the General Court of 20 May 2015 — Kaddour v Council**

**(Case T-155/15 R)**

***(Application for interim measures — Restrictive measures taken against Syria — Freezing of funds and restriction on entry into and transit through the territory of the European Union — Application for suspension of operation of a measure — Failure to comply with the procedural requirements — Inadmissibility)***

(2015/C 221/30)

*Language of the case: French*

**Parties**

*Applicant:* Khaled Kaddour (Damascus, Syria) (represented by: A. Boesch, D. Amaudruz and M. Ponsard, lawyers)

*Defendant:* Council of the European Union

**Re:**

Application for suspension of operation of the measures imposed on the applicant under Council Implementing Regulation (EU) 2015/108 of 26 January 2015 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2015 L 20, p. 2), and of Council Implementing Decision (CFSP) 2015/117 of 26 January 2015 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2015 L 20, p. 85).

**Operative part of the order**

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

2. *Costs are reserved.*

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## Order of the President of the General Court of 19 May 2015 — Costa v Parliament

**(Case T-197/15 R)**

***(Application for interim measures — Former Member of the European Parliament — Person in receipt of a Members' retirement pension — Recipient of an allowance as a President of a port authority — Rule against cumulation — Recovery of the pension received — Debit note — Application for a stay of enforcement — Infringement of the formal requirements — Inadmissibility)***

(2015/C 221/31)

*Language of the case: Italian*

**Parties**

*Applicant:* Paolo Costa (Venice, Italy) (represented by: G. Orsoni and M. Romeo, lawyers)

*Defendant:* European Parliament (represented by: S. Seyr and G. Corstens, Agents)

**Re:**

Application for a stay of enforcement of debit note No 2015-239 (Reference 303074) of the European Parliament of 23 February 2015, ordering the applicant to pay the sum of EUR 49 770,42 by 31 March 2015 at the latest.

**Operative part of the order**

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

2. *The costs are reserved.*

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## Action brought on 10 April 2015 — Golparvar/Council

**(Case T-176/15)**

(2015/C 221/32)

*Language of the case: English*

**Parties**

*Applicant:* Gholam Hossein Golparvar (Tehran, Iran) (represented by: M. Taher, Solicitor, T. de la Mare and R. Blakeley, Barristers)

*Defendant:* Council of the European Union

**Form of order sought**

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2015/236 of 12 February 2015 amending Decision 2010/413/CFSP concerning restrictive measures against Iran insofar as it applies to the applicant,

— annul Council Implementing Regulation (EU) 2015/230 of 12 February 2015 implementing Regulation (EU) No 26712012 concerning restrictive measures against Iran insofar as it applies to the applicant,

— order the Council to pay the applicant the sum of Euro 50 000 in damages, and

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

**Pleas in law and main arguments**

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

1. First plea in law, alleging a manifest error of assessment

   — Due to his complete retirement (which is uncontradicted) the applicant does not satisfy any of the criteria for listing, and the Council's statement of reasons (which does not dispute his retirement) is factually erroneous, with the result that the council has committed a manifest error of assessment in relisting the applicant.

2. Second plea in law, alleging a breach of the applicant's procedural rights and rights of defence

   — The Council breached the applicant's procedural rights and rights of defence by failing to take into account the observations and evidence submitted by the applicant that clearly establish his complete retirement from work.

3. Third plea in law, alleging a violation of article 266 TFEU

   — The Council has sought to re-list the applicant on the basis of substantially the same legal methodology and the same evidence as it did by way of the initial listing, which action was annulled by the General Court.

4. Fourth plea in law, alleging a violation of the principle of res judicata

   — The re-listing of the applicant is an abuse of process and violates the principles of res judicata and/or legal certainty and/or finality.

5. Fifth plea in law, alleging a violation of, inter alia, the principle of effectiveness and the right to effective judicial protection

   — The re-listing of the applicant violates the principle of effectiveness, the right to effective judicial protection, his rights under Article 47 of the EU Charter on Fundamental Rights of the European Union (the 'Charter') and/or Article 6 and Article 13 ECHR.

6. Sixth plea in law, alleging a violation of the right to good administration

   — The re-listing of the applicant is a misuse of power and/or violates his rights to good administration, as protected by Article 41 of the Charter.

7. Seventh plea in law, alleging a violation of the applicant's rights under Article 7 and 17 of the Charter and/or Article 8 ECHR and Article 1 of the 1st Protocol to the ECHR and/or the principle of proportionality.

   — The re-listing of the applicant violates his fundamental rights to respect for his reputation and peaceful enjoyment of his property and the principle of proportionality

8. Eighth plea in law, alleging the unlawfulness of the re-listing of the applicant

   — The re-listing of the applicant is in any event based on the assumed legality of the restrictive measures imposed on the Islamic Republic of Iran Shipping lines, but such IRISL measures are unlawful (for the reasons advanced by IRISL, which reasons are incorporated by reference herein) with the result that the measures taken against the applicant must be annulled.

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**Action brought on 23 April 2015 — Intercon v Commission**

**(Case T-206/15)**

(2015/C 221/33)

*Language of the case: Polish*

**Parties**

*Applicant:* Intercon Sp. z o.o. (Łódź, Poland) (represented by: B. Eger, lawyer)

*Defendant:* European Commission

**Form of order sought**

The applicant submits that the Court should:

— declare that the funds which the European Commission paid to the applicant in respect of its participation in the project covered by Agreement VPH2-224635 constitute eligible expenditure in accordance with Article II.14 of the General Terms and Conditions of the Agreement and that the applicant is for that reason not obliged to repay them;

— order the European Commission to pay the costs of the proceedings;

— set aside the implementation of the contested decision.

**Pleas in law and main arguments**

In support of its action the applicant puts forward one plea in law alleging infringement of the principle of mutual goodwill on the part of contracting parties and infringement of the principle that undertakings must place their trust in the Commission.

— The Commission, the applicant submits, failed to take any account of the observations and documents submitted by the beneficiary by letter of 14 August 2014. In this connection, the Commission invoked Article 22.II.5 of Annex II to the Agreement, under which it is entitled not to take account of statements and evidence submitted out of time. However, in view of the fact that the Commission had itself requested the beneficiary to restate its observations, such a course of action was improper. In that situation, the fact that the new evidence and observations were disregarded in their entirety constitutes a manifest infringement of the principle of mutual goodwill on the part of contracting parties and of the principle that undertakings must place their trust in the Commission.

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**Action brought on 29 April 2015 — Azarov v Council**

**(Case T-215/15)**

(2015/C 221/34)

*Language of the case: German*

**Parties**

*Applicant:* Mykola Yanovych Azarov (Kiev, Ukraine) (represented by: G. Lansky and A. Egger, lawyers)

*Defendant:* Council of the European Union

**Form of order sought**

The applicant claims that the Court should:

— annul, pursuant to Article 263 TFEU, Council Decision (CFSP) 2015/364 of 5 March 2015 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2015 L 62, p. 25) and Council Implementing Regulation (EU) 2015/357 of 5 March 2015 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2015 L 62, p. 1), in so far as they concern the applicant;

— prescribe, pursuant to Article 64 of the Rules of Procedure of the General Court, certain measures of organisation of procedure;

— order the Council, pursuant to Article 87(2) of the Rules of Procedure, to pay the costs.

**Pleas in law and main arguments**

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

1. First plea in law: Infringement of the obligation to state reasons

   In this regard, it is claimed, inter alia, that the statement of reasons for the contested acts is too general with respect to the applicant.

2. Second plea in law: Infringement of fundamental rights

   In the context of this plea in law, the applicant invokes infringement of the right to property and infringement of the freedom to conduct a business. He also complains that the restrictive measures imposed are disproportionate. Lastly, he submits that there has been infringement of his rights of the defence.

3. Third plea in law: Misuse of powers

   In this regard, the applicant submits inter alia that the Council misused its powers because the imposition of restrictive measures against him predominantly pursued objectives other than those of actually consolidating and supporting the rule of law and respect for human rights in Ukraine.

4. Fourth plea in law: Infringement of the principle of good administration

   In the context of this plea in law, the applicant complains in particular of infringement of the right to impartial treatment, infringement of the right to just or fair treatment and infringement of the right to a careful investigation of the facts.

5. Fifth plea in law: Manifest error of assessment

**Action brought on 15 May 2015 — Pari Pharma/EMA**

**(Case T-235/15)**

(2015/C 221/35)

*Language of the case: English*

**Parties**

*Applicant:* Pari Pharma GmbH (Starnberg, Germany) (represented by: M. Epping, and W. Rehmann, lawyers)

*Defendant:* European Medicines Agency

**Form of order sought**

The applicant claims that the Court should:

— annul the decision ASK-11351 (Vantobra) of the European Medicines Agency ('EMA') of 24 April 2015, insofar as it grants a third party access to the CHMP Assessment Report for VANTOBRA on similarity with Cayston and TOBI Podhaler (EMA/CHMP/702525/2014), and the CHMP Assessment Report on clinical superiority to TOBI Podhaler (EMA/CHMP/778270/2014), pursuant to Regulation (EC) No 1049/2001 ([1]);

— order the EMA not to disclose the documents referred to in the first head of claim;

— in the alternative, annul the decision ASK-11351 (Vantobra) of the EMA of 24 April 2015, insofar as it grants a third party access to (i) the CHMP Assessment Report on clinical superiority to TOBI Podhaler, (EMA/CHMP/778270/2014), without additional redactions on pages 9 (Superior Respiratory Tolerability of Vantobra over Tobi Podhaler), pages 11 to 12 and 14 (Extrapolation of tolerability from TOBI to Vantobra), pages 17 to 19 (Claimant's position Q.1 and assessment of the response) and pages 19 to 23 (Claimant's position Q.2, Assessment of the response, 3. Conclusion and Recommendation), as set out in Exhibit A 1, and (ii) the CHMP Assessment Report for VANTOBRA on similarity with Cayston and TOBI Podhaler, (EMA/CHMP/702525/2014), without additional redactions on pages 9 to 10, Section 2.3 (Therapeutic indication, 1) Data from field survey) and pages 11 to 12, Section 2.3 (Therapeutic indication, 2) Interview of physicians in CF centers), as set out in Exhibit A 2, and order the EMA not to disclose the aforementioned documents without the redactions arising from Exhibit A 1 and Exhibit A2; and

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

**Pleas in law and main arguments**

In support of the action, the applicant relies on one plea in law.

The applicant submits that the decision of the EMA violates Regulation (EC) No 1049/2001, and that it thus violates the applicant's fundamental rights and freedoms as regards private life and confidentiality under article 7 of the Charter of Fundamental Rights of the European Union (the 'Charter'), article 8 of the Convention for the protection of Human Rights and Fundamental Freedoms of 4 November 1950 and article 339 TFEU, its freedom to conduct a business under article 16 of the Charter and its property right with regard to intellectual property, article 17(2) of the Charter. The applicant submits that (i) disclosure would allow any competitor to simply use the data and information provided by the applicant for the purpose of obtaining marketing authorisation for its own tobramycin product without any additional investment, thereby undermining the applicant's commercial interest, and (ii) there is no overriding public interest in the disclosure of these documents.

([1]) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

# EUROPEAN UNION CIVIL SERVICE TRIBUNAL

## Action brought on 18 March 2015 — ZZ v Commission

**(Case F-44/15)**

(2015/C 221/36)

*Language of the case: Italian*

### Parties

*Applicant:* ZZ (represented by: G. Bellotti, lawyer)

*Defendant:* European Commission

### Subject-matter and description of the proceedings

The annulment of the decision to appoint a person other than the applicant as head of the unit C4 ('Legal Advice'), the applicant having acted as head of that unit since the departure of the previous head of unit and having submitted an application in response to the vacancy notice for that post.

### Form of order sought

The applicant claims that the Tribunal should:

— annul the decision, under the reference Ares (2015)43686, of 7 January 2015, dismissing the complaint brought on 30 September 2014 (No R/994/14) under Article 90(2) of the Staff Regulations;

— annul the decision of 30 June 2014 adopted by the Director General of OLAF, acting as the appointing authority, in relation to the appointment of the head of the unit OLAF.C4 (Legal Advice);

— declare that, by virtue of the annulment of the two abovementioned decisions, the procedure for the selection of the head of the unit OLAF.C4 (Legal Advice) is vitiated by illegality as of the time when the illegal act was found to have been committed;

— order the European Commission to pay compensation — to be assessed on equitable principles — in respect of the harm suffered by the applicant connected with the loss of an opportunity, of at least EUR 10 000;

— order the Commission to pay the costs.

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## Action brought on 23 April 2015 — ZZ v European Commission

**(Case F-61/15)**

(2015/C 221/37)

*Language of the case: French*

### Parties

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

*Defendant:* European Commission

### Subject-matter and description of the proceedings

The annulment of the decision of the Commission's Office for the Administration and Payment of Individual Entitlements of 25 September 2014 refusing to grant the applicant the expatriation allowance.

**Form of order sought**

The applicant claims that the Tribunal should:

— annul the AECE's decision of 25 September 2014 refusing to grant the applicant the expatriation allowance;

— order the European Commission to pay the costs.

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**Action brought on 23 April 2015 — ZZ v OHIM**

**(Case F-63/15)**

(2015/C 221/38)

*Language of the case: German*

**Parties**

*Applicant:* ZZ (represented by: Heinrich Tettenborn, lawyer)

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

**Subject-matter and description of the proceedings**

Action for annulment of the defendant's decision of 4 June 2014 to terminate the applicant's contract of employment pursuant to a clause in that contract of employment.

**Form of order sought**

The applicant claims that the Tribunal should:

— set aside the determination of OHIM, which was communicated by letter from OHIM dated 4 June 2014, to terminate the applicant's contract as a temporary member of staff at OHIM with a notice period of six months, which began on 4 June 2014;

— order OHIM to pay to the applicant damages of an appropriate amount at the discretion of the Tribunal for the non-material damage arising from the decision of OHIM referred to in paragraph 1 above;

— order OHIM to reinstate the applicant with full restoration of her career advancements which she would have achieved upon continuous further employment and order OHIM to compensate the applicant fully for the material damage suffered by her, in particular by paying all outstanding salary and all other material damage incurred by the applicant as a result of OHIM's unlawful conduct (after deduction of unemployment benefit received);

— in the alternative, in the event that, in the present situation, for legal or practical reasons the applicant is not reinstated or re-employed under the same conditions as hitherto, order OHIM to pay the applicant compensation for the material damage caused to the applicant by the unlawful termination of her employment, corresponding to the difference between her actual lifetime earnings and the lifetime earnings the applicant would have achieved if the contract had remained in force, taking into account pension benefits and other entitlements;

— order OHIM to pay the costs.

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**Action brought on 23 April 2015 — ZZ v OHIM**

**(Case F-64/15)**

(2015/C 221/39)

*Language of the case: German*

**Parties**

*Applicant:* ZZ (represented by: H. Tettenborn, lawyer)

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

**Subject-matter and description of the proceedings**

Annulment of the defendant's decision of 4 June 2014 to terminate the applicant's employment contract under one of the terms of that contract.

**Form of order sought**

The applicant claims that the Court should:

— annul OHIM's assessment, notified to the applicant by letter of OHIM of 4 June 2014, according to which the contract of the applicant, as a temporary agent at OHIM, had a notice period of six months beginning on 4 June 2014;

— order OHIM, in addition, to pay the applicant damages of an appropriate amount to be determined by the Court for non-material loss that the applicant suffered because of OHIM's abovementioned decision;

— order OHIM to reinstate the applicant to her position by fully reconstituting the career path that she would otherwise have had if her contract had been continuously renewed and to compensate her the material loss that she suffered, in particular through the payment of all out-standing emoluments and all other material loss that OHIM's unlawful conduct caused to the applicant (excluding the unemployment benefit that the applicant received);

— order OHIM, in the alternative, to pay the applicant damages, in the event that on legal or factual grounds the applicant is not reinstated in her position and/or does not continue to work under the previous terms and conditions, for the material loss attributable to the unlawful termination of her contract in the amount corresponding to the difference between the salary that she actually can expect and the salary that she would have received had the contract been renewed, having regard to pension entitlements and other claims;

— order OHIM to pay the costs.

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**Action brought on 23 April 2015 — ZZ v OHIM**

**(Case F-65/15)**

(2015/C 221/40)

*Language of the case: German*

**Parties**

*Applicant:* ZZ (represented by: H. Tettenborn, lawyer)

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

**Subject-matter and description of the proceedings**

Action for annulment of the defendant's decision of 4 June 2014 to terminate the applicant's contract of employment pursuant to a clause in that contract of employment.

**Form of order sought**

The applicant claims that the Tribunal should:

— set aside the determination of OHIM, which was communicated by letter from OHIM dated 4 June 2014, to terminate the applicant's contract as a temporary member of staff at OHIM with a notice period of six months, which began upon expiry of the validity of the reserve list of competition EPSO OHIM/AST/02/13;

— order OHIM to pay to the applicant damages of an appropriate amount at the discretion of the Tribunal for the non-material damage arising from the decision of OHIM referred to in paragraph 1 above;

— in the event that the date of the judgment or the definitive conclusion of the present proceedings is after the termination of the applicant's contract of employment by OHIM: order OHIM to reinstate the applicant with full restoration of her career advancements which she would have achieved upon continuous further employment and order OHIM to compensate the applicant fully for the material damage suffered by her, in particular by paying all outstanding salary and all other material damage incurred by the applicant as a result of OHIM's unlawful conduct (after deduction of unemployment benefit received);

— in the alternative, in the event that, in the present situation, for legal or practical reasons the applicant is not reinstated or re-employed under the same conditions as hitherto, order OHIM to pay the applicant compensation for the material damage caused to the applicant by the unlawful termination of her employment, corresponding to the difference between her actual lifetime earnings and the lifetime earnings the applicant would have achieved if the contract had remained in force, taking into account pension benefits and other entitlements;

— order OHIM to pay the costs.

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