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(2015/C 254/01)

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These texts are available on:

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

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 7 April 2015 — Franz Lesar

(Case C-159/15)

(2015/C 254/02)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Franz Lesar

Defendant: Beim Vorstand der Telekom Austria AG eingerichtetes Personalamt

Question referred

Are Articles 2(1), Article 2(2)(a) and Article 6(1) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation ([1]) to be interpreted as meaning that they are not compatible with a national provision — such as that in issue in the main proceedings — under which periods of apprenticeship and periods of employment as a contract agent with the Federal Government for which contributions to the compulsory pension insurance scheme were to be paid for the purposes of obtaining a civil servants' pension are:

(a) to be credited as pensionable periods prior to entry into service if they are completed after the 18th birthday, whereby the Federal Government in this case receives an agreed transferred contribution in accordance with the provisions of social security law for crediting these periods from the social security agency; or, alternatively

(b) not to be credited as pensionable periods prior to entry into service, if they are completed before the 18th birthday, whereby there is no agreed transfer to the Federal Government for such periods if they are not credited, and the insured party is reimbursed for any contributions made to the pension insurance scheme, especially considering that, in the event that these periods are subsequently required to be credited under EU law, there would be a possible claim for the refund of the sums reimbursed by the social security organisation from the civil servant as well as the subsequent creation of an obligation on the part of the social security organisation to pay an agreed contribution to the Federal Government.

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

Request for a preliminary ruling from the Oberlandesgericht Düsseldorf (Germany) lodged on 9 April 2015 — Youssef Hassan v Breiding Vertriebsgesellschaft mbH

(Case C-163/15)

(2015/C 254/03)

Language of the case: German

Referring court

Oberlandesgericht Düsseldorf

Parties to the main proceedings

Applicant: Youssef Hassan

Defendant: Breiding Vertriebsgesellschaft mbH

Questions referred

1. Does the first sentence of Article 23(1) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark ([1]) preclude a licensee who is not entered in the Register of Community trade marks from invoking claims for infringement of a Community trade mark?

2. In the event that the first question is answered in the affirmative: Does the first sentence of Article 23(1) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark preclude a national legal practice in accordance with which the licensee can enforce the trade mark proprietor's rights against the infringer by virtue of the power conferred on it for that purpose (*Prozessstandschaft*)?

([1]) OJ 2009 L 78, p. 1.

Request for a preliminary ruling from the Finanzgericht Düsseldorf (Germany) lodged on 23 April 2015 — TSI GmbH v Hauptzollamt Aachen

(Case C-183/15)

(2015/C 254/04)

Language of the case: German

Referring court

Finanzgericht Düsseldorf

Parties to the main proceedings

Applicant: TSI GmbH

Defendant: Hauptzollamt Aachen

Question referred

Is the combined nomenclature in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature ([1]) and on the Common Customs Tariff as amended by Commission Regulation (EC) No 1031/2008 of 19 September 2008 ([2]) to be interpreted as meaning that ultraviolet aerodynamic particle sizer spectrometers and handheld particle counters as described in more detail in the order fall under subheading 9027 10 10?

([1]) OJ 1987 L 256, p. 1.
([2]) Commission Regulation (EC) No 1031/2008 of 19 September 2008 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff, OJ L 291, p. 1.

Request for a preliminary ruling from the Vrhovno sodišče Republike Slovenije (Slovenia) lodged on 22 April 2015 — Marjan Kostanjevec v F&S Leasing, GmbH

(Case C-185/15)

(2015/C 254/05)

Language of the case: Slovenian

Referring court

Vrhovno sodišče Republike Slovenije

Parties to the main proceedings

Applicant: Marjan Kostanjevec

Defendant: F&S Leasing, GmbH

Questions referred

1. Must the term 'counter-claim' within the meaning of Article 6(3) of Regulation No 44/2001 ([1]) be interpreted as extending also to an application lodged as a counter-claim in accordance with national law after, in review proceedings, a judgment that had become final and enforceable was set aside in proceedings on the respondent's main claim and that same case has been referred back to the court of first instance for fresh examination, but the appellant, in his counter-claim alleging unjust enrichment, seeks refund of the amount which he was obliged to pay on the basis of the judgment set aside delivered in the proceedings on the respondent's main claim?

2. Must the term 'matters relating to a contract concluded by a person, the consumer', used in Article 15(1) of Regulation No 44/2001, be interpreted as extending to a situation in which the consumer lodges his own application, whereby he pursues a claim alleging unjust enrichment, by way of counter-claim for the purposes of national law, linked to the main claim, which nevertheless relates to a case concerning a consumer contract in accordance with the abovementioned provision of Regulation No 44/2001, and whereby the consumer-appellant seeks refund of the amount he was obliged to pay by a judgment (subsequently) set aside, delivered in proceedings on the respondent's main claim, and therefore refund of the amount deriving from a case concerning consumer contracts?

3. If, in the case described above, jurisdiction cannot be based either on the jurisdictional rules for counter-claims or on the jurisdictional rules for consumer contracts:

   (a) must the term 'matters relating to a contract' in Article 5(1) of Regulation No 44/2001 be interpreted as extending to an action whereby the appellant pursues a claim alleging unjust enrichment, but that is submitted as a counter-claim under national law, linked to the respondent's main claim, which relates to the contractual relationship between the parties, when the purpose of the claim alleging unjust enrichment is to obtain refund of the amount the appellant was obliged to pay by a judgment (subsequently) set aside, delivered in proceedings on the main claim brought by the respondent, and therefore refund of the amount deriving from a contractual case?

   If the foregoing question can be answered in the affirmative:

   (b) in the case described above, must jurisdiction based on the place of performance within the meaning of Article 5(1) of Regulation No 44/2001 be examined on the basis of the rules governing the performance of obligations deriving from a claim alleging unjust enrichment?

([1]) Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, OJ L 12, 16.1.2001, p. 1-23.

Request for a preliminary ruling from the Finanzgericht Münster (Germany) lodged on 24 April 2015 — Kreissparkasse Wiedenbrück v Finanzamt Wiedenbrück

(Case C-186/15)

(2015/C 254/06)

Language of the case: German

Referring court

Finanzgericht Münster

Parties to the main proceedings

Applicant: Kreissparkasse Wiedenbrück

Defendant: Finanzamt Wiedenbrück

Questions referred

1. Are the Member States obliged to apply the rounding-up rule in Article 175(1) of Council Directive 2006/112/EC on the common system of value added tax ([1]) in cases where the deductible proportion is calculated in accordance with one of the special methods set out in headings (a), (b), (c) or (d) of Article 173(2) of that directive?

2. Are the Member States obliged to apply the rounding-up rule in Article 175(1) of Council Directive 2006/112/EC on the common system of value added tax in the case of an input tax adjustment made in accordance with Article 184 et seq. of that directive in cases where the deductible proportion within the meaning of Article 175(1) of that directive is calculated in accordance with one of the special methods set out in headings (a), (b), (c) or (d) of Article 173(2) of that directive or in accordance with headings (a), (b), (c) or (d) of the third subparagraph of Article 17(5) of Sixth Council Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment?

3. Are the Member States obliged to adjust deductions in accordance with Article 184 et seq. of Directive 2006/112/EC by applying the rounding-up rule — second question — in such a way as to round the input VAT amount subject to adjustment up or down to a whole percentage number in favour of the taxable person?

([1]) OJ 2006 L 347, p. 1.

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 29 April 2015 — Pierre Mulhaupt, insolvency administrator of the Société Civile Immobilière Senior Home (SCI)

(Case C-195/15)

(2015/C 254/07)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Appellant: Pierre Mulhaupt, insolvency administrator of the Société Civile Immobilière Senior Home (SCI)

Other parties: Gemeinde Wedemark,

Hannoversche Volksbank eG

Question referred

Does the term 'right in rem' in Article 5(1) of Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings ([1]) include a national rule such as that contained in Paragraph 12 of the Grundsteuergesetz (Law on real property tax, 'GrStG') in conjunction with the first sentence of Paragraph 77(2) of the Abgabenordnung (Tax Code, 'AO'), pursuant to which real property tax debts are by operation of law a public charge on real property and the property owner must accept enforcement against the property in that respect?

([1]) OJ 2000 L 160, p. 1.

Request for a preliminary ruling from the Centrale Raad van Beroep (Netherlands) lodged on 6 May 2015 — Korpschef van politie v W.F. de Munk

(Case C-209/15)

(2015/C 254/08)

Language of the case: Dutch

Referring court

Centrale Raad van Beroep

Parties to the main proceedings

Appellant: Korpschef van politie

Respondent: W.F. de Munk

Questions referred

1. Must Article 7 of Directive 2003/88/EC ([1]) be interpreted as meaning that it cannot be reconciled with a national provision such as Article 19 of the Besluit algemene rechtspositie politie (Decree on the general legal status of the police) ('the Barp'), under which a public servant who has been wrongly dismissed does not accumulate any leave hours during the period between the date of dismissal and the date of reinstatement of the employment relationship, or the date on which the employment relationship is finally validly terminated?

2. If it follows from Question 1 that leave hours were indeed accumulated during the period at issue, must Article 7 of Directive 2003/88/EC then be interpreted as meaning that it cannot be reconciled with Article 23 of the Barp, which provides that at the end of the reference year only a limited number of leave hours may be carried over to the following year and the remaining unused leave hours expire?

([1]) Directive of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ 2003 L 299, p. 9).

Request for a preliminary ruling from the Supremo Tribunal Administrativo (Portugal) lodged on 11 May 2015 — Município de Vila Pouca de Aguiar v Sá Machado & Filhos SA, Norcep, Construções e Empreendimentos, Lda

(Case C-214/15)

(2015/C 254/09)

Language of the case: Portuguese

Referring court

Supremo Tribunal Administrativo

Parties to the main proceedings

Applicant: Município de Vila Pouca de Aguiar

Defendants: Sá Machado & Filhos SA, Norcep, Construções e Empreendimentos, Lda

Question referred

In relation to a procedure for the award of a public works contract, does EU law, in particular Article 55 of Directive 2004/18/EC ([1]), permit the immediate exclusion of a tender that, when it is submitted, is not supported by a document justifying its 'abnormally low price', in a situation in which the contract documents fix the criterion for that requirement to be met [point 09/C1 of the 'contract documents']?

([1]) Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts OJ 2004 L 134, p. 114.

Appeal brought on 18 May 2015 by Apple and Pear Australia Ltd, Star Fruits Diffusion against the judgment of the General Court (Fourth Chamber) delivered on 25 March 2015 in Case T-378/13, APAL and Star Fruit v OHIM

(Case C-226/15 P)

(2015/C 254/10)

Language of the case: French

Parties

Appellants: Apple and Pear Australia Ltd, Star Fruits Diffusion (represented by: T. de Haan and P. Péters, lawyers)

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

Form of order sought

— Set aside the judgment of the General Court of the European Union of 25 March 2015 in Case T-378/13, EU:T:2015:186, insofar as it dismisses the action brought by the appellants seeking, principally, alteration of the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 29 May 2013 in Case R 1215/2011-4;

— Alter the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 29 May 2013 in Case R 1215/2011-4, so that the appeal brought by the appellants before that Board of Appeal is held to be well founded, with the consequence that their opposition to the registration of the Community trade mark application ENGLISH PINK No 8610768 must be upheld;

— Order OHIM to pay all the costs of the appellants in relation both to the appeal and to the proceedings at first instance.

Pleas in law and main arguments

In support of their appeal, the appellants rely on the following grounds.

First, the appellants submit that both the General Court and the Board of Appeal breached the general principle of res judicata concerning a decision on a matter between the same parties by a Community trade mark court applying Regulation (EC) 207/2009 on the Community Trade Mark (CTMR) ([1]), as well as the general principles of legal certainty, sound administration and the protection of legitimate expectations.

Second, the appellants complain that the General Court infringed Article 65(3) of that Regulation in not altering the decision of OHIM.

Last, since, in the appellants' view, the state of the proceedings permits the Court of Justice to give final judgment in the matter, they request that it apply the first paragraph of Article 61 of the Statute of the Court of Justice.

([1]) OJ 2009 L 78, p. 1.

Request for a preliminary ruling from the Rechtbank Den Haag (Netherlands) lodged on 20 May 2015 — Brite Strike Technologies Inc. v Brite Strike Technologies SA

(Case C-230/15)

(2015/C 254/11)

Language of the case: Dutch

Referring court

Rechtbank Den Haag

Parties to the main proceedings

Applicant: Brite Strike Technologies Inc.

Defendant: Brite Strike Technologies SA

Questions referred

1) Must the Benelux Convention on Intellectual Property (Trademarks and Designs) (BCIP) (whether or not on the grounds set out in paragraphs 28 to 34 of the judgment of the Gerechtshof Den Haag (Regional Court of Appeal, The Hague) of 26 November 2013) be considered to be a subsequent convention, with the result that Article 4.6 of the BCIP cannot be considered to be a special rule for the purposes of Article 71 of Regulation No 44/2001 ([1])?

If that question is answered in the affirmative:

2) Does it follow from Article 22(4) of Regulation No 44/2001 that the Belgian, Netherlands and Luxembourg courts all have international jurisdiction to take cognisance of the dispute?

3) If not, how should it be determined, in a case such as the present, whether the Belgian, Netherlands or Luxembourg courts have international jurisdiction? Can Article 4.6 of the BCIP (nonetheless) be applied with a view to (further) determining international jurisdiction?

(1) Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1).

Request for a preliminary ruling from the Tribunal administratif (Luxembourg) lodged on 22 May 2015 — Maria do Céu Brangança Linares Verruga, Jacinto Manuel Sousa Verruga, André Angelo Linares Verruga v Ministre de l'Enseignement supérieur et de la recherche

(Case C-238/15)

(2015/C 254/12)

Language of the case: French

Referring court

Tribunal administratif

Parties to the main proceedings

Applicants: Maria do Céu Brangança Linares Verruga, Jacinto Manuel Sousa Verruga, André Angelo Linares Verruga

Defendant: Ministre de l'Enseignement supérieur et de la recherche

Question referred

Is the condition imposed on students not residing in the Grand Duchy of Luxembourg by Article 2 *bis* of the Law of 22 June 2000 on State financial aid for higher education — which was added by the Law of 19 July 2013 and which does not take into account any other connecting factor —, namely that they must be the children of workers who have been employed or have carried out their activity in Luxembourg for a continuous period of at least five years at the time the application for financial aid is made, justified by the considerations relating to education policy and budgetary policy put forward by the Luxembourg State, and appropriate and proportionate in each case in relation to the objective pursued, namely of bringing about an increase in the proportion of persons with a higher education degree while seeking to ensure that those persons, having benefited from the possibility offered by the system of aid concerned in order to finance their studies — undertaken as the case may be abroad — will return to Luxembourg in order to apply their knowledge for the benefit of the economic development of that Member State?

Action brought on 27 May 2015 — European Commission v Hellenic Republic

(Case C-244/15)

(2015/C 254/13)

Language of the case: Greek

Parties

Applicant: European Commission (represented by: D. Triantafyllou and W. Roels, acting as Agents)

Defendant: Hellenic Republic

Form of order sought

The applicant claims that the Court should:

— Declare that the Hellenic Republic, by enacting and maintaining in force legislation which provides for exemption from inheritance tax on the first place of residence, which gives rise to discrimination because it applies only to EU nationals who reside in Greece, has failed to fulfil its obligations under Article 63 of the Treaty on the Functioning of the European Union and Article 40 of the EEA Agreement;

— order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

1. The different tax treatment of non-property owning residents in Greece (who are exempted from inheritance tax) and persons who are not resident in Greece, with respect to the first immoveable property which they acquire by inheritance, is an unjustified restriction on free movement of capital within the meaning of Article 63 TFEU (see also Article 65 TFEU).

2. The different tax treatment of residents in Greece and non-residents constitutes unjustified different treatment of comparable situations, in so far as non-residents can move to Greece, when they will be in the same situation as those who are already resident in Greece, and in so far as the exemption is not related to personal occupancy of the inherited immoveable property, and consequently the place where a person is resident cannot be the criterion for the granting of the tax exemption. The place of residence conceals the criterion of nationality, since residents in Greece will predominantly be Greeks and the converse is the case.

3. The distinction in question, which is not related to personal occupancy, cannot be justified by considerations of social policy or by the need to protect public revenue.

Appeal brought on 29 May 2015 by European Commission against the judgment of the General Court (Seventh Chamber) delivered on 19 March 2015 in Case T-412/13: Chin Haur Indonesia, PT v Council of the European Union

(Case C-253/15 P)

(2015/C 254/14)

Language of the case: English

Parties

Appellant: European Commission (represented by: J.-F. Brakeland, M. França, agents)

Other parties to the proceedings: Chin Haur Indonesia, PT, Council of the European Union, Maxcom Ltd

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court of 19 March 2015, notified to the Commission on 23 March 2015, in Case T-412/13 Chin Haur Indonesia, PT v. Council of the European Union, reject the Application at first instance, and order the Applicant to pay the costs;

or, alternatively,

— refer back the case to the General Court for reconsideration; reserve the costs of the proceedings at first instance and on appeal.

Pleas in law and main arguments

The appeal brought by the Commission concerns the judgment of the General Court of 19 March 2015 in Case T-412/13. In that judgment, the General Court annulled, to the extent that it concerns Chin Haur Indonesia, PT, Article 1(1) and 3 of Council Implementing Regulation (EU) No 501/2013 ([1]) of 29 May 2013 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 990/2011 on imports of bicycles originating in the People's Republic of China to imports of bicycles consigned from Indonesia, Malaysia, Sri Lanka and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not.

The Commission relies, in support of its appeal, on three grounds of appeal.

First, the Commission argues that the General Court could not legally draw the conclusion that the Council had breached Article 13(1) of the Basic anti-dumping Regulation ([2]), because such a conclusion is based on an incorrect interpretation of the relevant recital of the contested Regulation and on an incorrect interpretation of Article 13(1) of the Basic anti-dumping Regulation. Second, the Commission argues that the General Court provided an insufficient and contradictory reasoning for its conclusion, in breach of Article 36 of the Statute of the Court of Justice of the European Union. Third, the Commission considers that the General Court breached the procedural rights of the Commission under Article 40 of the Statute of the Court of Justice.

([1]) OJ L 153, p. 1.
([2]) Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community OJ L 343, p. 51.

Appeal brought on 29 May 2015 by European Commission against the judgment of the General Court (Seventh Chamber) delivered on 19 March 2015 in Case T-413/13: City Cycle Industries v Council of the European Union

(Case C-254/15 P)

(2015/C 254/15)

Language of the case: English

Parties

Appellant: European Commission (represented by: J.-F. Brakeland, M. França, agents)

Other parties to the proceedings: City Cycle Industries, Council of the European Union, Maxcom Ltd

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court of 19 March 2015, notified to the Commission on 23 March 2015, in Case T-413/13 City Cycle Industries v. Council of the European Union, reject the Application at first instance, and order the Applicant to pay the costs;

or, alternatively,

— refer back the case to the General Court for reconsideration; reserve the costs of the proceedings at first instance and on appeal.

Pleas in law and main arguments

The appeal brought by the Commission concerns the judgment of the General Court of 19 March 2015 in Case T-413/13. In that judgment, the General Court annulled, to the extent that it concerns City Cycle Industries, Article 1(1) and 3 of Council Implementing Regulation (EU) No 501/2013 ([1]) of 29 May 2013 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 990/2011 on imports of bicycles originating in the People's Republic of China to imports of bicycles consigned from Indonesia, Malaysia, Sri Lanka and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not.

The Commission relies, in support of its appeal, on four grounds of appeal. First, the Commission argues that the General Court failed to assess ex officio whether the action for annulment was admissible under Article 263(4) TFEU. Second, the Commission considers that the General Court could not legally draw the conclusion that the Council had breached Article 13(1) of the Basic anti-dumping Regulation ([2]), because such a conclusion is based on an incorrect interpretation of the relevant recital of the contested Regulation and on an incorrect interpretation of Article 13(1) of the Basic anti-dumping Regulation. Third, the Commission argues that the General Court did not provide a sufficient reasoning for its conclusion, in breach of Article 36 of the Statute of the Court of Justice of the European Union. Fourth, the Commission considers that the General Court breached the procedural rights of the Commission under Article 40 of the Statute of the Court of Justice.

([1]) OJ L 153, p. 1.
([2]) Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community
OJ L 343, p. 51.

Appeal brought on 1 June 2015 by Council of the European Union against the judgment of the General Court (Seventh Chamber) delivered on 19 March 2015 in Case T-412/13: Chin Haur Indonesia, PT v Council of the European Union

(Case C-259/15 P)

(2015/C 254/16)

Language of the case: English

Parties

Appellant: Council of the European Union (represented by: S. Boelaert, agent, R. Bierwagen, C. Hipp, Rechtsanwälte)

Other parties to the proceedings: Chin Haur Indonesia, PT, European Commission, Maxcom Ltd

Form of order sought

The Council respectfully requests the Court:

— that the judgment of the General Court of 19 March 2015, notified to the Council on 23 March 2015, in Case T-412/13 Chin Haur Indonesia, PT v Council of the European Union be set aside;

— that the application at first instance brought by Chin Haur Indonesia, PT for the annulment of the Contested Regulation ([1]) be rejected; and

— that Chin Haur Indonesia, PT be ordered to pay the Council's costs both at first instance and on appeal.

Alternatively,

— that the case be referred back to the General Court for reconsideration;

— that costs of the proceedings at first instance and on appeal be reserved.

Pleas in law and main arguments

The General Court misinterprets Article 13 (1) of the Basic Regulation ([2]) when concluding that the Council did not have sufficient evidence to decide that the Applicant was engaged in transhipment. The General Court's interpretation of the conditions that must be met by individual companies in order to be exempted from the extended measures is in contradiction to the structure of Article 13 of the Basic Regulation (first plea).

The General Court's finding, that on the basis of the documents before the Court, the Council had no evidence from which it could expressly conclude in the Contested Regulation that the Applicant was involved in transshipment operations, lacks proper reasoning. Moreover, and contrary to the judgment under appeal, given that transhipment was correctly demonstrated at country level and that the Applicant's exemption request was not justified, the only conclusion the Council, and subsequently the General Court, could have drawn from the facts was that the Applicant has been involved in transhipment. The General Court, in drawing a different conclusion, distorted the facts (second plea).

([1]) Council Implementing Regulation (EU) No 501/2013 of 29 May 2013 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 990/2011 on imports of bicycles originating in the People's Republic of China to imports of bicycles consigned from Indonesia, Malaysia, Sri Lanka and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not
OJ L 153, p. 1

([2]) Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community
OJ L 343, p. 51

Appeal brought on 1 June 2015 by Council of the European Union against the judgment of the General Court (Seventh Chamber) delivered on 19 March 2015 in Case T-413/13: City Cycle Industries v Council of the European Union

(Case C-260/15 P)

(2015/C 254/17)

Language of the case: English

Parties

Appellant: Council of the European Union (represented by: S. Boelaert, agent, R. Bierwagen, C. Hipp, Rechtsanwälte)

Other parties to the proceedings: City Cycle Industries, European Commission, Maxcom Ltd

Form of order sought

The Council respectfully requests the Court:

— that the judgment of the General Court of 19 March 2015, notified to the Council on 23 March 2015, in Case T-413/13 City Cycle Industries v Council of the European Union be set aside;

— that the application at first instance brought by City Cycle Industries for the annulment of the Contested Regulation ([1]) be rejected; and

— that City Cycle Industries be ordered to pay the Council's costs both at first instance and on appeal.

Alternatively,

— that the case be referred back to the General Court for reconsideration;

— that costs of the proceedings at first instance and on appeal be reserved.

Pleas in law and main arguments

The General Court misinterprets Article 13 (1) of the Basic Regulation ([2]) when concluding that the Council did not have sufficient evidence to decide that the Applicant was engaged in transhipment. The General Court's interpretation of the conditions that must be met by individual companies in order to be exempted from the extended measures is in contradiction to the structure of Article 13 of the Basic Regulation (first plea).

The General Court's finding, that on the basis of the documents before the Court, the Council had no evidence from which it could expressly conclude in the Contested Regulation that the Applicant was involved in transshipment operations, lacks proper reasoning. Moreover, and contrary to the judgment under appeal, given that transhipment was correctly demonstrated at country level and that the Applicant's exemption request was not justified, the only conclusion the Council, and subsequently the General Court, could have drawn from the facts was that the Applicant has been involved in transhipment. The General Court, in drawing a different conclusion, distorted the facts (second plea).

([1]) Council Implementing Regulation (EU) No 501/2013 of 29 May 2013 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 990/2011 on imports of bicycles originating in the People's Republic of China to imports of bicycles consigned from Indonesia, Malaysia, Sri Lanka and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not
OJ L 153, p. 1.

([2]) Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community
OJ L 343, p. 51.

Appeal lodged on 8 June 2015 by the Kingdom of Belgium against the judgment of the General Court (First Chamber) of 25 March 2015 in Case T-538/11 Belgium v Commission

(Case C-270/15 P)

(2015/C 254/18)

Language of the case: Dutch

Parties

Appellant: Kingdom of Belgium (represented by: C. Pochet and J.-C. Halleux, acting as Agents, L. Van Den Hende, advocaat)

Other party to the proceedings: European Commission

Form of order sought

The Kingdom of Belgium claims that the Court of Justice of the European Union should:

— set aside the judgment of the General Court of 25 March 2015;

— annul the decision of the European Commission of 27 July 2011 concerning the State aid for financing screening of transmissible spongiform encephalopathies (TSE) in bovine animals implemented by Belgium (State aid C 44/08 (ex NN 45/04)); and

— order the Commission to pay the costs.

Grounds of appeal and main arguments

First ground: The General Court errs in its legal reasoning and disregards the obligation to state reasons incumbent upon it in respect of the existence of an economic advantage for the purposes of Article 107(1) TFEU.

(a) First part: The General Court errs in its legal reasoning and disregards the obligation to state reasons, particularly inasmuch as it proceeds on the assumption that, whenever the public authorities impose on specific undertakings a legislative or administrative obligation, the costs pertaining to that obligation must automatically be imposed also on the undertakings in question, without the public authorities being able to intervene in any way and regardless of the purpose of the measure and the link with the exercise of public powers. Given that that assumption has to be rejected, the General Court fails in any way to explain why the costs of the TSE tests would constitute a charge 'normally' included in the budget of an undertaking. The General Court also disregards the obligation to state reasons laid down in Article 36 of the Statute of the Court of Justice, in conjunction with Article 53 thereof, in particular in that it does not examine a number of arguments and precedents put forward by the appellant or fails to appreciate the relevance thereof.

(b) Second part: The General Court errs in its legal reasoning in so far as it regards the presence or absence of harmonisation legislation as wholly irrelevant for State-aid purposes. The General Court thus also disregards its obligation to state reasons laid down in Article 36 of the Statute of the Court of Justice, in conjunction with Article 53 thereof, in not responding to the arguments raised by the Kingdom of Belgium.

(c) Third part: The General Court errs in its legal reasoning when, in the judgment under appeal, it appears to suggest that the Kingdom of Belgium fails to state why the presence or absence of overcompensation would be of legal relevance to the existence of an economic advantage for the purposes of Article 107(1) TFEU. The judgment under appeal also displays erroneous legal reasoning in so far as it appears to insinuate that the argument lacks an adequate factual basis.

Second ground: The General Court errs in its legal reasoning and disregards the obligation to state reasons incumbent upon it in respect of the application of the selectivity requirement within the meaning of Article 107(1) TFEU. The General Court errs in its legal reasoning in so far as it asserts in a generalised manner that all undertakings that must have mandatory inspections carried out in order for them to be able to place their goods on the market or to sell them are, by definition, in a 'comparable factual and legal situation'. At the very least, the General Court disregards the obligation to state reasons incumbent upon it by failing entirely to explain why all of those undertakings would be in a 'comparable factual and legal situation' from a State-aid perspective, and by leaving unanswered the reservations expressed by the Kingdom of Belgium.

GENERAL COURT

Action brought on 22 May 2015 — Iberdrola v Commission

(Case T-260/15)

(2015/C 254/19)

Language of the case: Spanish

Parties

Applicant: Iberdrola, SA (Biblao, Spain) (represented by: J. Ruiz Calzado and J. Domínguez Pérez, lawyers)

Defendant: European Commission

Forms of order sought

— annul Article 1;

— annul Article 4(1) of the contested decision insofar as it requires the Kingdom of Spain to put an end to the aid scheme referred to in Article 1;

— annul Article 4(2), (3), (4) and (5) of the contested decision, insofar as it orders the recovery of the State aid established by the Commission;

— in the alternative, limit the scope of the recovery obligation imposed on the Kingdom of Spain by Article 4(2) of the contested decision under the same terms as those established in the First and Second Decisions, and

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

Pleas in law and main arguments

The contested decision in these proceedings is the same as that in Cases T-12/15, *Banco de Santander and Santusa* v *Commission* and T-252/15 *Ferrovial SA and Others* v *Commission*.

The pleas and main arguments relied on are similar to those already raised in those cases.

Action brought on 15 May 2015 — Gmina Miasto Gdynia and Port Lotniczy Gdynia Kosakowo v Commission

(Case T-263/15)

(2015/C 254/20)

Language of the case: Polish

Parties

Applicants: Gmina Miasto Gdynia (Gdynia, Poland) and Port Lotniczy Gdynia Kosakowo sp. z o. o. (Gdynia, Poland) (represented by: T. Koncewicz, K. Gruszecka-Spychała and M. Le Berre, lawyers)

Defendant: European Commission

Form of order sought

— annul and set aside in its entirety the decision of the European Commission of 26 February 2015 on measure SA.35388 (2013/C) (ex 2013/NN and ex 2012/N), Poland, 'Setting up of Gdynia-Kosakowo Airport';

— order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies inter alia on the following pleas in law.

1. First plea in law:

   — Arbitrariness and manifest error in determining the facts taken as the basis for making the contested decision, and consequently exceeding by the Commission of the bounds of its discretion and committing manifest errors in the assessment of the evidence.

2. Second plea in law:

   — Failure of the Commission to consider the relevant factors and circumstances for the legal assessment of the investments in Port Lotniczy Gdynia Kosakowo.

3. Third plea in law:

   — Exceeding by the Commission of the bounds of its discretion within the meaning of the case-law emphasising the obligations of the institution exercising discretion to explain both why certain items of evidence and facts are taken into consideration and why others are rejected.

4. Fourth plea in law:

   — Breach of Article 107(1) TFEU in conjunction with a general principle of European law — the principle of legal certainty and good faith of the institution towards subjects of law, by its erroneous application and interpretation.

5. Fifth plea in law:

   — Infringement in the erroneous legal categorisation of facts and evidence, resulting in a breach by the contested decision of Article 107(1) TFEU, in finding that the conditions were not fulfilled in this case for regarding the operations at issue as satisfying the private investor test and that it had not been shown that the investment project would be carried out by a private investor, and consequently finding that the Gdynia Kosakowo investment was unauthorised public aid.

Action brought on 8 May 2015 — Gameart v Commission

(Case T-264/15)

(2015/C 254/21)

Language of the case: Polish

Parties

Applicant: Gameart sp. z o.o. (Bielsko-Biała, Poland) (represented by: P. Hoffman, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the European Commission decision of 18 February 2015 in so far as it confirms the refusal to consider the request sent to the Ministry of Foreign Affairs of the Republic of Poland for access to copies, held by that Ministry, of letters from the Republic of Poland to the Commission concerning the procedure conducted by the Commission in respect of a breach by the Republic of Poland of EU law in connection with the Law of 19 November 2009 on games of chance;

— rule — in the event that it does not share the view, taken by the applicant, that the second paragraph of Article 5 of 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 cannot be construed as authorising the European Commission to adopt a binding decision on a request for access to documents, submitted by a natural or legal person to an authority of a Member State, which has been forwarded by that State to the Commission — that, by virtue of Article 277 TFEU, the second paragraph of Article 5 of that regulation cannot be applied in the present case on the ground that it is invalid;

— rule that the European Commission is to bear its own costs and to pay the costs incurred by the applicant.

Pleas in law and main arguments

In support of its action, the applicant puts forward four pleas in law.

1. The first plea in law, concerning the lack of competence of the Commission in the light of the second paragraph of Article 5 of Regulation No 1049/2001

   — As the request was sent to an authority of a Member State and related to documents originating in that Member State, Article 5 of the regulation is not applicable. The mere fact that the Member State forwarded that request to the Commission pursuant to the second paragraph of Article 5 of that regulation does not confer competence on the Commission as the request does not concern documents originating with the Commission. Even if Article 5 of the regulation were applicable to the request, the second paragraph of Article 5 of the regulation could not be interpreted as authorising an EU institution to take a binding decision in respect of that request.

2. The second plea in law, concerning a breach of Article 4(4) and 4(5) of Regulation No 1049/2001

   — As it took a decision on access to a document originating in the Republic of Poland, the Commission was under an obligation, pursuant to Article 4(4) of the regulation, to consult that State; this it failed to do. Access to a document originating in the Republic of Poland ought, in the absence of any objection expressed pursuant to Article 4(5) of the regulation, to be refused only in exceptional circumstances, which did not obtain in the present case.

3. The third plea in law, concerning a breach of Article 296 TFEU

   — The Commission has failed in any way to provide grounds for its competence to adopt the decision in its contested part, even though the applicant dedicated by far the greater part of its confirmatory application to the issue of the Commission's lack of competence. The information in that regard was not set out in the grounds of the contested decision, a fact which makes it impossible for the applicant itself to safeguard its rights before the General Court.

4. The fourth plea in law, concerning a claim of invalidity pursuant to Article 277 TFEU

   — In the event that the General Court should find, contrary to the arguments put forward in the context of the first plea in law, that the second paragraph of Article 5 of Regulation (EC) No 1049/2001 has to be interpreted as meaning that the transmission, by a Member State to an institution of the European Union, of a request for access to a document which is held by that Member State empowers that institution to take a binding decision in regard to that request, the applicant submits that Article 5, thus construed, cannot be based on Article 15(3) TFEU or on Article 255 EC as its proper basis and is for that reason invalid. In addition, that provision, thus construed, is incompatible with the grounds of Regulation No 1049/2001, which results in its invalidity in the light of Article 296 TFEU (Article 253 EC).

Action brought on 5 June 2015 — Industrias Químicas del Vallés v Commission

(Case T-296/15)

(2015/C 254/22)

Language of the case: Spanish

Parties

Applicant: Industrias Químicas del Vallés, SA (Mollet del Vallès, Spain) (represented by: C. Fernández Vicién, I. Moreno-Tapia Rivas and C. Vila Gisbert, lawyers)

Defendant: European Commission

Forms of order sought

The applicant claims that the Court should:

— disapply Regulation 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market, in particular Article 24 thereof and point 4 of Annex II;

— annul Commission Implementing Regulation (EU) 2015/408 of 11 March 2015, with respect to the inclusion of Metalaxyl in the list of candidates for substitution contained in the Annex, and

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

Pleas in law and main arguments

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

1. First plea in law, alleging that the Implementing Regulation has been adopted on an unlawful basis, as Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market infringes EU law because:

   — it breaches the precautionary principle by providing for a mechanism for the substitution of active substances on the basis of hypothetical risks that are not objectively substantiated;

   — by adversely affecting authorised substances, it breaches the principle of proportionality in that it goes beyond what is strictly necessary to achieve the objective of a high level of protection;

   — it distorts competition in the internal market by promoting the substitution of substances in the manner in which it does; and

   — it infringes the principle that reasons must be stated, so far as concerns the criterion of 'a significant proportion of non-active isomers' included in Annex II, point 4, of Regulation (EC) No 1107/2009.

2. Second plea in law, alleging that Regulation (EU) No 2015/408 breaches the duty to state reasons by failing to justify the inclusion of Metalaxyl in the list of candidates for substitution on the basis of scientific and technical criteria, and it infringes the principle of non-discrimination in relation to Metalaxyl-M.

3. Third plea in law, alleging that Regulation (EU) No 2015/408 breaches the principle of proportionality in relation to the objective of reducing risks to health and the environment promoted by the European Union.

Action brought on 8 June 2015 — Nova v Commission

(Case T-299/15)

(2015/C 254/23)

Language of the case: Italian

Parties

Applicant: Nova Onlus Consorzio nazionale di cooperative sociali — Soc. coop. (Trani, Italy) (represented by: M. Astolfi and M. Petrucci, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— Find and declare that the contractual obligations set out in Grant Agreement No HOME/2011/PPRS/AG/2176 Abac No. 30-CE-0495809/00-94 were complied with in full, and consequently:

  — Declare that the applicant is entitled to retain the sum of EUR 80 242,78, which was received by way of the 'pre-financing payment' and is currently the subject of the debit note for recovery of the above-mentioned sum issued by the European Commission — Directorate General Migration and Home Affairs — Directorate E: Migration and Security Funds — Unit E2: Asylum, Migration and Integration Fund — HOME E2/FL/2015, No 1520007 of 1 April 2015 concerning HOME/2011/PPRS/AG/2176 TORRE — *Transnational Observatory for Refugee's Resettlement in Europe* — No 3241503771.

  — Order the defendant to pay the outstanding balance of EUR 52 146,36, as 'final payment', in addition to the late-payment interest, to be calculated up to the date of payment in full, in accordance with Article II.16.3 of the Grant Agreement, as well as the legal costs incurred by the applicant in the proceedings.

In the alternative:

— Annul the decision of the European Commission — Directorate General Migration and Home Affairs — Directorate E: Migration and Security Founds — Unit E2": Asylum, Migration and Integration Fund — HOME E2/FL/2015, No 1520007 of 1 April 2015 concerning 'HOME/2011/PPRS/AG/2176 TORRE — *Transnational Observatory for Refugee's Resettlement in Europe* — debit note No 3241503771' regarding recovery of the sum of EUR 80 242,78, and any other earlier, preparatory and/or subsequent act.

— Order the defendant to pay the outstanding amount of EUR 52 146,36 for the implementation of Grant Agreement No HOME/2011/PPRS/AG/2176 Abac No. 30-CE-0495809/00-94 as 'final payment', in addition to late payment interest, to be calculated up to the date of payment in full, in accordance with Article II.16.3 of the Grant Agreement, as well as the legal costs incurred by the applicant in the proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging failure to comply with the obligation to pay the balance owing and breach of the obligations set out in Article II.15.4 of the Grant Agreement.

   — In that regard, the applicant alleges infringement of the *audi alteram partem* rule in relation to the Commission's conduct, and of the principles of transparency, impartiality and neutrality of the independent assessor.

2. Second plea in law, alleging failure to comply with the obligations to objectively assess the result in relation to Annex I (LogFrame) to the Grant Agreement, and in relation to the restrictions on reducing the balance owing laid down in Article II.17.5 of the Grant Agreement and the restrictions on penalties referred to in Article II.12 of that agreement.

   — In that regard, the applicant claims as follows: the Commission played a part in the failure to achieve the results; the Commission was unjustly enriched; the principle of good administration was infringed with regard to the assessment of the project's objectives and in the light of the part played by the Commission; the principle of compliance with essential procedural requirements was also infringed.

3. Third plea in law, alleging extensive failure to meet contractual obligations.

   — In that regard, the applicant claims as follows: the principles of proportionality, sincere cooperation, and the right to a fair hearing were infringed as regards the Commission's conduct during the inspection and debit procedure; Article 42(2)(a) of the Charter of Fundamental Rights of the European Union was also infringed.

4. Fourth plea in law, alleging failure to comply with the obligations set out in Article II.14

   — In that regard, the applicant claims that the principle of legitimate expectations was infringed with regard to the eligibility of the expenditure concerning human resources and research activities.

Action brought on 18 June 2015 — Italy v Commission

(Case T-317/15)

(2015/C 254/24)

Language of the case: Italian

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the notice of competition EPSO/AD/302/15 — Administrators (AD 5) in the field of Audit;

— order the Commission to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments relied on by the applicant are those raised in Case T-17/15 *Italian Republic* v *Commission* (OJ 2015 C 81, p. 27).

Action brought on 19 June 2015 — Impresa Costruzioni Giuseppe Maltauro v Commission

(Case T-320/15)

(2015/C 254/25)

Language of the case: Italian

Parties

Applicant: Impresa Costruzioni Giuseppe Maltauro SpA (Vicenza, Italy) (represented by: M. Merola, M. Santacroce and M. Toniolo, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul it its entirety the contested decision, by which the Commission excluded Impresa Costruzioni Giuseppe Maltauro SpA from participation in all procedures for the award of contracts and grants financed by the general budget of the European Union, including procedure No JRC/IPR/2014/C.5/0003 RC published in OJ 2014/S 034-054569 and subsequent corrigenda, for a period of two years and ten months;

— order the Commission to pay the costs.

Pleas in law and main arguments

The exclusion procedure was initiated when the applicant participated in a restricted call for tender issued by the Joint Research Centre on 18 February 2014 for the construction of a new building on its Ispra site. The Commission was aware of certain irregularities on the part of the applicant.

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

1. First plea in law, alleging failure to conduct an investigation, misrepresentation of the facts and a consequential error in law consisting in failure to apply the derogation laid down in the final sub-paragraph of Article 106(1) of the Financial Regulation.

   — The applicant claims, in that regard, that the contested decision is vitiated by failure to conduct an investigation, misrepresentation of the facts and a consequent error in law, in so far as the final sub-paragraph of Article 106(1) of Regulation No 966/2012 was not applied in the present case. In particular, the Commission erred in failing to recognise that, in the present case, the criteria under Article 106(1)(b) of Regulation No 966/2012 were satisfied, and in failing properly to take into account the documentary evidence submitted by Impresa Costruzioni Giuseppe Maltauro SpA during the investigation for the purpose of demonstrating that it had adopted 'adequate measures' against Dr Maltauro.

2. Second plea in law, alleging that Article 106(1)(c) of the Financial Regulation is inapplicable.

   — The applicant claims, in that regard, in the alternative, that the contested decision is vitiated as a result of misrepresentation of the facts and failure to state reasons, in so far as the applicant was held liable for grave professional misconduct within the meaning of Article 106(1)(c) of Regulation No 966/2012. The documents concerning the judicial problems involving Dr Maltauro do not show that Impresa Costruzioni Giuseppe Maltauro SpA failed to fulfil its duties of diligence and contractual good faith, or that that company benefitted from the unlawful conduct imputed to its former Managing Director. There was therefore no evidence to support the view that Impresa Costruzioni Giuseppe Maltauro SpA was guilty of grave professional misconduct as cited in the ground for exclusion.

3. Third plea in law, alleging infringement of the *audi alteram partem* rule.

   — The applicant claims, in that regard, also in the alternative, that the contested decision is also vitiated owing to infringement of the *audi alteram partem* rule, since it is based on information which was not referred to by the Commission in its letter initiating the procedure, with regard to which Impresa Costruzioni Giuseppe Maltauro SpA was never given the opportunity to submit its comments. Accordingly, the applicant could not defend itself properly in relation to the evidence which ultimately proved to be decisive for the purposes of its exclusion from all procedures for the award of contracts and grants financed by the general budget of the European Union and the European Development Fund.

4. Fourth plea in law, alleging infringement of the principle of proportionality in determining the exclusion period.

   — The applicant claims, in that regard, once again in the alternative, that the exclusion decision was adopted in breach of the principle of proportionality, in particular in so far as it sets the exclusion period at two years and ten months. That period is wholly unjustified, contrary to the spirit and purpose of the rules laid down in Regulation No 966/2012 and Regulation No 1268/2012, which govern grounds for exclusion, and clearly disproportionate, since the factors which could have had negative effects on the professional conduct of Impresa Costruzioni Giuseppe Maltauro SpA were eliminated by that company and there was no further reason for the Commission to fear financial losses or reputational harm.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Judgment of the Civil Service Tribunal (First Chamber) of 25 June 2015 — EE v Commission

(Case F-55/14) ([1])

(Civil Service — Contractual staff — Non-renewal of fixed-term contract — Claims for annulment — Renewal procedure — Article 41(2)(a) of the Charter of Fundamental Rights of the European Union — Right to be heard — Disregard — Claims for compensation — Non-material harm)

(2015/C 254/26)

Language of the case: French

Parties

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

Defendant: European Commission (represented by: J. Currall and T.S. Bohr, acting as Agents)

Re:

Application for annulment of the decision not to renew the applicant's contract, which should have been of indefinite duration.

Operative part of the judgment

The Tribunal:

1. *Annuls the decision of the European Commission not to renew the contract of EE as a member of the contractual staff, communicated orally on 14 October 2013, confirmed by the note of 31 October 2013 and explained in the note of 13 December 2013;*

2. *Orders the European Commission to pay EE the sum of EUR 10 000;*

3. *Orders the European Commission to bear its own costs and to pay the costs incurred by EE.*

([1]) OJ C 421, 24.11.2014, p. 59.

Judgment of the Civil Service Tribunal (Single Judge Chamber) of 25 June 2015 — Mikulik v Council

(Case F-67/14) ([1])

(Civil Service — Officials — Probationary period — Extension of probationary period — Dismissal at the end of the probationary period — Probation carried out under irregular conditions)

(2015/C 254/27)

Language of the case: French

Parties

Applicant: Filip Mikulik (Prague, Czech Republic) (represented by: M. Velardo, lawyer)

Defendant: Council of the European Union (represented by: M. Bauer and M. Veiga, acting as Agents)

Re:

Application for annulment of the decision to dismiss the applicant at the end of his probationary period and for compensation for the non-material harm allegedly suffered.

Operative part of the judgment

The Tribunal:

1. *Dismisses the action;*

2. *Orders Mr Mikulik to bear his own costs and to pay the costs incurred by the Council of the European Union.*

([1]) OJ C 380, 27.10.2014, p. 26.

Order of the Civil Service Tribunal (Third Chamber) of 22 June 2015 — van Oudenaarden v Parliament

(Case F-139/14) ([1])

(Civil Service — Officials — Annual leave — Carry over limited to 12 days — Compensation — Pension statement — Failure to contest within the time-limit — Lack of new material facts — Article 81 of the Rules of Procedure — Action manifestly inadmissible)

(2015/C 254/28)

Language of the case: French

Parties

Applicant: Annetje Elisabeth van Oudenaarden (Grevenmacher, Luxembourg) (represented by: F. Moyse, lawyer)

Defendant: European Parliament (represented by: M. Ecker and N. Chemaï, acting as Agents)

Re:

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

Operative part of the order

1. *The action is dismissed as manifestly inadmissble.*

2. *Ms van Oudenaarden and the European Parliament shall each bear their own costs.*

([1]) OJ C 89, 16.3.2015, p. 46.

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