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Contents

EN

General Court

European Union Civil Service Tribunal

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COURT OF JUSTICE OF THE EUROPEAN UNION

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

(2015/C 262/01)

Last publication

OJ C 254, 3.8.2015

Past publications

OJ C 245, 27.7.2015

OJ C 236, 20.7.2015

OJ C 228, 13.7.2015

OJ C 221, 6.7.2015

OJ C 213, 29.6.2015

OJ C 205, 22.6.2015

These texts are available on:

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

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 29 April 2015 — Ciclat Soc. Coop. v Consip SpA, Autorità per la Vigilanza sui Contratti pubblici di lavori, servizi e forniture

(Case C-199/15)

(2015/C 262/02)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellant: Ciclat Soc. Coop.

Respondents: Consip SpA, Autorità per la Vigilanza sui Contratti pubblici di lavori, servizi e forniture

Question referred

Do Article 45 of Directive 18/2004 ([1]), read also in the light of the principle of reasonableness, and Articles 49 and 56 TFEU preclude national legislation which, in relation to a threshold-based procurement procedure, allows a request to be made by the contracting authority on its own initiative for the certificate issued by the social security institutions ('DURC') and obliges that authority to exclude the tenderer if the certificate discloses an earlier failure to pay contributions, in particular one existing at the time of participation but not known to that operator, which took part on the strength of a positive currently valid DURC, but that infringement in any case no longer exists at the time of the award or of the verification carried out on the contracting authority's own initiative?

([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).

Request for a preliminary ruling from the Commissione Tributaria Regionale di Milano (Italy) lodged on 29 April 2015 — Agenzia delle Entrate — Direzione Regionale Lombardia v H3G SpA.

(Case C-202/15)

(2015/C 262/03)

Language of the case: Italian

Referring court

Commissione Tributaria Regionale di Milano

Parties to the main proceedings

Applicant: Agenzia delle Entrate — Direzione Regionale Lombardia

Defendant: H3G SpA

Questions referred

1) Given that the Italian legislature has exercised the power which is accorded by Article 90(2) and the second subparagraph of Article 185(2) of Directive 2006/112/EC ([1]) (and, prior to the adoption of that directive, by Article 1 (C)(1) and the second sentence of Article 20(1)(b) of Directive 77/388/EEC ([2])) in relation to the downward adjustment of the taxable amount and the adjustment of the VAT charged on taxable transactions in cases where the consideration agreed by the parties remains totally or partially unpaid, is it compatible with the principles of proportionality and effectiveness, which are guaranteed by the TFEU, and the principle of neutrality which governs the application of VAT, to impose limits that make it impossible or excessively costly for the taxable person to recover the tax on the consideration which remains totally or partially unpaid?

2) If the answer to the first question is in the affirmative, is it compatible with the principles set out above that a provision — such as Article 26(2) of Presidential Decree 633/1972 — as applied by the tax authority of the EU Member State, makes the right to recover the tax contingent on proof that insolvency or enforcement procedures have been unsuccessfully conducted, even where such procedures may reasonably be deemed to be uneconomic because of the amount of the claim, the prospects of recovery and the costs of the enforcement or insolvency procedures?

([1]) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).
([2]) Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1).

Appeal brought on 4 May 2015 by Nissan Jidosha KK against the judgment of the General Court (Third Chamber) delivered on 4 March 2015 in Case T-572/12: Nissan Jidosha KK v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-207/15 P)

(2015/C 262/04)

Language of the case: English

Parties

Appellant: Nissan Jidosha KK (represented by: B. Brandreth, barrister, D. Cañadas Arcas, abogada)

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

Form of order sought

The appellant claims that the Court should:

— Set aside the decision of the General Court of 4 March 2015 (Case T-572/12);

— Annul the decision of the First Board of Appeal of 6 September 2012 (Case R 2469/2011-1);

— Order OHIM to pay the Appellant's costs.

Pleas in law and main arguments

The appellant maintains that the General Court erred in law in its interpretation of Article 47 of Community Trade Mark Regulation (EC) No 207/2009 ([1]), ('CTMR'). In particular, it erred in holding that Article 47 does not permit sequential requests for renewal. Incidental to its erroneous interpretation of Art 47 CTMR the General Court erred in its interpretation of Art 48 CTMR in holding that it applied only to the sign of the Community Trade Mark.

a. The interpretation of Art 47(3) by the General Court is inconsistent.

b. The interpretation of Art 47(3) by the General Court calls for *de facto* surrender of part of the mark in terms contrary to those provided for under Art 50 CTMR.

c. The requirement for legal certainty called for by the General Court arises from the actions taken by OHIM. It is not inherent to the interpretation of Art 47(3) given by the General Court and legal certainty is equally possible under the Appellant's interpretation. In the present case, the actions of OHIM were carried out on the basis that the mark had been surrendered, which the General Court held was an error of law.

d. The interpretation of Art 47(3) advanced by the Appellant is not precluded by the wording of the Article.

e. The interpretation of Art 48 wrongly concludes that Article is concerned only with the sign of which the Community trade mark is composed.

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

Request for a preliminary ruling from the Tribunalul Mureș (Romania) lodged on 8 May 2015 — ENEFI Energiahatekonysagi Nyrt v Direcția Generală Regională a Finanțelor Publice (DGRFP) Brașov — Administrația Județeană a Finanțelor Publice Mureș

(Case C-212/15)

(2015/C 262/05)

Language of the case: Romanian

Referring court

Tribunalul Mureș

Parties to the main proceedings

Appellant: ENEFI Energiahatekonysagi Nyrt

Respondent: Direcția Generală Regională a Finanțelor Publice (DGRFP) Brașov

Questions referred

1) For the interpretation of Article 4(1) and Article 4(2)(f) and (k) of Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings ([1]), may the effects of the insolvency proceedings governed by the law of the State in which proceedings are opened include forfeiture of the right of a creditor, which has not taken part in the insolvency proceedings, to pursue its claim in another Member State or suspension of the enforcement of that claim in that other Member State?

2) Is it relevant that the claim pursued by means of enforcement in a Member State other than the State in which the proceedings are opened is a fiscal claim?

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

Request for a preliminary ruling from the Tribunale ordinario di Campobasso (Italy) lodged on 11 May 2015 — Criminal proceedings against Gianpaolo Paoletti and Others

(Case C-218/15)

(2015/C 262/06)

Language of the case: Italian

Referring court

Tribunale ordinario di Campobasso

Party/parties to the main proceedings

Gianpaolo Paoletti, Umberto Castaldi, Domenico Faricelli, Antonio Angelucci, Mauro Angelucci, Antonio D'Ovidio, Camillo Volpe, Alfredo Viali, Giampaolo Canzano, Raffaele Di Giovanni, Antonio Della Valle

Questions referred

1. Must Article 7 of the ECHR, Article 49 of the Charter of Fundamental Rights of the European Union, proclaimed on 7 December 2000 in Nice, and Article 6 [TEU] be interpreted as meaning that Romania's accession to the European Union on 1 January 2007 had the effect of abolishing the criminal offence provided for in and punishable under Article 12 of Legislative Decree No 286/1998 (consolidated text [on immigration]) relating to the facilitating of the immigration and stay by Romanian nationals in the territory of the Italian State?

2. Must those provisions be interpreted as precluding a Member State from applying the principle of benign retroactivity (*in mitius*) in respect of persons who, before 1 January 2007 (or other subsequent date on which the treaty took full effect), the date on which Romania's accession to the European Union took effect, were responsible for breach of Article 12 of Legislative Decree No 286/1998 (consolidated text on immigration) in that they facilitated the immigration of Romanian nationals, which ceased to be an offence as from 1 January 2007?

Request for a preliminary ruling from the Hof van Beroep te Brussel (Belgium) lodged on 13 May 2015 — Openbaar Ministerie v Etablissements Fr. Colruyt NV

(Case C-221/15)

(2015/C 262/07)

Language of the case: Dutch

Referring court

Hof van Beroep te Brussel

Parties to the main proceedings

Appellant: Openbaar Ministerie

Respondent: Etablissements Fr. Colruyt NV

Questions referred

1. Does Article 15(1) of Directive 2011/64/EU (1), whether or not read in conjunction with Articles 20 and 21 of the Charter of Fundamental Rights of the European Union (2) of 7 December 2000, preclude a national measure which requires retailers to respect minimum prices by prohibiting the application of a price for tobacco products which is lower than the price that the manufacturer/importer has affixed to the revenue stamp?

2. Does Article 34 TFEU preclude a national measure which requires retailers to respect minimum prices by prohibiting the application of a price for tobacco products which is lower than the price that the manufacturer/importer has affixed to the revenue stamp?

3. Does Article 4(3) TFEU, read in conjunction with Article 101 TFEU, preclude a national measure which requires retailers to respect minimum prices by prohibiting the application of a price for tobacco products which is lower than the price that the manufacturer/importer has affixed to the revenue stamp?

(1) Council Directive of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco (OJ 2011 L 176, p. 24).
(2) OJ 2000 C 364, p. 1.

Request for a preliminary ruling from the Tribunale di Reggio Calabria (Italy) lodged on 15 May 2015 — Criminal proceedings against Domenico POLITANO'

(Case C-225/15)

(2015/C 262/08)

Language of the case: Italian

Referring court

Tribunale di Reggio Calabria

Party to the main proceedings

Domenico POLITANO'

Questions referred

1) Must Article 49 TFEU, as well as the principles of equal treatment and effectiveness, be interpreted as precluding national legislation in the field of betting and gambling which provides for the organisation of a fresh call for tenders (as governed by Article [10(9)g] of Law No 44 of 26 April 2012) for the award of licences that includes clauses excluding from the tendering procedure undertakings which have failed to meet the condition relating to economic and financial standing, as a result of the failure to provide for criteria other than the requirement of two bank references from two separate banks?

2) Must Article 47 of Directive 2004/18/EC (1) of the European Parliament and of the Council of 31 March 2004 be interpreted as precluding national legislation in the field of betting and gambling which provides for the organisation of a fresh call for tenders (as governed by Article [10(9)g] of Law No 44 of 26 April 2012) for the award of licences [that includes clauses excluding from the tendering procedure undertakings which have failed to meet the condition] relating to economic and financial standing, as a result of the failure to provide for alternative documentation and options, as laid down under [EU] legislation?

(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 20 May 2015 by ultra air GmbH against the judgment of the General Court (Third Chamber) delivered on 9 March 2015 in Case T-377/13 *ultra air GmbH* v *Office for Harmonisation in the Internal Market (Trade Marks and Designs)*

(Case C-232/15 P)

(2015/C 262/09)

Language of the case: German

Parties

Appellant: ultra air GmbH (represented by: C. König, Rechtsanwalt)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), Donaldson Filtration Deutschland GmbH

Form of order sought

— Set aside the judgment of the General Court of the European Union of 9 March 2015 in Case T-377/13 in so far as the General Court did not annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 6 May 2013 (Case R 1100/2011-4);

— order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to pay the appellant's costs.

Pleas in law and main arguments

The appellant puts forward two pleas in law:

First plea in law: Infringement of Article 7(1)(c) of Regulation No 207/2009 ([1])

(a) Article 7(1)(c) of Regulation No 207/2009 has been infringed, first, in so far as the allegedly descriptive meaning of the mark 'ultra.air ultrafilter', in the sense of 'air of extremely high quality obtained through ultrafilters', cannot, according to paragraphs 18 and 19 of the judgment under appeal, be derived directly and without further consideration from the mark. In paragraph 19, the General Court found that 'ultra.air' as such has no specific meaning and describes neither a quality or nature. The General Court arrived at the allegedly descriptive meaning of the mark only by means of an assumption that the relevant public would not assess the name 'ultra.air' as it stands, but would supplement it with words that describe a quality, such as 'pure' or 'refined'.

(b) Secondly, Article 7(1)(c) of Regulation No 207/2009 has been infringed with respect to goods constituting 'liquid-filtering machinery and apparatus' in that the divergent descriptive meaning of 'ultra.air ultrafilter' in the sense of 'extremely high-quality product of filtration, obtained through ultrafilters' accepted by the General Court cannot *a fortiori* be derived directly and without further consideration from the mark. The General Court itself arrived at this divergent meaning only after going through a number of stages in its reasoning: first, the relevant public would have to interpret 'ultra.air ultrafilter' in the sense of 'air of extremely high quality obtained through ultrafilters'. Secondly, it would have to conclude that this purported meaning is not descriptive for the liquid-filtering machinery and apparatus actually being assessed, but that it is descriptive for air-filtering machinery and apparatus. Thirdly, it would then have to derive 'extremely high-quality product of filtration, obtained through ultrafilters' from the specifically established meaning of 'ultra.air ultrafilter'. The purported meaning thereby obtained includes a number of words that are not present in the mark ('product of filtration'; 'high-quality'), while simply omitting words that are ('air').

Second plea in law: Infringement of Article 7(1)(b) of Regulation No 207/2009

Article 7(1)(b) of Regulation No 207/2009 has been infringed on the same grounds as Article 7(1)(c) of Regulation No 207/2009.

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

Appeal brought on 27 May 2015 by Maxcom Ltd 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-247/15 P)

(2015/C 262/10)

Language of the case: English

Parties

Appellant: Maxcom Ltd (represented by: L. Ruessmann, avocat, J. Beck, Solicitor)

Other parties to the proceedings: Chin Haur Indonesia, PT; Council of the European Union; European Commission

Form of order sought

The appellant claims that the Court should:

— Declare the Appeal admissible and well-founded;

— Set aside the General Court's findings with regard to the second part of the first plea in law;

— Dismiss the first plea in law of the Applicant before the General Court in its entirety; and

— Order the Applicant before the General Court to pay the Appellant's costs for the Appeal and the Intervention before the General Court.

Pleas in law and main arguments

In support of the appeal, the Appellant put forward the following arguments:

— The General Court manifestly erred by holding that under Article 13(1) of the Basic Regulation ([1]) the Council could not conclude that the Applicant before the General Court engaged in transhipment from the facts that (i) the Applicant before the General Court was not a genuine Indonesian producer and (ii) did not undertake assembly operations that went beyond the thresholds set out in Article 13(2) of the Basic Regulation.

— In the alternative: The annulment of Regulation 501/2013 ([2]) as far as it concerns the Applicant before the General Court is not justified even if the Council's findings on transhipment were incorrect as the Court confirmed that the Applicant before the General Court engaged in assembly operations that did not go beyond the thresholds set out in Article 13(2) of the Basic Regulation and also confirmed the existence of all other criteria required for not granting the Applicant before the General Court an exemption from the circumvention measures.

([1]) 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.

([2]) 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.

Appeal brought on 27 May 2015 by Maxcom Ltd 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-248/15 P)

(2015/C 262/11)

Language of the case: English

Parties

Appellant: Maxcom Ltd (represented by: L. Ruessmann, avocat, J. Beck, Solicitor)

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

Form of order sought

The Appellant claims that the Court should:

— Declare the Appeal admissible and well-founded;

— Set aside the General Court's findings with regard to the second part of the first plea in law:

— Dismiss the first plea in law of the Applicant before the General Court in its entirety; and

— Order the Applicant before the General Court to pay the Appellant's costs for the Appeal and the Intervention before the General Court.

Pleas in law and main arguments

In support of the appeal, the Appellant put forward the following arguments:

— The General Court manifestly erred by holding that under Article 13(1) of the Basic Regulation ([1]) the Council could not conclude that the Applicant before the General Court engaged in transhipment from the facts that (i) the Applicant before the General Court was not a genuine Sri Lankan producer and (ii) did not undertake assembly operations that went beyond the thresholds set out in Article 13(2) of the Basic Regulation.

— In the alternative: The annulment of Regulation 501/2013 ([2]) as far as it concerns the Applicant before the General Court is not justified even if the Council's findings on transhipment were incorrect as the Court confirmed that the Applicant before the General Court engaged in assembly operations that did not go beyond the threshold set out in Article 13(2) of the Basic Regulation and also confirmed the existence of all other criteria required for not granting the Applicant before the General Court an exemption from the circumvention measures.

([1]) 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.

([2]) 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.

Request for a preliminary ruling from the Rechtbank van eerste aanleg te Antwerpen (Belgium) lodged on 29 May 2015 — Vivium SA v Belgische Staat

(Case C-250/15)

(2015/C 262/12)

Language of the case: Dutch

Referring court

Rechtbank van eerste aanleg te Antwerpen

Parties to the main proceedings

Applicant: Vivium SA

Defendant: Belgische Staat

Question referred

Does EU law, and in particular the principles of effectiveness and equivalence, preclude the application of legislation of a Member State on the basis of which the administrative or judicial remedies which are available against acts and regulations of administrative authorities based on a national-law provision are not made available in the case where a judgment of the Court of Justice of the European Union, delivered pursuant to Article 267 of the Treaty on the Functioning of the European Union (ex Article 234 EC), rules that a national-law provision is incompatible with EU law, whereas every interested party can bring an action for annulment of a national-law provision before the national Constitutional Court in the case where a judgment of the Constitutional Court, concerning a preliminary issue referred by a national court, has determined that that national-law provision is unconstitutional, and the annulling judgment of the Constitutional Court delivered in that action makes available the administrative or judicial remedies that are available to challenge acts and regulations of administrative authorities based on that national-law provision which has been annulled?

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 5 June 2015 — Gemeente Woerden; other party: Staatssecretaris van Financiën

(Case C-267/15)

(2015/C 262/13)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant on a point of law: Gemeente Woerden

Other party: Staatssecretaris van Financiën

Question referred

In a case such as the present, in which a taxable person has had a building constructed and has sold that building for a price which does not cover all of the costs, while the purchaser of the building has given a certain part thereof to a third party for the latter's use free of charge, is that taxable person entitled to deduct all of the VAT charged in respect of the construction of the building, or only a part thereof, in proportion to the parts of the building which the purchaser uses for economic activities (in the present case, leasing in return for payment)?

Request for a preliminary ruling from the Augstākā tiesa (Latvia) lodged on 8 June 2015 — ZS 'Ezernieki' v Lauku atbalsta dienests

(Case C-273/15)

(2015/C 262/14)

Language of the case: Latvian

Referring court

Augstākā tiesa

Parties to the main proceedings

Appellant: ZS 'Ezernieki'

Respondent: Lauku atbalsta dienests

Questions referred

1. Is the application of the legal effects provided for in Article 71(2) of Regulation No 817/2004 ([1]) to agri-environmental support granted for the originally declared part of an area, in respect of which the prior conditions for grant of that support were complied with for five years, compatible with the objective of Regulations Nos 1257/99 ([2]) and 817/2004 and with the principle of proportionality?

2. Must Article 17, in conjunction with Article 52, of the Charter of Fundamental Rights of the European Union be interpreted as meaning that the application of the legal effects provided for in Article 71(2) of Regulation No 817/2004 to agri-environmental support granted for part of an area, in respect of which the prior conditions for grant of that support were complied with for five years, is compatible with those articles?

3. Must Article 52 of the Charter of Fundamental Rights of the European Union be interpreted as meaning that it is permitted to refrain from applying the legal effects which a Regulation and the provisions adopted by a Member State in accordance with that Regulation regard as obligatory, if, in a specific case, there are special circumstances in the context of which the limitation concerned may be considered to be disproportionate?

4. In the light of the objective of Regulations Nos 1257/99 and 817/2004 and the limits laid down therein on the discretion allowed to the Member States, is it acceptable for the court examining the substance of the case not to apply in its full scope Article 84 of Decree No 295 of the Council of Ministers of 23 March 2010 'on the grant, administration and supervision of agricultural development support from the State and from the European Union for the improvement of the agricultural and natural landscape', a provision which concerns the repayment of aid, where the application of that provision in the specific circumstances could lead to infringement of the principle of proportionality, as that principle is interpreted in the legal system of the Member State?

([1]) Commission Regulation (EC) No 817/2004 of 29 April 2004 laying down detailed rules for the application of Council Regulation (EC) No 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) (OJ 2004 L 153, p. 30).

([2]) Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations (OJ 1999 L 160, p. 80).

Request for a preliminary ruling from the Harju Maakohus (Estonia) lodged on 10 June 2015 — Irina Nikolajeva v OÜ Multi Protect

(Case C-280/15)

(2015/C 262/15)

Language of the case: Estonian

Referring court

Harju Maakohus

Parties to the main proceedings

Applicant: Irina Nikolajeva

Defendant: OÜ Multi Protect

Questions referred

The following questions on the interpretation of Council Regulation (EC) No 207/2009 ([1]) of 26 February 2009 on the Community trade mark (codified version) (OJ 2009 L 78, p. 1) are referred to the Court of Justice of the European Union for a preliminary ruling:

1) Is a Community trade mark court required to issue the order provided for in Article 102(1) if the applicant does not seek such an order in his claims and the parties do not allege that the defendant has infringed or threatened to infringe a Community trade mark after a specific date in the past, or does failure to make an application to that effect and to refer to this fact represent a 'special reason' within the meaning of the first sentence of this provision?

2) Is Article 9(3) to be interpreted as meaning that the proprietor of a Community trade mark may demand only reasonable compensation from a third party on the basis of the second sentence of Article 9(3) for use of a sign identical with the trade mark in the period from the publication of the application for registration of the trade mark until the publication of the registration of the trade mark, but not compensation for the fair market value of what has been gained as a result of the infringement and for damage, and that there is also no right to reasonable compensation for the period prior to publication of the application for registration of the trade mark?

3) What type of costs and other forms of compensation are included in reasonable compensation under Article 9(3), second sentence, and can this also encompass in certain circumstances (and if so, in which circumstances) compensation for non-material harm caused to the proprietor of the trade mark?

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

GENERAL COURT

Judgment of the General Court of 16 June 2015 — Portugal v Commission

(Case T-3/11) ([1])

(EAGGF — Guarantee Section — EAGF and EAFRD — Expenditure excluded from financing — Deficiencies in the Land Parcel Identification System and the Geographic Information System (LPIS-GIS), performance of on-the-spot checks and in calculation of sanctions (financial years 2005 to 2007))

(2015/C 262/16)

Language of the case: Portuguese

Parties

Applicant: Portuguese Republic (represented by: L. Inez Fernandes, M. Figueiredo and J. Saraiva de Almeida, acting as Agents)

Defendant: European Commission (represented by: P. Guerra e Andrade and P. Rossi, acting as Agents)

Re:

Action for annulment of Commission Decision 2010/668/EU of 4 November 2010 excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) (OJ 2010 L 288, p. 24), in so far as it applied financial corrections on the Portuguese Republic totalling EUR 40 690 655,11 on account of '[w]eaknesses in LPIS-GIS [Land Parcel Identification System and Geographic Information System] system, performance of on-the-spot checks and in calculation of sanctions' in the financial years 2005 to 2007.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders the Portuguese Republic to pay the costs.*

([1]) OJ C 139, 7.5.2011.

Judgment of the General Court of 19 June 2015 — Italy v Commission

(Case T-358/11) ([1])

(EAGGF — Guarantee Section — EAGF and EAFRD — Expenditure excluded from financing — Public storage of sugar — Increase in costs in connection with warehousing rental — Annual inventory of stocks — Physical inspections of storage areas — Legal certainty — Legitimate expectations — Proportionality — Obligation to state reasons — Risk of financial damage to the funds — Effectiveness)

(2015/C 262/17)

Language of the case: Italian

Parties

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

Defendant: European Commission (represented by: P. Rossi and D. Nardi, acting as Agents)

Re:

Action for annulment of Commission Implementing Decision 2011/244/EU of 15 April 2011 of excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2011 L 102, p. 33), in so far as it excludes certain expenditure incurred by the Italian Republic, and of the Commission's letters of 3 February 2010 and 3 January 2011 as acts preparatory to that decision.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

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

([1]) OJ C 252, 27.8.2011.

Judgment of the General Court of 16 June 2015 — FSL and Others v Commission

(Case T-655/11) ([1])

(Competition — Agreements, decisions and concerted practices — European banana market in Italy, Greece and Portugal — Coordination in the fixing of prices — Admissibility of evidence — Rights of defence — Misuse of powers — Evidence of the infringement — Calculation of the fine)

(2015/C 262/18)

Language of the case: English

Parties

Applicants: FSL Holdings (Antwerp, Belgium); Firma Léon Van Parys (Antwerp); and Pacific Fruit Company Italy SpA (Rome, Italy) (represented by: P. Vlaemminck, C. Verdonck, B. Van Vooren and B. Gielen, lawyers)

Defendant: European Commission (represented by: M. Kellerbauer and A. Biolan, acting as Agents)

Re:

Application, primarily, for annulment of Commission Decision C(2011) 7273 final of 12 October 2011 relating to a proceeding under Article 101 [TFEU] (Case COMP/39482 — Exotic Fruit (Bananas)), and, in the alternative, for a reduction in the fine.

Operative part of the judgment

The Court:

1) *Annuls Article 1 of Commission Decision C(2011) 7273 final of 12 October 2011 relating to a proceeding under Article 101 [TFEU] (Case COMP/39482 — Exotic Fruit (Bananas)) in so far as it refers to the period from 11 August 2004 to 19 January 2005, to the extent that it concerns FSL Holdings, Firma Léon Van Parys and Pacific Fruit Company Italy SpA;*

2) *Annuls Article 2 of Decision C(2011) 7273 final in so far as it sets the amount of the fine imposed on FSL Holdings, Firma Léon Van Parys and Pacific Fruit Company Italy SpA at EUR 8 919 000;*

3) *Sets the amount of the fine imposed on FSL Holdings, Firma Léon Van Parys and Pacific Fruit Company Italy in Article 2 of Decision C(2011) 7273 final at EUR 6 689 000;*

4) *Dismisses the action as to the remainder;*

5) *Orders FSL Holdings, Firma Léon Van Parys and Pacific Fruit Company Italy to bear a third of their own costs and half of the European Commission's costs;*

6) *Orders the Commission to bear half of its own costs and two thirds of the costs of FSL Holdings, of Firma Léon Van Parys and of Pacific Fruit Company Italy.*

([1]) OJ C 58, 25.2.2012.

Judgment of the General Court of 16 June 2015 — Polytetra v OHIM — EI du Pont de Nemours (POLYTETRAFLON)

(Case T-660/11) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark POLYTETRAFLON — Earlier Community word mark TEFLON — No genuine use of the earlier mark — Article 42(2) and (3) of Regulation (EC) No 207/2009 — Final product incorporating a component — Use of the earlier mark in respect of the final products of third parties — Duty to state reasons)

(2015/C 262/19)

Language of the case: English

Parties

Applicant: Polytetra GmbH (Mönchengladbach, Germany) (represented by: R. Schiffer, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: EI du Pont de Nemours and Company (Wilmington, United States) (represented by: E. Armijo Chávarri, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 29 September 2011 (Case R 2005/2010-1) concerning opposition proceedings between EI du Pont de Nemours and Company and Polytetra GmbH.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 29 September 2011 (Case R 2005/2010-1);*

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

3. *Orders EI du Pont de Nemours and Company to bear its own costs.*

([1]) OJ C 65, 3.3.2012.

Judgment of the General Court of 25 June 2015 — PT Musim Mas v Council

(Case T-26/12) ([1])

(Dumping — Imports of certain fatty alcohols and their blends originating in India, Indonesia and Malaysia — Adjustment — Article 2(9) and (10)(i) of Regulation (EC) No 1225/2009 — Functions similar to those of an agent working on a commission basis — Single economic entity — Manifest error of assessment — Principle of sound administration — Equality and non-discrimination)

(2015/C 262/20)

Language of the case: English

Parties

Applicant: PT Perindustrian dan Perdagangan Musim Semi Mas (PT Musim Mas) (Medan, Indonesia) (represented by: D. Luff, lawyer)

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

Interveners in support of the defendant: European Commission (represented by M. França and A. Stobiecka-Kuik, acting as Agents); Sasol Olefins & Surfactants GmbH (Hamburg, Germany); and Sasol Germany GmbH (Hamburg) (represented initially by V. Akritidis, lawyer, and J. Beck, Solicitor, and subsequently by V. Akritidis)

Re:

Application for annulment of Council Implementing Regulation (EU) No 1138/2011 of 8 November 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain fatty alcohols and their blends originating in India, Indonesia and Malaysia (OJ 2011 L 293, p. 1), and Council Implementing Regulation (EU) No 1241/2012 of 11 December 2012 amending Implementing Regulation No 1138/2011 (OJ 2012 L 352, p. 1).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders PT Perindustrian dan Perdagangan Musim Semi Mas (PT Musim Mas) to bear its own costs and to pay those incurred by the Council of the European Union;*

3. *Orders the European Commission to bear its own costs;*

4. *Orders Sasol Olefins & Surfactants GmbH and Sasol Germany GmbH to bear their own costs.*

([1]) OJ C 80, 17.3.2012.

Judgment of the General Court of 25 June 2015 — Copernicus-Trademarks v OHIM — Maquet (LUCEA LED)

(Case T-186/12) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark LUCEA LED — Earlier Community word mark LUCEO — Lack of precedence — Claiming of priority — Priority date entered in the register — Priority documents — Examination by OHIM of its own motion — Rights of the defence)

(2015/C 262/21)

Language of the case: English

Parties

Applicant: Copernicus-Trademarks Ltd (Borehamwood, United Kingdom), authorised to replace Verus EOOD (represented: initially by S. Vykydal and subsequently by F. Henkel, 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: Maquet SAS (Ardon, France) (represented by: N. Hebeis, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 13 February 2012 (Case R 67/2011-4), relating to opposition proceedings between Capella EOOD and Maquet SAS.

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders Copernicus-Trademarks Ltd to bear its own costs and to pay the costs incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) and by Maquet SAS.*

([1]) OJ C 200, 7.7.2012.

Judgment of the General Court of 19 June 2015 — Z v Court of Justice

(Case T-88/13 P) ([1])

(Appeal — Civil service — Officials — Impartiality on the part of the Civil Service Tribunal — Application for the recusal of a judge — Reassignment — Interests of the service — Rule that the grade must correspond with the post — Article 7(1) of the Staff Regulations — Disciplinary proceedings — Rights of the defence)

(2015/C 262/22)

Language of the case: French

Parties

Appellant: Z (Luxembourg, Luxembourg) (represented by: F. Rollinger, lawyer)

Other party to the proceedings: Court of Justice of the European Union (represented by: A. Placco, acting as Agent)

Re:

Appeal brought against the judgment of the European Union Civil Service Tribunal (Third Chamber) of 5 December 2012 in Z v *Court of Justice* (F-88/09 and F-48/10, ECR-SC, EU:F:2012:171), and seeking to have that judgment set aside.

Operative part of the judgment

The Court:

1. *Sets aside the judgment of the European Union Civil Service Tribunal (Third Chamber) in Z v Court of Justice (F 88/09 and F 48/10, ECR-SC, EU:F:2012:171), in so far as it rejected as ineffective the plea in law, raised in Case F-48/10, alleging lack of competence on the part of the Complaints Committee and illegality of Article 4 of the decision of the Court of Justice of the European Union of 4 May 2004 concerning the exercise of the powers conferred by the Staff Regulations of Officials of the European Union on the appointing authority and by the Conditions of Employment of Other Servants of the European Union on the authority empowered to conclude contracts of employment;*

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

3. *Dismisses the appeal in Case F-48/10 in so far as it was based on the ground of appeal alleging lack of competence on the part of the Complaints Committee and illegality of Article 4 of the decision of the Court of Justice of 4 May 2004 concerning the exercise of the powers conferred by the Staff Regulations of Officials of the European Union on the appointing authority and by the Conditions of Employment of Other Servants of the European Union on the authority empowered to conclude contracts of employment;*

4. *As regards the costs incurred in the present appeal proceedings, orders Z to bear three quarters of his own costs and three quarters of the costs incurred by the Court of Justice, and orders the Court of Justice to bear one quarter of its own costs and one quarter of the costs incurred by Z.*

([1]) OJ C 233, 10.8.2013.

Judgment of the General Court of 25 June 2015 — SACE and Sace BT v Commission

(Case T-305/13) ([1])

(State aid — Export credit insurance — Reinsurance granted by a public undertaking to its subsidiary — Capital contributions to cover the subsidiary's losses — Notion of State aid — Imputability to the State — Private investor test — Obligation to state reasons)

(2015/C 262/23)

Language of the case: Italian

Parties

Applicants: Servizi assicurativi del commercio estero SpA (SACE) (Rome, Italy); and Sace BT SpA (Rome) (represented by: M. Siragusa and G. Rizza, lawyers)

Defendant: European Commission (represented by: G. Conte, D. Grespan and K. Walkerová, acting as Agents)

Intervener in support of the applicants: Italian Republic (represented by: G. Palmieri, acting as Agent, assisted by S. Fiorentino, avvocato dello Stato)

Re:

Application for annulment of Commission Decision 2014/525/EU of 20 March 2013 on the measures SA.23425 (11/C) (ex NN 41/10) implemented by Italy in 2004 and 2009 for SACE BT S.p.A. (OJ 2014 L 239, p. 24).

Operative part of the judgment

The Court:

1. *Annuls Article 2(2) of Commission Decision 2014/525/EU of 20 March 2013 on the measures SA.23425 (11/C) (ex NN 41/10) implemented by Italy in 2004 and 2009 for SACE BT S.p.A;*

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

3. *Servizi assicurativi del commercio estero SpA (SACE) and Sace BT shall bear their own costs, including those relating to the interlocutory proceedings;*

4. *The European Commission shall bear its own costs, including those relating to the interlocutory proceedings;*

5. *The Italian Republic shall bear its own costs, including those relating to the interlocutory proceedings.*

(1) OJ C 207, 20.7.2013.

Judgment of the General Court of 16 June 2015 — Silicium España Laboratorios v OHIM — LLR-G5 (LLRG5)

(Case T-306/13) (1)

(Community trade mark — Invalidity proceedings — Community word mark 'LLRG5' — Absolute ground for refusal — Bad faith on the part of the Community trade mark proprietor — Article 52(1)(b) of Regulation (EC) No 207/2009)

(2015/C 262/24)

Language of the case: English

Parties

Applicant: Silicium España Laboratorios, SL (Tarragona, Spain) (represented by: C. Sueiras Villalobos, lawyer)

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: LLR-G5 Ltd (Castlebar, Ireland) (represented by: A. von Mühlendahl and H. Hartwig, lawyers)

Re:

Action brought against the decision of the First Chamber of the Board of Appeal of OHIM of 7 March 2013 (case R 383/2012-1), relating to invalidity proceedings between LLR-G5 Ltd and Silicium España Laboratorios, SL.

Operative part

The Court:

1) *Dismisses the action;*

2) *Orders Silicium España Laboratorios, SL, to pay the costs.*

(1) OJ C 226, 3.8.2013.

Judgment of the General Court of 24 June 2015 — Italy v Commission

(Case T-527/13) (1)

(State aid — Milk levy — Aid granted by Italy to milk producers — Aid scheme linked to the reimbursement of the milk levy — Conditional decision — Failure to comply with a condition which allowed the aid to be considered compatible with the internal market — De minimis aid — Existing aid — New aid — Alteration to existing aid — Procedure for reviewing State aid — Obligation to state reasons — Burden of proof)

(2015/C 262/25)

Language of the case: Italian

Parties

Applicant: Italian Republic (represented by: G. Palmieri, acting as Agent, assisted by S. Fiorentino and P. Grasso, lawyers)

Defendant: European Commission (represented by: D. Grespan, D. Nardi and P. Němečková, acting as Agents)

Re:

Application for annulment of Commission Decision 2013/665/EU of 17 July 2013 on the aid scheme SA.33726 (11/C) (ex SA.33726 (11/NN)) granted by Italy (deferral of payment of the milk levy) (OJ 2013 L 309, p. 40).

Operative part of the judgment

The Court:

1. *Annuls Article 1(2) of Commission Decision 2013/665/EU of 17 July 2013 on the aid scheme SA.33726 (11/C) (ex SA.33726 (11/NN)) granted by Italy (deferral of payment of the milk levy);*

2. *Annuls Articles 2 and 4 of that decision in so far as they concern, first, the aid scheme covered by Article 1(2) and, secondly, the individual aid granted pursuant to that aid scheme;*

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

4. *Orders the Italian Republic and the Commission to bear their own costs.*

([1]) OJ C 344, 23.11.2013.

Judgment of the General Court of 16 June 2015 — H. P. Gauff Ingenieure v OHIM (Gauff JBG Ingenieure)

(Case T-585/13) ([1])

(Community trade mark — Opposition proceedings — Application for Community figurative mark Gauff JBG Ingenieure — Earlier national and Community word and figurative marks GAUFF — Relative grounds for refusal — Partial refusal to register — Application for restitutio in integrum — Article 81 of Regulation (EC) No 207/2009)

(2015/C 262/26)

Language of the case: German

Parties

Applicant: H. P. Gauff Ingenieure GmbH & Co. KG — JBG (Nuremberg, Germany) (represented by: G. Schneider-Rothhaar, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Gauff GmbH & Co. Engineering KG (Nuremberg, Germany) (represented by: A. Molnar, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 5 September 2013 (Case R 596/2013-1) relating to an application for restitutio in integrum.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders H.P. Gauff Ingenieure GmbH & Co. KG — JBG to bear its own costs as well as those incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM);*

3. *Orders Gauff GmbH & Co. Engineering KG to bear its own costs.*

(1) OJ C 24, 25.1.2014.

Judgment of the General Court of 16 June 2015 — H. P. Gauff Ingenieure v OHIM (Gauff THE ENGINEERS WITH THE BROADER VIEW)

(Case T-586/13) (1)

(Community trade mark — Opposition proceedings — Application for Community figurative mark Gauff THE ENGINEERS WITH THE BROADER VIEW — Earlier national and Community word and figurative marks GAUFF — Relative grounds for refusal — Partial refusal to register — Application for restitutio in integrum — Article 81 of Regulation (EC) No 207/2009)

(2015/C 262/27)

Language of the case: German

Parties

Applicant: H. P. Gauff Ingenieure GmbH & Co. KG — JBG (Nuremberg, Germany) (represented by: G. Schneider-Rothhaar, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Gauff GmbH & Co. Engineering KG (Nuremberg, Germany) (represented by: A. Molnar, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 5 September 2013 (Case R 118/2013-1) relating to an application for restitutio in integrum.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders H.P. Gauff Ingenieure GmbH & Co. KG — JBG to bear its own costs as well as those incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM);*

3. *Orders Gauff GmbH & Co. Engineering KG to bear its own costs.*

(1) OJ C 24, 25.1.2014.

Judgment of the General Court of 16 June 2015 — Gako Konietzko v OHIM (Shape of a cylindrical container in red and white)

(Case T-654/13) ([1])

(Community trade mark — Application for three-dimensional Community trade mark — Shape of a cylindrical container in red and white — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009)

(2015/C 262/28)

Language of the case: German

Parties

Applicant: Gako Konietzko GmbH (Bamberg, Germany) (represented by: S. Reinhardt, lawyer)

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

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 19 September 2013 (Case R 2232/2012-1), concerning an application for registration of a three-dimensional sign consisting of the shape of a cylindrical container in red and white as a Community trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Gako Konietzko GmbH to pay the costs.*

([1]) OJ C 39, 8.2.2014.

Judgment of the General Court of 25 June 2015 — dm-drogerie markt v OHIM — Diseños Mireia (M)

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

(Community trade mark — Opposition proceedings — Application for the Community figurative mark M — Earlier Community word mark dm — Relative ground for refusal — No similarity between the signs — No likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 262/29)

Language of the case: English

Parties

Applicant: dm-drogerie markt GmbH & Co. KG (Karlsruhe, Germany) (represented by: O. Bludovsky and C. Mellein, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: Diseños Mireia, SL (Barcelona, Spain)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 11 September 2013 (Case R 911/2012-1), relating to opposition proceedings between dm-drogerie markt GmbH & Co. KG and Diseños Mireia, SL.

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders dm-drogerie markt GmbH & Co. KG to pay the costs.*

(1) OJ C 61, 1.3.2014.

Judgment of the General Court of 17 June 2015 — BMV Mineralöl v OHIM — Delek Europe (GO)

(Case T-60/14) (1)

(Community trade mark — Opposition proceedings — Application for Community figurative mark GO — Earlier Community figurative mark GO — Relative ground for refusal — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 262/30)

Language of the case: German

Parties

Applicant: BMV Mineralöl Versorgungsgesellschaft mbH (Berlin, Germany) (represented by: M. von Fuchs and I. Czernik, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: Delek Europe BV (Breda, Netherlands)

Re:

Action brought against the decision of the fourth Board of Appeal of OHIM of 22 November 2013 (Case R 382/2013-4), relating to opposition proceedings between BMV Mineralöl Versorgungsgesellschaft mbH and Delek Europe BV.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders BMV Mineralöl Versorgungsgesellschaft mbH to pay the costs.*

(1) OJ C 93, 29.3.2014.

Judgment of the General Court of 25 June 2015 — Iranian Offshore Engineering & Construction v Council

(Case T-95/14) (1)

(Common Foreign and Security Policy — Restrictive measures against Iran with the aim of preventing nuclear proliferation — Freezing of funds — Error of assessment — Obligation to state reasons — Right to effective judicial protection — Misuse of power — Right to property — Equal treatment)

(2015/C 262/31)

Language of the case: Spanish

Parties

Applicant: Iranian Offshore Engineering & Construction Co. (Tehran, Iran) (represented by: J. Viñals Camallonga, L. Barriola Urruticoechea and J. Iriarte Ángel, lawyers)

Defendant: Council of the European Union (represented by: A. de Elera-San Miguel Hurtado and V. Piessevaux, acting as Agents)

Re:

Application for annulment of Council Decision 2013/661/CFSP of 15 November 2013 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2013 L 306, p. 18), and of Council Implementing Regulation (EU) No 1154/2013 of 15 November 2013 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2013 L 306, p. 3), in so far as they concern the applicant.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Iranian Offshore Engineering & Construction Co. to bear its own costs and to pay the costs of the Council of the European Union.*

([1]) OJ C 102, 7.4.2014.

Judgment of the General Court of 16 June 2015 — Norma Lebensmittelfilialbetrieb v OHIM — Yorma's (Yorma Eberl)

(Case T-229/14) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark Yorma Eberl — Earlier Community and national word marks NORMA — Relative grounds for refusal — No likelihood of confusion — Article 8(1)(b) and Article 8(4) of Regulation (EC) No 207/2009)

(2015/C 262/32)

Language of the case: German

Parties

Applicant: Norma Lebensmittelfilialbetrieb Stiftung & Co. KG (Nuremberg, Germany) (represented by: A. Parr, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Yorma's AG (Deggendorf, Germany) (represented by: A. Weiß and C. Muck, lawyers)

Re:

Action brought against the decision of the fourth Board of Appeal of OHIM of 11 February 2014 (Case R 532/2013-4), relating to opposition proceedings between Norma Lebensmittelfilialbetrieb Stiftung & Co. KG and Yorma's AG.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Norma Lebensmittelfilialbetrieb Stiftung & Co. KG to pay the costs.*

([1]) OJ C 194, 24.6.2014.

Judgment of the General Court of 16 June 2015 — Best-Lock (Europe) v OHIM — Lego Juris (Shape of a toy figure)

(Case T-395/14) ([1])

(Community trade mark — Invalidity proceedings — Three-dimensional Community trade mark — Shape of a toy figure — Absolute grounds for refusal — Sign consisting exclusively of the shape which results from the nature of the goods themselves — Sign consisting exclusively of the shape of goods which is necessary to obtain a technical result — Article 7(1)(e)(i) and (ii) of Regulation (EC) No 207/2009 — Bad faith — Article 52(1)(b) of Regulation No 207/2009)

(2015/C 262/33)

Language of the case: English

Parties

Applicant: Best-Lock (Europe) Ltd (Colne, United Kingdom) (represented by: J. Becker, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Lego Juris A/S (Billund, Denmark) (represented by: V. von Bomhard, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 26 March 2014 (Case R 1695/2013-4), concerning invalidity proceedings between Best-Lock (Europe) Ltd and Lego Juris A/S.

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders Best-Lock (Europe) Ltd to pay the costs.*

([1]) OJ C 315, 15.9.2014.

Judgment of the General Court of 16 June 2015 — Best-Lock (Europe) v OHIM — Lego Juris (Shape of a toy figure with protrusion)

(Case T-396/14) ([1])

(Community trade mark — Invalidity proceedings — Three-dimensional Community trade mark — Shape of a toy figure with protrusion — Absolute grounds for refusal — Sign consisting exclusively of the shape which results from the nature of the goods themselves — Sign consisting exclusively of the shape of goods which is necessary to obtain a technical result — Article 7(1)(e)(i) and (ii) of Regulation (EC) No 207/2009)

(2015/C 262/34)

Language of the case: English

Parties

Applicant: Best-Lock (Europe) Ltd (Colne, United Kingdom) (represented by: J. Becker, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Lego Juris A/S (Billund, Denmark) (represented by: V. von Bomhard, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 26 March 2014 (Case R 1696/2013-4), concerning invalidity proceedings between Best-Lock (Europe) Ltd and Lego Juris A/S.

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders Best-Lock (Europe) Ltd to pay the costs.*

(1) OJ C 315, 15.9.2014.

Judgment of the General Court of 24 June 2015 — Infocit v OHIM — DIN (DINKOOL)

(Case T-621/14) (1)

(Community trade mark — Opposition proceedings — Application for Community word mark DINKOOL — Earlier international figurative mark DIN — Earlier national business identifier DIN — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 262/35)

Language of the case: English

Parties

Applicant: Infocit — Prestação de Serviços, Comércio Geral e Indústria (Luanda, Angola) (represented by: A. Oliveira, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: DIN — Deutsches Institut für Normung eV (Berlin, Germany) (represented by M. Bagh, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 4 June 2014 (Case R 1312/2013-2) concerning opposition proceedings between DIN — Deutsches Institut für Normung eV and Infocit — Prestação de Serviços, Comércio Geral e Indústria, Lda.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Infocit — Prestação de Serviços, Comércio Geral e Indústria, Lda, to bear its own costs and pay those incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM);*

3. *Orders DIN — Deutsches Institut für Normung eV to bear its own costs.*

(1) OJ C 351, 6.10.2014.

Judgment of the General Court of 24 June 2015 — GHC v Commission

(Case T-847/14) ([1])

(Environment — Protection of the ozone layer — Fluorinated greenhouse gases — Regulation (EU) No 517/2014 — Placing of hydrofluorocarbons on the market — Determination of a reference value — Allocation of quotas — Duty to state reasons — Method of calculation)

(2015/C 262/36)

Language of the case: German

Parties

Applicant: GHC Gerling, Holz & Co. Handels GmbH (Hamburg, Germany) (represented by: D. Lang, lawyer)

Defendant: European Commission (represented by: C. Hermes and K. Mifsud-Bonnici, acting as Agents)

Re:

Application for annulment of Commission Implementing Decision 2014/774/EU of 31 October 2014 determining, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council on fluorinated greenhouse gases, reference values for the period 1 January 2015 to 31 December 2017 for each producer or importer who has reported placing on the market hydrofluorocarbons under Regulation (EC) No 842/2006 of the European Parliament and of the Council (OJ 2014 L 318, p. 28), in so far as it concerns the applicant.

Operative part of the judgment

The Court:

1. *Commission Implementing Decision 2014/774/EU of 31 October 2014 determining, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council on fluorinated greenhouse gases, reference values for the period 1 January 2015 to 31 December 2017 for each producer or importer who has reported placing on the market hydrofluorocarbons under Regulation (EC) No 842/2006 of the European Parliament and of the Council, is hereby annulled in so far as it concerns GHC Gerling, Holz & Co. Handels GmbH;*

2. *The European Commission is ordered to pay the costs.*

([1]) OJ C 56, 16.2.2015.

Action brought on 26 March 2015 — Ben Ali v Council

(Case T-149/15)

(2015/C 262/37)

Language of the case: English

Parties

Applicant: Sirine (Cyrine) Bent Zine El Abidine Ben Haj Hamda Ben Ali (Tunis, Tunisia) (represented by: S. Maktouf, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claim that the Court should:

— annul Council Decision 2011/72/CFSP of 31 January 2011 concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia (OJ L 28, 2.2.2011, p. 62) and Council Regulation (EU) No 101/2011 of 4 February 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Tunisia (OJ L 31, 5.2.2011, p. 1) as periodically renewed ([1]) and amended ([2]) ('the Impugned Decisions'), in so far as they designate the applicant,

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

Pleas in law and main arguments

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

First plea in law, alleging a manifest error of assessment. The applicant contends that given the political changes which have taken place in Tunisia, the rationale for the sanctions is no longer valid.

Second plea in law, alleging a manifest error of assessment since the domestic criminal proceedings instituted against the applicant are being prosecuted in a dilatory manner such that it cannot be said that she is under 'genuine' investigation for the offences justifying the imposition of the sanctions.

Third plea in law, alleging insufficient statement of reasons since the one proffered by the Council for listing the applicant merely reiterates the underlying rationale for the sanctions.

Fourth plea in law, alleging a breach of fundamental rights since the applicant has been subject to the arbitrary imposition of measures designed to facilitate the future confiscation of assets. Accordingly, the applicant's right of property and presumption of innocence have been breached.

Fifth plea in law, alleging a manifest error of assessment, since the statement of reasons proffered by the Council and the domestic legal provisions underpinning it do not conform to the rationale for the sanctions.

(1) Council Decision 2012/50/CFSP of 27 January 2012 amending Decision 2011/72/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia (OJ L 27, 31.1.2012, p. 11) and Council Decision 2013/72/CFSP of 31 January 2013 amending Decision 2011/72/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia (OJ L 32, 1.2.2013, p. 20).

(2) Council Decision 2014/49/CFSP of 30 January 2014 amending Decision 2011/72/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia (OJ L 28, 31.1.2014, p. 38) and Council Implementing Regulation (EU) No 81/2014 of 30 January 2014 implementing Regulation (EU) No 101/2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Tunisia (OJ L 28, 31.1.2014, p. 2).

Action brought on 13 April 2015 — Sopra Steria Group v Parlement

(Case T-181/15)

(2015/C 262/38)

Language of the case: English

Parties

Applicant: Sopra Steria Group SA (Annecy-le-Vieux, France) (represented by: A. Verlinden, R. Martens and J. Joossen, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul the decision of the European Parliament of unknown date to launch the negotiated procedure without publication of a contract notice for NPE-15.8;

— annul any decision that the European Parliament may have taken with regard to the further course of this negotiated procedure without publication notice NPE-15.8;

— declare that the contract(s) that are possibly closed based on the negotiated procedure without publication of a contract notice for NPE-15.8, is (are) null and void;

— order that the European Parliament has to bear the costs of the proceedings, including the expenses for legal counsel incurred by the applicant.

Pleas in law and main arguments

In support of the action, the applicant relies on one plea in law, alleging a violation of Article 102 of the Financial Regulation, of Article 103 of the Financial Regulation, of Article 104.2 of the Financial Regulation and of Article 134.1 (c) of the Rules of Application, thus invalidating the Decision of unknown date, to launch the negotiated procedure without prior publication of a contract notice.

According to the applicants, the European Parliament wrongfully and illegally used the negotiated procedure without prior publication of a contract notice, whereby it should have been stated that this procedure was an exceptional procedure of which the use had to be legally justified (also given the obligation of the European Parliament to ensure that all public procurement contracts are be put out to tender on the broadest possible basis, cfr. article 102.2 of the Financial Regulation). Such justification, so the applicants claim, was not given by the European Parliament, nor were there any reasons of extreme urgency brought about by unforeseeable events not attributable to the European Parliament present (as required for the application of article 134.1 (c) of the Rules of Application).

Action brought on 13 April 2015 — Sopra Steria Group v Parlement

(Case T-182/15)

(2015/C 262/39)

Language of the case: English

Parties

Applicant: Sopra Steria Group SA (Annecy-le-Vieux, France) (represented by: A. Verlinden, R. Martens and J. Joossen, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul the decisions of the European Parliament of unknown date, notified by letters dated 13 February 2015, to exclude IBI IUS for Lot 2 and to exclude STEEL for Lot 3 in the tendering procedure for PE/ITEC-ITS14;

— declare that the contract(s) with other tenderers due to this exclusion decisions is (are) null and void;

— order that the European Parliament has to bear the costs of the proceedings, including the expenses for legal counsel incurred by the applicant.

Pleas in law and main arguments

In support of the action, the applicant relies on one plea in law, based on the infringement by the European Parliament of the principles of transparency, proportionality and equal treatment as contained in article 102.1 of the Financial Regulation, the infringement of the exclusion criteria as contained in article 107.1(a) and (b) of the Financial Regulation, the infringement of article 158.3 of the Rules of Application, the infringement by the European Parliament of its own Tender Specifications for ITS14, thus invalidating the Decisions of unknown date, notified by letters dated 13 February 2015, to exclude IBI IUS for Lot 2 and to exclude STEEL for Lot 3 of ITS14.

In the primary part of the first and only plea in law, the applicant claims that the European Parliament has failed to correctly apply its own Tender Specifications for ITS14 and the general procedural requirement of *patere legem quam ipse fecisti* and has infringed article 107.1(a) and (b) of the Financial Regulation and this by excluding the applicant and consequently, the consortia IBI IUS for Lot 2 and STEEL for Lot 3 of ITS14, because of an alleged (and unproven) potential conflict of interest and because of an alleged (and unproven) failure to supply information to the European Parliament.

In the secondary part of the first and only plea in law (subsidiary order), the applicant claims that the European Parliament has violated the principles of transparency, proportionality and equality of treatment (non-discrimination) as laid down in article 102.1 of the Financial Regulation and this by excluding the applicant and consequently, the consortia IBI IUS for Lot 2 and STEEL for Lot 3 of ITS14, because of an alleged (and unproven) potential conflict of interest and because of an alleged (and unproven) failure to supply information to the European Parliament.

Action brought on 14 April 2015 — Trivisio Prototyping v Commission

(Case T-184/15)

(2015/C 262/40)

Language of the case: German

Parties

Applicant: Trivisio Prototyping GmbH (Trier, Germany) (represented by: A. Bartosch and A. Böhlke, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Decision C(2015) 633 final of 2 February 2015 concerning recovery of the sum of EUR 385 112,19 together with interest owed by Trivisio Prototyping GmbH;

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

Pleas in law and main arguments

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

1. First plea in law, alleging an error of assessment of the facts

   — The applicant claims, inter alia, that the Commission was aware, or should in any event have been aware, of the involvement of Russian engineers at the time of signing the ULTRA ('Ultra portable augmented reality for industrial maintenance applications'), IMPROVE ('Improving Display and Rendering Technology for Virtual Environments') and CINeSPACE ('Experiencing urban film and cultural heritage while on-the-move') grant agreements. It adds that recovery of the sum claimed in those circumstances is an abuse of power.

2. Second plea in law, alleging that the applicant did not infringe the rules of Annex 2 to the grant agreement relating to subcontracting

   — The applicant claims that there existed a relationship of control between it and the employer of the Russian engineers — irrespective of fact that they consist of independent legal persons — with the result that there is no infringement of the provisions of Annex II to the grant agreement.

3. Third plea in law, alleging in the alternative an infringement of the principle of the protection of legitimate expectations

   — In the alternative, the applicant relies on the principle of the protection of legitimate expectations against the recovery of the contested sum.

Action brought on 24 April 2015 — Dôvera zdravotná poisťovňa/Commission

(Case T-216/15)

(2015/C 262/41)

Language of the case: English

Parties

Applicant: Dôvera zdravotná poisťovňa, s.a. (Bratislava, Slovakia) (represented by: O. Brouwer and A. Pliego Selie, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission Decision (EU) 2015/248 of 15 October 2014 on the measures SA.23008 (2013/C) (ex 2013/NN) implemented by the Slovak Republic for Spoločná zdravotná poisťovňa, a. s. (SZP) and Všeobecná zdravotná poisťovňa, a. s. (VZP) (notified under document C(2014) 7277) (OJ 2015 L 41, p. 25);

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

Pleas in law and main arguments

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

1. First plea in law, alleging a misapplication of Article 107 (1) TFEU

   — The Commission has erred in law by misapplying the concept of undertaking in the specific context of Article 107 (1) TFEU.

2. Second plea in law, alleging errors of law and manifest errors of assessment

   — The Commission has, in setting and applying the criteria to determine the economic nature of the insurance scheme, committed errors of law and manifest errors of assessment in finding that SZP/VZP does not qualify as an undertaking and failed to provide adequate reasoning.

Action brought on 4 May 2015 — European Dynamics Luxembourg and Others v European Banking Authority

(Case T-229/15)

(2015/C 262/42)

Language of the case: Greek

Parties

Applicants: European Dynamics Luxembourg SA (Luxembourg, Luxembourg) Evropaiki Dinamiki — Proigmena Sistimata Tilepikinonion Pliroforikis kai Tilematikis AE (Athens, Greece), European Dynamics Belgium SA (Brussels, Belgium), (represented by: I. Ambazis and M. Sfyri, lawyers)

Defendant: European Banking Authority (EBA)

Form of order sought

The applicants claim that the General Court should:

— annul the decision of the EBA which was communicated to the applicants by letter dated 02/03/2015 from the Executive Director of the European Banking Authority, whereby the EBA rejected the applicants' tender with respect to Lot 1 within the framework of the restricted tendering procedure 2014/S 158 283576 (EBA/2014/06/OPS/SER/RT), titled 'Supply of interim staff, Lot No 1: Supply of interim staff for Information Technology';

— order the EBA to compensate the applicants for the loss of the opportunity to be ranked in first place in Lot 1 of the EBA/2014/06/OPS/SER/RT framework agreement, which the applicants estimate *ex aequo et bono* at three hundred thousand euros (EUR 300 000), with interest from the date of delivery of the judgment or such other sum as the General Court deems appropriate; and

— order the EBA to pay the applicants' costs in full.

Pleas in law and main arguments

In support of the action the applicants rely on two pleas in law.

1. The first plea claims a breach by the EBA of the obligation to state reasons, since it provided an inadequate statement of reasons with respect to the assessment of the applicants' technical tender.

2. The second plea claims an infringement of the contractual documents and of EU law in respect that there were manifest errors of assessment.

Appeal brought on 28 May 2015 by Tuula Rajala against the judgment of the Civil Service Tribunal of 18 March 2015 in Case F-24/14 Rajala/OHMI

(Case T-271/15 P)

(2015/C 262/43)

Language of the case: English

Parties

Appellant: Tuula Rajala (El Campello, Spain) (represented by: H. Tettenborn, lawyer)

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

Form of order sought by the appellant

The appellant claims that the Court should:

— annul the judgment of the Civil Service Tribunal of 18 March 2015 in Case F-24/14;

— annul the appraisal report issued to the appellant in respect of the period from 1st October 2011 to 31 December 2012;

— order OHIM to pay an adequate compensation in the discretion of the Court — not below an amount of EUR 500 — to the appellant for the moral and immaterial damages suffered by the appellant as a result of the aforesaid appraisal report;

— order OHIM to pay the costs as regards the proceedings in the Civil Service Tribunal and in the General Court.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Civil Service Tribunal distorted major facts and based the judgment on the distorted facts. The appellant puts forward the following distortions:

   — distortion concerning the fact that the timeliness was affected by the appellant's health problems;

— distortion concerning the fact that the timeliness was negatively affected by being the only examiner working in Finnish for part of the appraisal period and one of only two Finnish examiners for the remainder of the appraisal period;

— distortion concerning the fact that the appellant handled an uncommonly large number of particularly difficult and time consuming cases;

— distortion of facts concerning the negative impact that the implementation of the IP Translator judgment had on the quantitative output of the appellant and the timeliness of the appellant's decisions;

— distortion of the facts concerning the timeliness figures of the appellant compared to other examiners.

2. Second plea in law, alleging that the Civil Service Tribunal erred in law when stating that a manifest error in the assessment of performance cannot be revealed from the finding that of the seven competencies assessed, five were deemed to be at least consistent with the level required for the position held.

3. Third plea in law, alleging that the Civil Service Tribunal erred in law when rejecting the breach by OHIM of its fiduciary duty.

4. Fourth plea in law, alleging the Civil Service Tribunal erred in law when rejecting the breach by OHIM of the legitimate expectations of the appellant.

Action brought on 31 May 2015 — Smarter Travel Media/OHIM (SMARTER TRAVEL)

(Case T-290/15)

(2015/C 262/44)

Language of the case: English

Parties

Applicant: Smarter Travel Media LLC (Boston, United States of America) (represented by: P. Olson, lawyer)

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

Details of the proceedings before OHIM

Trade mark at issue: Community figurative mark containing the word elements 'SMARTER TRAVEL' — Application for registration No 12 460 044

Contested decision: Decision of the Second Board of Appeal of OHIM of 20/03/2015 in Case R 1986/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Pleas in law

— The Board of Appeal erred in finding that the mark was not distinctive;

— The Board of Appeal erred in misapplying the *Bild* decision;

— The Board of Appeal erred in not taking into account that the trademark contained an independently registrable element;

— The Board of Appeal erred in not taking into account that the same trademark with a different logo had been registered for essentially the same services and that the new application is merely a modernization;

— The Board of Appeal erred in not making a global assessment.

Action brought on 26 May 2015 — Zhang v OHIM — K & L Ruppert Stiftung (Anna Smith)

(Case T-295/15)

(2015/C 262/45)

Language in which the application was lodged: German

Parties

Applicant: Yongyu Zhang (Manchester, United Kingdom) (represented by: M. Steinert, lawyer)

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

Other party to the proceedings before the Board of Appeal: K & L Ruppert Stiftung & Co. Handels-KG (Weilheim, Germany)

Details of the proceedings before OHIM

Applicant: Yongyu Zhang

Trade mark at issue: Community word mark 'Anna Smith' — Registration No 11 981 446

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 27 February 2015 in Case R 1559/2014-5

Form of order sought

The applicant claims that the Court should:

— admit, after annulment of the contested decision relating to opposition proceedings No B 2 264 227 on the application for registration No 11 981 446 of 12 July 2013, the word mark Anna Smith as a Community trade mark for Classes 18 and 25, as per the application.

Plea in law

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

Action brought on 5 June 2015 — OASE/OHIM — COMPO France (AlGo)

(Case T-300/15)

(2015/C 262/46)

Language in which the application was lodged: German

Parties

Applicant: OASE GmbH (Hörstel, Germany) (represented by: T. Weeg, lawyer)

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

Other party to the proceedings before the Board of Appeal: COMPO France SAS (Roche-Lez-Beaupré, France)

Details of the proceedings before OHIM

Applicant: OASE GmbH

Trade mark at issue: Community word mark 'AlGo' — Registration No 10 096 337

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of OHIM of 11 February 2015 in Case R 1409/2013-1

Form of order sought

The applicant claims that the Court should:

— amend the contested decision by declaring that the opposition is rejected in its entirety;

— order OHIM to pay the costs.

Pleas in law

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

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

Action brought on 12 June 2015 — Italy v Commission

(Case T-313/15)

(2015/C 262/47)

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/301/15 — Administrators (AD 5);

— order the Commission to pay the costs.

Pleas in law and main arguments

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

Action brought on 17 June 2015 — Zitro IP v OHIM (TRIPLE BONUS)

(Case T-318/15)

(2015/C 262/48)

Language of the case: Spanish

Parties

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

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

Details of the proceedings before OHIM

Trade mark at issue: Community figurative mark containing the word elements 'TRIPLE BONUS' — Application for registration No 12 013 629

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 15 April 2015 in Case R 1648/2014-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Plea in law

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

Action brought on 22 June 2015 — GSA and SGI Security v Parliament

(Case T-321/15)

(2015/C 262/49)

Language of the case: French

Parties

Applicants: Gruppo Servizi Associati SpA (GSA) (Rome, Italy) and Security Guardian's Institute (SGI Security) (Bierges, Belgium) (represented by: E. van Nuffel d'Heynsbroeck, lawyer)

Defendant: European Parliament

Form of order sought

The applicants claim that the General Court should:

— annul the Parliament's decision notified on 12 June 2015 declaring non-compliant the tender submitted by Gruppo Servizi Associati s.p.a. and Security Guardian's Institute s.a. in respect of the tendering procedure for service contract EP/DGSAFE/UIB/SER/2014-014 for the provision of fire security, assistance to persons and external surveillance at the European Parliament's site in Brussels, and its decision to award the contract to another tenderer;

— order the Parliament to pay the costs.

Pleas in law and main arguments

In support of the action, the applicants rely on two pleas in law.

1. First plea, alleging infringement of the principles of proportionality and equal treatment, in so far as the Parliament unjustifiably required all of the members of the consortium to hold an authorisation pursuant to the Law of 10 April 1990 regulating private and special security services, thereby imposing the requirement on members of the consortium who would not provide services subject to that law.

2. Second plea, submitted in the alternative, alleging infringement of the freedom to provide services and the underlying principles of equal treatment and proportionality, in so far as the requirement to hold an authorisation pursuant to the Law of 10 April 1990 made it excessively difficult, or even impossible, for a company which provides a service that is not subject to that law to participate in the contract award procedure.

Action brought on 23 June 2015 — Bimbo v OHIM (THE SNACK COMPANY)

(Case T-331/15)

(2015/C 262/50)

Language of the case: Spanish

Parties

Applicant: Bimbo, SA (Barcelona, Spain) (represented by: J. Carbonell Callicó, lawyer)

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

Details of the proceedings before OHIM

Trade mark at issue: Community figurative mark containing the word elements 'THE SNACK COMPANY' — Application for registration No 12 173 852

Contested decision: Decision of the Second Board of Appeal of OHIM of 31 March 2015 in Case R 954/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— grant registration of the trade mark applied for;

— order OHIM to pay the costs.

Pleas in law

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

— Infringement of the principle of equal treatment;

— Infringement of Article 75 of Regulation No 207/2009.

Action brought on 24 June 2015 — Josel v OHIM — Nationale-Nederlanden Nederland (NN)

(Case T-333/15)

(2015/C 262/51)

Language in which the application was lodged: Spanish

Parties

Applicant: Josel, SL (Barcelona, Spain) (represented by: J. L. Rivas Zurdo, lawyer)

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

Other party to the proceedings before the Board of Appeal: Nationale-Nederlanden Nederland BV (Amsterdam, Netherlands)

Details of the proceedings before OHIM

Applicant for the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Community figurative mark containing the word element 'NN' — Application for registration No 1 066 097

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 14 April 2015 in Case R 1531/2014-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision, insofar as, in dismissing in part the appeal brought by the applicant for the trade mark, it upholds the decision of the Opposition Division rejecting opposition B 1 887 887 and granting Community trade mark (international registration) No 1 066 097 'NN', Class 36, (word mark);

— order the party or parties opposing this action to pay the costs.

Plea in law

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

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Judgment of the Civil Service Tribunal (2nd Chamber) of 30 June 2015 — Z v Court of Justice

(Case F-64/13) ([1])

(Civil service — Officials — Staff report — Delay in drawing up staff report — Action for annulment — Action for compensation)

(2015/C 262/52)

Language of the case: French

Parties

Applicant: Z (represented by: F. Rollinger, lawyer)

Defendant: Court of Justice of the European Union (represented by: A. V. Placco, agent)

Re:

Application to annul the applicant's staff report for the period from 1 January 2008 to 31 December 2008, and an order that the defendant pay to the applicant a sum in compensation for the non-material damage suffered.

Operative part of the judgment

The Tribunal:

1. *Dismisses the action;*

2. *Orders Z to bear her own costs and to pay the costs incurred by the Court of Justice of the European Union.*

([1]) OJ C 274, 21/9/2013, p. 30.

Judgment of the Civil Service Tribunal (Second Chamber) of 30 June 2015 — Curdt-Christiansen v Parliament

(Case F-120/14) ([1])

(Civil Service — Officials — Remuneration — Annual travel expenses — Article 7(3) and Article 8 of Annex VII to the Staff Regulations — Fixing of the place of origin and the centre of interests — Request for revision of the place of origin — Concept of centre of interests — Change of residence of a family member — Period elapsed between the amendment of the centre of interests and the request for revision of the place of origin — Exceptional nature of the revision)

(2015/C 262/53)

Language of the case: French

Parties

Applicant: Caspar Curdt-Christiansen (Perl, Germany) (represented by: A. Salerno, lawyer)

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

Re:

Application for annulment of the decision of the Parliament rejecting the applicant's request that his place of origin be changed to Larnaca (Cyprus) and the centre of his interests to Singapore, instead of Montreal (Canada), following his transfer to the European Parliament.

Operative part of the judgment

The Tribunal:

1. *Dismisses the action;*

2. *Orders Mr Curdt-Christiansen to bear his own costs and to pay the costs incurred by the European Parliament.*

(1) OJ C 7, 12.1.2015, p. 57.

Judgment of the Civil Service Tribunal (3rd Chamber) of 30 June 2015 — Petsch v Commission

(Case F-124/14) (1)

(Civil service — Member of the contract staff — Crèche and after-school centre staff — Reform of the Staff Regulations and of the CEOS that entered into force on 1 January 2014 — Regulation No 1023/2013 — Increase in working hours — Additional monthly amount — Article 50 of the Rules of Procedure — Hierarchy of norms — General implementing provisions of Article 110(1) of the Staff Regulations — Article 2 of the annex to the CEOS — Articles 27 and 28 of the Charter of Fundamental Rights of the European Union)

(2015/C 262/54)

Language of the case: French

Parties

Applicant: Olivier Petsch (Brussels, Belgium) (represented by: J.-N. Louis, R. Metz, D. Verbeke and N. de Montigny, lawyers)

Defendant: European Commission (represented by: C. Berardis-Kayser and G. Berscheid, Agents)

Re:

Application for annulment of the Commission's decision not to increase the salary of the applicant, who is a member of the contract staff working at the OIB, in the light of the increase in working hours to 40 hours per week as a consequence of the entry into force of the new Staff Regulations on 1 January 2014.

Operative part of the judgment

The Tribunal:

1. *Dismisses the action;*

2. *Orders Mr Petsch to bear his own costs and to pay the costs incurred by the European Commission.*

(1) OJ C 7, 12/1/2015, p. 59.

Judgment of the Civil Service Tribunal (Second Chamber) of 30 June 2015 — Dybman v EEAS

(Case F-129/14) ([1])

(Civil Service — EEAS staff — Officials — Disciplinary procedure — Disciplinary penalty — Criminal proceedings in progress at the time of the adoption of the disciplinary penalty — Identical facts submitted to the Appointing Authority and to the criminal court — Breach of Article 25 of Annex IX to the Staff Regulations)

(2015/C 262/55)

Language of the case: French

Parties

Applicant: Pierre Dybman (Brussels, Belgium) (represented by: J.-N. Louis, R. Metz, D. Verbeke and N. de Montigny, lawyers)

Defendant: European External Action Service (represented by: S. Marquardt and M. Silva, acting as Agents)

Re:

Application for annulment of the decision of the EEAS to remove the applicant from his post without reducing his pension rights.

Operative part of the judgment

The Tribunal:

1. *Annuls the decision of the European External Action Service to remove Mr Dybman from his post without reducing his pension rights;*

2. *Orders the European External Action Service to bear its own costs and to pay the costs incurred by Mr Dybman.*

([1]) OJ C 7, 12.1.2015, p. 61.

Order of the Civil Service Tribunal (Second Chamber) of 30 June 2015 — Centurione v Commission

(Case F-43/15) ([1])

(Civil Service — Officials — Social security — Accident — Article 73 of the Staff Regulations — Common rules on insurance against the risk of accident and of occupational disease — Setting of the degree of partial permanent invalidity — Report of the Medical Committee — Article 82 of the Rules of Procedure — Absolute bar to proceeding — Lack of concordance between the action and the claim — Inadmissibility)

(2015/C 262/56)

Language of the case: French

Parties

Applicant: Fernando Centurione (Nivelles, Belgium) (represented by: S. Pappas, lawyer)

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

Re:

Application for annulment of the decision of the Commission recognising only a partial rate of permanent invalidity of 2 % following the accident at work suffered by the applicant.

Operative part of the order

1. *The action is dismissed.*

2. *Each party shall bear its own costs.*

(1) OJ C 178, 1.6.2015, p. 29.

Action brought on 26 May 2015 — ZZ and ZZ v Commission

(Case F-81/15)

(2015/C 262/57)

Language of the case: French

Parties

Applicants: ZZ and ZZ (represented by: T. Bontinck and A. Guillerme, lawyers)

Defendant: European Commission

Subject-matter and description of the proceedings

A declaration of the unlawfulness of Article 45 of and Annex I to the Staff Regulations of Officials and the annulment of the decisions of the Appointing Authority not to include the applicants on the list of officials promoted to grade AST 10 in promotion year 2014.

Form of order sought

— Principally, declare the unlawfulness of Article 45 of the Staff Regulations and that of Annex I thereto, together with the transitional measures relating thereto;

— Annul the decision of the Appointing Authority of 14 November 2014 not to include the applicants on the list of officials promoted to grade AST 10 in promotion year 2014 provided for in Article 45 of the Staff Regulations;

— Order the Commission to pay the costs;

— In the alternative, annul the decision of the Appointing Authority of 14 November 2014 not to include the applicants on the list of officials promoted to grade AST 10 in promotion year 2014 provided for in Article 45 of the Staff Regulations;

— Order the Commission to pay the costs.

Action brought on 8 June 2015 — ZZ and Others v Commission

(Case F-85/15)

(2015/C 262/58)

Language of the case: French

Parties

Applicants: ZZ and Others (represented by: C. Mourato, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the decision not to admit the applicants to the assessment stage of the competition EPSO/AD/204/10, after reopening of that competition by EPSO following annulment by the Civil Service Tribunal of the original decision not to admit the applicants to the assessment stage of the competition and compensation for the applicants for the material and non-material damage allegedly suffered.

Form of order sought

— Annul the decisions of 25 July 2014 of the selection board for competition EPSO/AD/204/10, sent to each of the applicants;

— grant to each of the applicants a provisional award of EUR 1 000 in respect of non-material damage, and a second provisional award of EUR 227 899,50 in respect of financial damage;

— order the Commission to pay the costs.

Action brought on 15 June 2015 — ZZ v Commission

(Case F-87/15)

(2015/C 262/59)

Language of the case: French

Parties

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

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the decision not to extend recognition that the applicant's daughter suffers from a serious illness and compensation for the material and non-material damaged allegedly suffered.

Form of order sought

— Annul the decision of 25 August 2014 of the Brussels Settlements Office, refusing to extend recognition that the applicant's daughter suffers from a serious illness;

— annul the defendant's decision of 5 March 2015, rejecting the applicant's complaint of 24 November 2014;

— order compensation for the material damage and non-material damage suffered by the applicant;

— order the defendant to pay all the costs.

Order of the Civil Service Tribunal of 29 June 2015 — Chezzi v Commission

(Case F-62/14) ([1])

(2015/C 262/60)

Language of the case: French

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

([1]) OJ C 361, 13.10.2014, p. 31.

Order of the Civil Service Tribunal of 29 June 2015 — Campanella v Commission

(Case F-64/14) ([1])

(2015/C 262/61)

Language of the case: French

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

([1]) OJ C 361, 13.10.2014, p. 31.

Order of the Civil Service Tribunal of 30 June 2015 — EI v Council

(Case F-87/14) ([1])

(2015/C 262/62)

Language of the case: French

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

([1]) OJ C 431, 1.12.2014, p. 49.

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