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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Grand Chamber) of 6 October 2015 — European Commission v Jørgen Andersen, Kingdom of Denmark, Danske Statsbaner SV (DSB)

(Case C-303/13 P) ([1])

(Appeal — Competition — State aid — Aid granted by the Danish authorities to the public undertaking Danske Statsbaner (DSB) — Public service contracts for the supply of passenger rail transport services between Copenhagen (Denmark) and Ystad (Sweden) — Decision declaring the aid compatible with the internal market subject to conditions — Temporal application of rules of substantive law)

(2015/C 389/02)

Language of the case: English

Parties

Appellant: European Commission (represented by: L. Armati and T. Maxian Rusche, acting as Agents)

Other parties to the proceedings: Jørgen Andersen (represented by: J. Rivas Andrés, G. van de Walle de Ghelcke and M. Nissen, avocats), Kingdom of Denmark (represented by: C. Thorning and V. Pasternak Jørgensen, acting as Agents, and by R. Holdgaard, advokat), Danske Statsbaner SV (DSB) (represented by: M. Honoré, advokat)

Intervener in support of Jørgen Andersen: Dansk Tog (represented by: G. van de Walle de Ghelcke, J. Rivas Andrés and M. Nissen, avocats)

Operative part of the judgment

The Court:

1. *Sets aside the judgment of the General Court of the European Union in Andersen v Commission (T-92/11, EU:T:2013:143) in so far as, by that judgment, as regards the aid paid from 3 December 2009 under the second public transport service contract concluded for the years 2005 to 2014, the General Court annulled the second paragraph of Article 1 of Commission Decision 2011/3/EU of 24 February 2010 concerning public transport service contracts between the Danish Ministry of Transport and Danske Statsbaner (Case C 41/08 (ex NN 35/08));*

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

3. *Dismisses the cross-appeals;*

4. *Refers the case back to the General Court of the European Union for judgment, in the light of the three pleas of the application, taking account of Article 8(3) of Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70, on the legality of Decision 2011/3 in so far as it declared that the aid paid from 3 December 2009 under the second public transport service contract concluded for the years 2005 to 2014 was compatible with the internal market;*

5. *Reserves the costs.*

([1]) OJ C 252, 31.8.2013.

Judgment of the Court (Grand Chamber) of 6 October 2015 (request for a preliminary ruling from the Tribunal d'instance de Bordeaux — France) — Thierry Delvigne v Commune de Lesparre-Médoc, Préfet de la Gironde

(Case C-650/13) ([1])

(Reference for a preliminary ruling — Charter of Fundamental Rights of the European Union — Articles 39 and 49 — European Parliament — Elections — Right to vote — Citizenship of the European Union — Retroactive effect of the more lenient criminal law — National legislation providing for the deprivation of the right to vote in the case of a criminal conviction by a final judgment delivered before 1 March 1994)

(2015/C 389/03)

Language of the case: French

Referring court

Tribunal d'instance de Bordeaux

Parties to the main proceedings

Applicant: Thierry Delvigne

Defendants: Commune de Lesparre-Médoc, Préfet de la Gironde

Operative part of the judgment

Article 39(2) and the last sentence of Article 49(1) of the Charter of Fundamental Rights of the European Union must be interpreted as not precluding legislation of a Member State, such as that at issue in the main proceedings, which excludes, by operation of law, from those entitled to vote in elections to the European Parliament persons who, like the applicant in the main proceedings, were convicted of a serious crime and whose conviction became final before 1 March 1994.

([1]) OJ C 129, 28.4.2014.

Judgment of the Court (Second Chamber) of 6 October 2015 (request for a preliminary ruling from the Sø- og Handelsretten — Denmark) — Post Danmark A/S v Konkurrencerådet

(Case C-23/14) ([1])

(Reference for a preliminary ruling — Article 82 EC — Abuse of a dominant position — Market for the distribution of bulk mail — Direct advertising mail — Retroactive rebate scheme — Exclusionary effect — 'As-efficient-competitor' test — Degree of likelihood and seriousness of an anti-competitive effect)

(2015/C 389/04)

Language of the case: Danish

Referring court

Sø- og Handelsretten

Parties to the main proceedings

Applicant: Post Danmark A/S

Defendant: Konkurrencerådet

Operative part of the judgment

1. *In order to determine whether a rebate scheme, such as that at issue in the main proceedings, implemented by a dominant undertaking is capable of having an exclusionary effect on the market contrary to Article 82 EC, it is necessary to examine all the circumstances of the case, in particular, the criteria and rules governing the grant of the rebates, the extent of the dominant position of the undertaking concerned and the particular conditions of competition prevailing on the relevant market. The fact that the rebate scheme covers the majority of customers on the market may constitute a useful indication as to the extent of that practice and its impact on the market, which may bear out the likelihood of an anti-competitive exclusionary effect.*

2. *The application of the 'as-efficient-competitor' test does not constitute a necessary condition for a finding to the effect that a rebate scheme is abusive under Article 82 EC. In a situation such as that in the main proceedings, applying the as-efficient-competitor test is of no relevance.*

3. *Article 82 EC must be interpreted as meaning that, in order to fall within the scope of that article, the anti-competitive effect of a rebate scheme operated by a dominant undertaking, such as that at issue in the main proceedings, must be probable, there being no need to show that it is of a serious or appreciable nature.*

([1]) OJ C 78, 15.3.2014.

Judgment of the Court (Fifth Chamber) of 6 October 2015 (request for a preliminary ruling from the Tribunale regionale di giustizia amministrativa di Trento — Italy) — Orizzonte Salute — Studio Infermieristico Associato v Azienda Pubblica di Servizi alla persona San Valentino — Città di Levico Terme and Others

(Case C-61/14) ([1])

(Reference for a preliminary ruling — Directive 89/665/EEC — Public procurement — National legislation — Fees for access to administrative proceedings in the field of public procurement — Right to an effective remedy — Dissuasive fees — Judicial review of administrative decisions — Principles of effectiveness and equivalence — Effectiveness)

(2015/C 389/05)

Language of the case: Italian

Referring court

Tribunale regionale di giustizia amministrativa di Trento

Parties to the main proceedings

Applicant: Orizzonte Salute — Studio Infermieristico Associato

Defendants: Azienda Pubblica di Servizi alla persona San Valentino — Città di Levico Terme, Ministero della Giustizia, Ministero dell'Economia e delle Finanze, Presidenza del Consiglio dei Ministri, Segretario Generale del Tribunale regionale di giustizia amministrativa di Trento (TRGA)

Intervening parties: Associazione Infermieristica D & F Care, Camera degli Avvocati Amministrativisti, Camera Amministrativa Romana, Associazione dei Consumatori Cittadini Europei, Coordinamento delle associazioni e dei comitati di tutela dell'ambiente e dei diritti degli utenti e dei consumatori (Codacons), Associazione dei giovani amministrativisti (AGAmm), Ordine degli Avvocati di Roma, Società italiana degli avvocati amministrativisti (SIAA), Ordine degli Avvocati di Trento, Consiglio dell'ordine degli Avvocati di Firenze, Medical Systems SpA

Operative part of the judgment

1) *Article 1 of Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts, as amended by Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007, and the principles of equivalence and effectiveness must be interpreted as not precluding national legislation which requires the payment of court fees such as the standard fee at issue in the main proceedings when an action relating to public procurement is brought before administrative courts.*

2) *Article 1 of Directive 89/665, as amended by Directive 2007/66, and the principles of equivalence and effectiveness do not preclude the charging of multiple court fees to an individual who brings several court actions concerning the same award of a public contract or that individual from having to pay additional court fees in order to be able to raise supplementary pleas concerning the same award of a public contract within ongoing judicial proceedings. However, in the event of objections being raised by a party concerned, it is for the national court to examine the subject-matter of the actions submitted by an individual or the pleas raised by that individual within the same proceedings. If the national court finds that the subject-matter of those actions is not in fact separate or does not amount to a significant enlargement of the subject-matter of the dispute that is already pending, it is required to relieve that individual of the obligation to pay cumulative court fees.*

([1]) OJ C 135, 5.5.2014.

Judgment of the Court (Grand Chamber) of 6 October 2015 (request for a preliminary ruling from the Tribunalul Sibiu — Romania) — Dragoș Constantin Târșia v Statul roman and Serviciul public comunitar regim permise de conducere și înmatriculare a autovehiculelor

(Case C-69/14) ([1])

(Reference for a preliminary ruling — Principles of equivalence and effectiveness — Res judicata — Recovery of undue payments — Recovery of taxes levied by a Member State in breach of EU law — Final decision of a court or tribunal imposing payment of a tax which is incompatible with EU law — Application for revision of such a decision — National legislation allowing the revision, in the light of later preliminary rulings given by the Court, of final decisions of a court or tribunal made exclusively in administrative proceedings)

(2015/C 389/06)

Language of the case: Romanian

Referring court

Tribunalul Sibiu

Parties to the main proceedings

Applicant: Dragoș Constantin Târșia

Defendants: Statul roman and Serviciul public comunitar regim permise de conducere și înmatriculare a autovehiculelor

Operative part of the judgment

EU law, in particular the principles of equivalence and effectiveness, must be interpreted as not precluding, in circumstances such as those in the dispute in the main proceedings, a situation where there is no possibility for a national court to revise a final decision of a court or tribunal made in the course of civil proceedings when that decision is found to be incompatible with an interpretation of EU law upheld by the Court of Justice of the European Union after the date on which that decision became final, even though such a possibility does exist as regards final decisions of a court or tribunal incompatible with EU law made in the course of administrative proceedings.

([1]) OJ C 142, 12.5.2014.

Judgment of the Court (Fifth Chamber) of 6 October 2015 (request for a preliminary ruling from the First-tier Tribunal (Information Rights) — United Kingdom) — East Sussex County Council v Information Commissioner

(Case C-71/14) ([1])

(Reference for a preliminary ruling — Aarhus Convention — Directive 2003/4/EC — Articles 5 and 6 — Public access to environmental information — Charge for supplying environmental information — Reasonable amount — Costs of maintaining a database and overheads — Access to justice — Administrative and judicial review of a decision imposing a charge)

(2015/C 389/07)

Language of the case: English

Referring court

First-tier Tribunal (Information Rights)

Parties to the main proceedings

Applicant: East Sussex County Council

Defendant: Information Commissioner

Other parties: Property Search Group, Local Government Association

Operative part of the judgment

1. *Article 5(2) of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC must be interpreted as meaning that the charge for supplying a particular type of environmental information may not include any part of the cost of maintaining a database, such as that at issue in the main proceedings, used for that purpose by the public authority, but may include the overheads attributable to the time spent by the staff of the public authority on answering individual requests for information, properly taken into account in fixing the charge, provided that the total amount of the charge does not exceed a reasonable amount.*

2. *Article 6 of Directive 2003/4 must be interpreted as not precluding national legislation under which the reasonableness of a charge for supplying a particular type of environmental information is the subject only of limited administrative and judicial review as provided for in English law, provided that the review is carried out on the basis of objective elements and, in accordance with the principles of equivalence and effectiveness, relates to the question whether the public authority making the charge has complied with the conditions in Article 5(2) of that directive, which is for the referring tribunal to ascertain.*

([1]) OJ C 102, 7.4.2014.

Judgment of the Court (Grand Chamber) of 6 October 2015 (request for a preliminary ruling from the Tribunal Català de Contractes del Sector Públic — Spain) — Consorci Sanitari del Maresme v Corporació de Salut del Maresme i la Selva

(Case C-203/14) ([1])

(Reference for a preliminary ruling — Article 267 TFEU — Jurisdiction of the Court — Status of the referring body as a court or tribunal — Independence — Compulsory jurisdiction — Directive 89/665/EEC — Article 2 — Bodies responsible for review procedures — Directive 2004/18/EC — Articles 1(8) and 52 — Public procurement procedures — Meaning of 'public entity' — Public authorities — Inclusion)

(2015/C 389/08)

Language of the case: Spanish

Referring court

Tribunal Català de Contractes del Sector Públic

Parties to the main proceedings

Applicant: Consorci Sanitari del Maresme

Defendant: Corporació de Salut del Maresme i la Selva

Operative part of the judgment

1. *Article 1(8) of 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 must be interpreted as meaning that the term 'economic operator' in the second subparagraph of that provision encompasses public authorities, which may therefore participate in public tendering procedures if and to the extent that they are authorised to offer certain services in return for remuneration on a market.*

2. *Article 52 of Directive 2004/18 must be interpreted to the effect that — although it includes certain requirements with regard to the determination of the conditions for registration of economic operators on the national official lists and for certification — it does not exhaustively define (i) the conditions for registration of those economic operators on the national official lists or the conditions for their certification or (ii) the rights and obligations of public entities in that respect. In all events, Directive 2004/18 must be interpreted as precluding national rules under which, on the one hand, national public authorities that are authorised to offer the works, products or services covered by the contract notice concerned may not be registered on those lists, or may not obtain certification, while, on the other hand, the right to participate in the tendering procedure concerned is afforded only to operators which are included on those lists or which have obtained certification.*

([1]) OJ C 235, 21.7.2014.

Judgment of the Court (Second Chamber) of 6 October 2015 (request for a preliminary ruling from the Conseil d'État — Belgium) — Alain Laurent Brouillard v Jury du concours de recrutement de référendaires près la Cour de cassation, Belgian State

(Case C-298/14) ([1])

(Reference for a preliminary ruling — Freedom of movement of persons — Articles 45 TFEU and 49 TFEU — Workers — Employment in the public service — Directive 2005/36/EC — Recognition of professional qualifications — Definition of 'regulated profession' — Admission to a competition to recruit legal secretaries at the Cour de cassation (Belgium))

(2015/C 389/09)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Alain Laurent Brouillard

Defendant: Jury du concours de recrutement de référendaires près la Cour de cassation, Belgian State

Operative part of the judgment

1. *Article 45 TFEU must be interpreted as meaning, first, that it applies to a situation, such as that at issue in the main proceedings, in which a national of a Member State, residing and working in that State, holds a diploma obtained in another Member State, which he intends to use in order to register for a competition to recruit legal secretaries at the Cour de cassation of the first Member State, and, second, that such a situation does not fall within Article 45(4) TFEU.*

2. *Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications must be interpreted as meaning that the office of legal secretary at the Cour de cassation is not a 'regulated profession' within the meaning of that directive.*

3. *Article 45 TFEU must be interpreted as meaning that it precludes, in circumstances such as those at issue in the main proceedings, the selection board for a competition for recruitment of legal secretaries at a court of a Member State, where it examines an application to participate in that competition submitted by a national of that Member State, from making that participation contingent on the possession of diplomas required by the legislation of that Member State or the recognition of academic equivalence of a master's degree awarded by the university of another Member State, without taking into consideration all of the diplomas, certificates and other qualifications, and the relevant professional experience of the person concerned, by comparing the professional qualifications attested by those qualifications with those required by that legislation.*

([1]) OJ C 303, 8.9.2014.

Judgment of the Court (Seventh Chamber) of 6 October 2015 (request for a preliminary ruling from the Tribunalul Cluj — Romania) — SC Capoda Import-Export SRL v Registrul Auto Român, Benone-Nicolae Bejan

(Case C-354/14) ([1])

(Reference for a preliminary ruling — Free movement of goods — Measures having equivalent effect — Products in free circulation in Germany — Products subject to homologation inspections in Romania — Certificate of conformity issued by a distributor in another Member State — Certificate deemed insufficient to allow the free marketing of those products — Principle of mutual recognition — Partly inadmissible)

(2015/C 389/10)

Language of the case: Romanian

Referring court

Tribunalul Cluj

Parties to the main proceedings

Applicant: SC Capoda Import-Export SRL

Defendants: Registrul Auto Român, Benone-Nicolae Bejan

Operative part of the judgment

1. *Article 34 TFEU and Article 31(1) and (12) of Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which makes the marketing in a Member State of new spare parts for road vehicles — in this case, water pumps and fuel filters — subject to the application of an approval or homologation procedure in that Member State, provided that that legislation also lays down exceptions such as to ensure that parts lawfully produced and marketed in other Member States are exempted or, failing this, that the parts in question are capable of posing a significant risk to the correct functioning of systems that are essential for the safety of the vehicle or its environmental performance and that that approval or homologation procedure is strictly necessary and proportionate in relation to the objectives of protection of road safety or of protection of the environment.*

2. *The conditions for proving that such parts have already been approved or homologated or constitute original parts or parts of matching quality are governed, in the absence of EU rules on the matter, by the law of the Member States, subject to the principles of equivalence and of effectiveness.*

(1) OJ C 361, 13.10.2014.

Judgment of the Court (Third Chamber) of 6 October 2015 (request for a preliminary ruling from the Nejvyšší soud České republiky — Czech Republic) — proceedings brought by Marie Matoušková, acting as court commissioner

(Case C-404/14) (1)

(Reference for a preliminary ruling — Judicial cooperation in civil matters — Jurisdiction, recognition and enforcement of decisions in matrimonial matters and in the matters of parental responsibility — Regulation (EC) No 2201/2003 — Article 1(1)(b) — Substantive scope — Inheritance settlement agreement between the surviving spouse and minor children represented by a guardian ad litem — Classification — Requirement for approval of such an agreement by the court — Measure relating to parental responsibility or measure relating to succession)

(2015/C 389/11)

Language of the case: Czech

Referring court

Nejvyšší soud České republiky

Parties to the main proceedings

Marie Matoušková, acting as court commissioner

Operative part of the judgment

Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000, must be interpreted as meaning that the approval of an agreement for the sharing-out of an estate concluded by a guardian ad litem on behalf of minor children constitutes a measure relating to the exercise of parental responsibility, within the meaning of Article 1(1)(b) of that regulation and thus falls within the scope of the latter, and not a measure relating to succession, within the meaning of Article 1(3)(f) thereof, excluded from the scope thereof.

(1) OJ C 431, 1.12.2014.

Judgment of the Court (Third Chamber) of 6 October 2015 (request for a preliminary ruling from the High Court of Justice of England and Wales, Family Division — United Kingdom) — A v B

(Case C-489/14) ([1])

(Reference for a preliminary ruling — Judicial cooperation in civil matters — Jurisdiction, recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility — Regulation (EC) No 2201/2003 — Lis pendens — Articles 16 and 19(1) and (3) — Judicial separation proceedings in a first Member State and divorce proceedings in a second Member State — Jurisdiction of the court first seised — Concept of 'established' jurisdiction — Lapse of the first proceedings and commencement of fresh divorce proceedings in the first Member State — Consequences — Time difference between the Member States — Effects on the procedure for seising the courts)

(2015/C 389/12)

Language of the case: English

Referring court

High Court of Justice of England and Wales, Family Division

Parties to the main proceedings

Applicant: A

Defendant: B

Operative part of the judgment

In the case of judicial separation and divorce proceedings brought between the same parties before the courts of two Member States, Article 19(1) and (3) of Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000, must be interpreted as meaning that, in a situation such as that at issue in the main proceedings in which the proceedings before the court first seised in the first Member State expired after the second court in the second Member State was seised, the criteria for lis pendens are no longer fulfilled and, therefore, the jurisdiction of the court first seised must be regarded as not being established.

([1]) OJ C 26, 26.1.2015.

Judgment of the Court (Fifth Chamber) of 6 October 2015 (request for a preliminary ruling from the Nejvyšší správní soud — Czech Republic) — Český telekomunikační úřad v T-Mobile Czech Republic a.s., Vodafone Czech Republic a.s.

(Case C-508/14) ([1])

(Reference for a preliminary ruling — Directive 2002/22/EC (Universal Service Directive) — Costing of universal service obligations — Taking account of the rate of return on equity capital — Direct effect — Scope ratione temporis)

(2015/C 389/13)

Language of the case: Czech

Referring court

Nejvyšší správní soud

Parties to the main proceedings

Applicant: Český telekomunikační úřad

Defendants: T-Mobile Czech Republic a.s., Vodafone Czech Republic a.s.

Intervening parties: O2 Czech Republic a.s., formerly Telefónica Czech Republic a.s., UPC Česká republika s.r.o.

Operative part of the judgment

1. *Articles 12 and 13 of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) must be interpreted as not precluding the net cost of the universal service obligation including the 'reasonable profit' of the provider of that service, fixed at the rate of return on equity capital that would be required by an undertaking comparable to the universal service provider considering whether or not to provide the service of general economic interest for the whole duration of the period of entrustment, taking into account the level of risk.*

2. *Articles 12 and 13 of Directive 2002/22 must be interpreted as having direct effect and they may be relied on directly before a national court by individuals to challenge a decision of a national regulatory authority.*

3. *Directive 2002/22 must be interpreted to the effect that it is not applicable for the purpose of determining the amount of the net cost of the obligations relating to the universal service provided by the designated undertaking during the period prior to the Czech Republic's accession to the European Union, that is to say, for the year 2004, between 1 January and 30 April 2004.*

([1]) OJ C 56, 16.2.2015.

Appeal brought on 24 November 2014 by Giorgio Giorgis against the judgment of the General Court (Seventh Chamber) delivered on 25 September 2014 in Case T-474/12: Giorgio Giorgis v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-531/14 P)

(2015/C 389/14)

Language of the case: English

Parties

Appellant: Giorgio Giorgis (represented by: I.M. Prado, A. Tornato, avvocati)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), Comigel SAS

By order of 2 September 2015 the Court of Justice (Sixth Chamber) has dismissed the appeal and ordered Mr Giorgio Giorgis to bear his own costs.

Appeal brought on 29 July 2015 by Yoshida Metal Industry Co. Ltd against the judgment of the General Court (Seventh Chamber) delivered on 21 May 2015 in Joined Cases T-331/10 RENV and T-416/10 RENV: Yoshida Metal Industry Co. Ltd v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case C-421/15 P)

(2015/C 389/15)

Language of the case: English

Parties

Appellant: Yoshida Metal Industry Co. Ltd (represented by: J. Cohen, Solicitor, G. Hobbs QC, T. St Quintin, Barrister)

Other party to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM), Pi-Design AG, Bodum France, Bodum Logistics A/S

Form of order sought

The appellant respectively requests that the Court of Justice should make orders to the following effect on the principal claim:

a) The decision of the Seventh Chamber of the General Court of the Court of Justice of the European Union of 21 May 2015 in Joined Cases T-331/10 RENV and T-416/10 RENV is quashed;

b) The Appellant's Application to the General Court for annulment of the decision of OHIM's First Board of Appeal of 20 May 2010 in Case R1235/2008 is allowed and the decision is annulled;

c) The Appellant's Application to the General Court for annulment of the decision of OHIM's First Board of Appeal of 20 May 2010 in Case R1237/2008-1 is allowed and the decision is annulled;

d) OHIM and the Interveners shall bear their own costs and pay the Appellant's costs of the proceedings, such costs to include those reserved by the Judgment of the Court of Justice delivered in Joined Cases C-337/12 P and C-340/12 P EU: C:2014:129 on 6 March 2014.

If the Court of Justice does not accept the principal claim, it is respectfully requested to make orders to the following effect on the secondary claim:

a) The decision of the Seventh Chamber of the General Court of the Court of Justice of the European Union of 21 May 2015 in Joined Cases T-331/10 RENV and T-416/10 RENV is quashed in relation to the following goods for which Community trade mark nos. 1371244 and 1372580 are registered: in Class 8, whetstones and whetstone holders; in Class 21, household or kitchen containers (not of precious metal or coated therewith), and knife blocks for holding knives.

b) The Appellant's Application to the General Court for annulment of the decision of OHIM's First Board of Appeal of 20 May 2010 in Case R1235/2008-1 is allowed and the decision is annulled in relation to the following goods for which Community trade mark no. 1371244 is registered: Class 8, whetstones and whetstone holders; Class 21, household or kitchen containers (not of precious metal or coated therewith), and knife blocks for holding knives.

c) The Appellant's Application to the General Court for annulment of the decision of OHIM's First Board of Appeal of 20 May 2010 in Case R1237/2008-1 is allowed and the decision is annulled in relation to the following goods for which Community trade mark no. 1372580 is registered: Class 8, whetstones and whetstone holders; Class 21, household or kitchen containers (not of precious metal or coated therewith), and knife blocks for holding knives.

d) OHIM and the Interveners shall bear their own costs and pay the Appellant's costs of the proceedings, such costs to include those reserved by the Judgment of the Court of Justice delivered in Joined Cases C-337/12 P and C-340/12 P EU: C:2014:129 on 6 March 2014.

Pleas in law and main arguments

The Appellant supports its appeal with two pleas in law.

a) First, that the General Court ('GC') contravened Article 7(1)(e)(ii) of the Regulation ([1]) by misinterpreting and consequently misapplying it in relation to the signs graphically represented in the CTMs in issue.

b) Secondly, that the GC additionally or alternatively contravened Article 52(3) of the Regulation by failing to examine the application of Article 7(1)(e)(ii) in relation to each of the different categories of goods for which the signs graphically represented in the CTMs were registered.

In support of the first plea, in summary:

The GC concluded in paragraph [39] of the Judgment under appeal that Article 7(1)(e)(ii) applies to any sign, whether two- or three-dimensional, where all the essential characteristics of the sign perform a technical function. However, in adopting and applying that conclusion to the CTMs in issue, the GC wrongly departed from (and consequently failed to give effect to) the determination in paragraph [48] of the Court of Justice in Case C-48/09 P Lego Juris v OHIM EU:C:2010:516 that: Article 7(1)(e)(ii) does not prevent registration of a sign as a trade mark 'solely on the ground that it has functional characteristics'; the words 'exclusively' and 'necessary' serve to restrict the scope of application of Article 7(1)(e)(ii) more narrowly to signs which are 'solely shapes of goods which only incorporate a technical solution'.

The GC should have concluded, following the Lego case, that Article 7(1)(e)(ii) does not establish any legal requirement for two- or three-dimensional signs to be unpossessed of functionality and does not prevent the registration of 'hybrid signs' comprising visually significant decorative design elements which do not 'only incorporate a technical solution', but which also perform a distinguishing function of the kind that trade marks are expected to perform. However, the GC wrongly departed from (and consequently failed to give effect to) the relevant legal criteria for the application of Article 7(1)(e)(ii) by not proceeding upon the basis that the signs graphically represented in the CTMs were 'hybrid signs' comprising decorative design elements (visually significant patterns presented to the eye of the observer in the form of black dots created by indentation and colouring of the indentations) which, as confirmed by the decision of 31 October 2001 of the Second Board of Appeal of OHIM referred to in paragraph [5] of the Judgment under appeal, possessed a distinctive character.

If the GC had not misinterpreted and consequently misapplied Article 7(1)(e)(ii) by adopting and applying a flawed approach to the capacity of indentations to simultaneously be both functional and distinctive in relation to the signs graphically represented in the CTMs in issue, it should and would have determined that the signs in issue were not excluded from registration by the provisions of that Article and that the decisions of the First Board of Appeal of OHIM to the contrary effect were wrong and should be annulled.

In support of the second plea, in summary:

The GC was required by Article 52(3) of the Regulation to consider whether Article 7(1)(e)(ii) rendered the signs graphically represented in the CTMs invalid for being 'solely shapes of goods which only incorporate a technical solution' (per paragraph [48] of the Judgment of the Court of Justice in Lego) in relation to all or only some and, if so, which of the different categories of goods for which the signs were registered. The GC did not engage with or fulfil that essential requirement and thereby failed to make findings upon which the legality of its determination under Article 7(1)(e)(ii) necessarily depended.

Further and in any event the GC could not have complied with the essential requirement of Article 52(3) by applying the reasoning of its determination under Article 7(1)(e)(ii) to any goods without handles for which the signs graphically represented in the CTMs were registered. The sings were, in particular, registered for the following categories of goods without handles to which the determination of the GC under Article 7(1)(e)(ii) could not legally be applied in accordance with the requirements of Article 52(3): in Class 8, whetstones, and whetstone holders; in Class 21, household or kitchen containers (not of precious metal or coated therewith), and knife blocks for holding knives.

(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 Krajský soud v Ostravě (Czech Republic) lodged on 18 August 2015 — Ivo Muladi v Krajský úřad Moravskoslezského kraje

(Case C-447/15)

(2015/C 389/16)

Language of the case: Czech

Referring court

Krajský soud v Ostravě

Parties to the main proceedings

Applicant: Ivo Muladi

Defendant: Krajský úřad Moravskoslezského kraje

Question referred

Do the provisions of Article 4 of Directive 2003/59/EC ([1]) preclude national legislation which imposes further conditions for exemption from the requirement on drivers of certain road vehicles for the carriage of goods or passengers to obtain an initial qualification?

([1]) OJ 2003 L 226, p. 4.

Request for a preliminary ruling from the Hessisches Landesarbeitsgericht (Germany) lodged on 24 August 2015 — Jürgen Webb-Sämann v Christopher Seagon (acting as liquidator in the insolvency of Baumarkt Praktiker DIY GmbH)

(Case C-454/15)

(2015/C 389/17)

Language of the case: German

Referring court

Hessisches Landesarbeitsgericht

Parties to the main proceedings

Applicant: Jürgen Webb-Sämann

Defendant: Christopher Seagon (acting as liquidator in the insolvency of Baumarkt Praktiker DIY GmbH)

Question referred

Is a national understanding of a rule under which outstanding salary claims which were deposited with the employer in order to be paid over to a pension fund by a particular date but which were not paid by that employer into a separate account and therefore did not come within the scope of a right to have those claims excluded from insolvency proceedings in respect of the employer's assets (Aussonderungsrecht) pursuant to Paragraph 47 of the German Insolvency Regulation contrary to Article 8 of Directive 2008/94/EC ([1]) or to other EU law?

([1]) Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer (OJ 2008 L 283, p. 36).

Request for a preliminary ruling from the Verwaltungsgericht Berlin (Germany) lodged on 28 August 2015 — BASF SE v Bundesrepublik Deutschland

(Case C-456/15)

(2015/C 389/18)

Language of the case: German

Referring court

Verwaltungsgericht Berlin

Parties to the main proceedings

Applicant: BASF SE

Defendant: Bundesrepublik Deutschland

Questions referred

1. Is Decision 2013/448/EU ([1]) invalid and contrary to the objectives of Directive 2003/87/EC in so far as it lays down the uniform cross-sectoral correction factor in such a way that, in the determination of the maximum annual amount of allowances under Article 10a(5) of Directive 2003/87/EC (industry cap), emissions from waste gases used for the production of electricity and emissions produced in combined heat and power cogeneration installations were not included?

2. Is Decision 2013/448/EU invalid and contrary to the objectives of Directive 2003/87/EC in so far as it creates an imbalance by excluding emissions associated with the combustion of waste gases and with heat produced in cogeneration from the basis of calculation in Article 10a(5)(a) and (b), whereas free allocation with regard to such emissions from an installation not falling under Article 10a(3) of Directive 2003/87/EC is due in accordance with Article 10a(1) and 10a(4) of Directive 2003/87/EC and Decision 2011/278/EU? ([2])

3. Is Decision 2013/448/EU invalid and contrary to the objectives of Directive 2003/87/EC in so far as it lays down the uniform cross-sectoral correction factor in such a way that, in the determination of the maximum annual amount of allowances under Article 10a(5) of Directive 2003/87/EC (industry cap), emissions from installations that first became subject to emissions trading obligations in the second period and emissions from installations that were 'opted into' emissions trading were not taken into account?

4. Is Decision 2013/448/EU invalid and contrary to the objectives of Directive 2003/87/EC in so far as it lays down the uniform cross-sectoral correction factor in such a way that, in the determination of the maximum annual amount of allowances under Article 10a(5) of Directive 2003/87/EC (industry cap), emissions from installations that were closed before 30 June 2011 were taken into account as deductible items, whereas emissions from installations that first began to be used in the second period were not included?

5. Is Decision 2013/448/EU invalid and does it infringe the principles, in a State governed by the rule of law, of good administration as laid down in Article 298 TFEU and Article 41 of the Charter of Fundamental Rights of the European Union in so far as it lays down the uniform cross-sectoral correction factor, on the ground that the calculation of the correction factor was not made public?

([1]) 2013/448/EU: Commission Decision of 5 September 2013 concerning national implementation measures for the transitional free allocation of greenhouse gas emission allowances in accordance with Article 11(3) of Directive 2003/87/EC of the European Parliament and of the Council (OJ 2013 L 240, p. 27).

([2]) 2011/278/EU: Commission Decision of 27 April 2011 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (notified under document C(2011) 2772) (OJ 2011 L 130, p. 1).

Request for a preliminary ruling from the Verwaltungsgericht Berlin (Germany) lodged on 28 August 2015 — Schaefer Kalk GmbH & Co. KG v Federal Republic of Germany

(Case C-460/15)

(2015/C 389/19)

Language of the case: German

Referring court

Verwaltungsgericht Berlin

Parties to the main proceedings

Applicant: Schaefer Kalk GmbH & Co. KG

Defendant: Federal Republic of Germany

Questions referred

1. Is Commission Regulation (EU) No 601/2012 ([1]) invalid and does it infringe the aims of Directive 2003/87/EC ([2]) in so far as the second sentence of Article 49(1) provides that CO_2 that is not transferred within the meaning of the first sentence of Article 49(1) is to be considered emitted by the installation producing the CO_2?

2. Is Commission Regulation (EU) No 601/2012 invalid and does it infringe the aims of Directive 2003/87/EC in so far as point 10 of Annex IV provides that CO_2 that is transferred to another plant for the production of precipitated calcium carbonate (PCC) is to be considered emitted by the installation producing the CO_2?

([1]) Commission Regulation (EU) No 601/2012 of 21 June 2012 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council (OJ 2012 L 181, p. 30).

([2]) Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ 2003 L 275, p. 32).

Appeal brought on 4 September 2015 by FSL Holdings, Firma Léon Van Parys, Pacific Fruit Company Italy SpA against the judgment of the General Court (Second Chamber) delivered on 16 June 2015 in Case T-655/11: FSL Holdings and others v European Commission

(Case C-469/15 P)

(2015/C 389/20)

Language of the case: English

Parties

Appellants: FSL Holdings, Firma Léon Van Parys, Pacific Fruit Company Italy SpA (represented by: P. Vlaemminck, C Verdonck, B. Van Vooren, J. Auwerx, advocaten)

Other party to the proceedings: European Commission

Form of order sought

The appellants claim that the Court should:

— In principal, set aside the judgment under appeal for use of evidence obtained in complete disregard of the procedure laid down for gathering it and for misapplication of the 2002 Leniency notice, and, consequently, annul the Commission's decision of 12 October 2011 in its entirety;

— In the alternative, partially set aside the judgment under appeal to the extent that the General Court has not performed a full judicial review of the fine imposed on the Appellants and, as a result, substantially reduce the fine imposed on the Appellants by virtue of the judgment under appeal;

— In the further alternative, to partially set aside the judgment under appeal to the extent that the General Court has not correctly established that the infringement had as its object or effect the restriction of competition, and consequently, to refer the case back to the General Court, unless the Court considers that it is sufficiently well-informed to annul the Commission's decision;

— In any event, to order the Commission to pay the Appellants' costs of the proceedings before the Court of Justice and the General Court.

Pleas in law and main arguments

The Appellants base their appeal on four grounds of appeal:

— By the first ground of appeal, the Appellants submit that the General Court erred in law and infringed their rights of defence and the essential procedural requirements when rejecting the Appellants' claim regarding the unlawfulness of the transfer of the documents gathered by the Italian tax authorities during a national tax investigation to the Commission, and the consequences of such unlawfulness. First, the General Court erred in law by ruling that the Commission does not have a distinct obligation under EU law to prevent the fundamental rights of defence from being irremediably compromised during the administrative phase of a competition inquiry. Second, the General Court erred in law by disregarding the Commission's infringement of the Appellants' rights of defence and essential procedural requirements as reflected in Article 12(2) of Regulation 1/2003 ([1]) Third, the General Court erred in law by distorting the clear meaning of the evidence before it, when it ruled that the unlawfulness of the acquisition of documents used in evidence by the Commission was irrelevant.

— By the second ground of appeal, the Appellants submit that the General Court erred in law by not criticising the Commission for granting immunity to the immunity applicant regarding Southern Europe and thus not consistently applying the 2002 Leniency Notice. More in particular, the Appellants claim that no immunity should have been granted to the immunity applicant regarding Southern Europe and, consequently, that all oral statements of the immunity applicant and information obtained following information requests based on these oral statements should have been removed from the file in the case at hand.

— In the alternative, by the third ground of appeal, the Appellants submit that the General Court erred in law since it failed to provide effective judicial protection against a penalty of criminal nature imposed on them by the Commission, in spite of the unlimited jurisdiction imposed on it by Article 31 of Regulation 1/2003 and the principle of effective judicial protection, as enshrined in Article 6 of the ECHR and Article 47 of the Charter. By failing to provide such effective judicial protection, the Appellants further claim that the General Court has miscalculated the fine.

— In the further alternative, by the fourth ground of appeal, the Appellants submit that the General Court has erred in law by misinterpreting the notion of an infringement by object, which in term has also led to an erroneous legal categorisation of the facts and a violation of the Appellants' right of defence.

([1]) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, OJ L 1, p. 1

Request for a preliminary ruling from the Općinski sud u Novom Zagrebu (Croatia) lodged on 11 September 2015 — Ibrica Zulfikarpašić v Slaven Gajer

(Case C-484/15)

(2015/C 389/21)

Language of the case: Croatian

Referring court

Općinski sud u Novom Zagrebu, Stalna služba u Samoboru

Parties to the main proceedings

Applicant: Ibrica Zulfikarpašić

Defendant: Slaven Gajer

Question referred

A ruling is sought from the Court of Justice of the European Union as to whether the provisions of the Law on Enforcement, concerning the European Enforcement Order, comply with Regulation (EC) No 805/2004, ([1]) that is to say whether, in the Republic of Croatia in relation to the issue of a writ of execution based on an authentic document in enforcement proceedings, the term 'court' includes notaries, whether notaries can issue European Enforcement Orders in respect of definitive and enforceable writs of execution based on authentic documents when those writs have not been contested, and where the answer is in the negative, whether the courts can issue European Enforcement Orders in respect of writs of execution based on an authentic document prepared by a notary, when the content of those writs relates to uncontested claims, and in such a case what form should be used.

([1]) Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims (OJ 2004 L 143, p. 15).

Action brought on 14 September 2015 — European Commission v Republic of Bulgaria

(Case C-488/15)

(2015/C 389/22)

Language of the case: Bulgarian

Parties

Applicant: European Commission (represented by: E. Kružíková, E. Manhaeve and S. Petrova, acting as Agents)

Defendant: Republic of Bulgaria

Form of order sought

The European Commission claims that the Court should:

— by exceeding both the annual and daily limit values for PM10 systematically and from 2007 until at least 2013 inclusive in the following zones and agglomerations: BG0001 agglomeration Sofia; BG0002 agglomeration Plovdiv; BG0004 North Bulgaria; BG0005 South-West Bulgaria and BG0006 South-East Bulgaria;

— by exceeding the daily limit values for PM10 systematically and from 2007 until at least 2013 inclusive and the annual limit values for PM10 of 2007, 2008 and 2010 in zone BG0003 Varna;

— and in the absence of more detailed information to the effect for instance that the situation of exceeding the daily and annual limit values for PM10 in the abovementioned zones and agglomerations has changed, declare that Bulgaria has failed to fulfil its obligations under Article 13(1) read in conjunction with Annex XI of the directive; ([1])

— in view of the fact that, excluding the latest annual report on air quality for 2013, both the annual and daily limit values for PM10 in all of the abovementioned zones and agglomerations continue to be exceeded, also declare that Bulgaria has not complied with its obligations under the second subparagraph of Article 23(1) of the directive and in particular its obligation to keep the exceedance period as short as possible, and declare that it continues not to fulfil its obligations;

— order the Republic of Bulgaria to pay the costs.

Pleas in law and main arguments

On the basis of the latest annual report on air quality and also of the responses of the Bulgarian authorities to the reasoned opinion, the Commission takes the view that, at present, the Republic of Bulgaria has not fulfilled its obligations under Article 13(1) concerning compliance with the annual and daily limit values for the presence of micro-dust particles in the air (PM10) and under the second subparagraph of Article 23(1) of the directive with regard to the obligation to draw up air quality plans in order to keep the exceedance period as short as possible.

The Commission considers it necessary for the Court of Justice of the European Union to declare that the Republic of Bulgaria has infringed those provisions of the directive.

([1]) Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ 2008 L 152, p. 1).

Appeal brought on 30 September 2015 by Westfälische Drahtindustrie GmbH and Others against the judgment of the General Court (Sixth Chamber) delivered on 15 July 2015 in Case T-393/10 Westfälische Drahtindustrie GmbH and Others v European Commission

(Case C-523/15 P)

(2015/C 389/23)

Language of the case: German

Parties

Appellants: Westfälische Drahtindustrie GmbH, Westfälische Drahtindustrie Verwaltungsgesellschaft mbH & Co. KG, Pampus Industriebeteiligungen GmbH & Co. KG (represented by: C. Stadler, Rechtsanwalt)

Other party to the proceedings: European Commission

Form of order sought

The appellants claim that the Court should:

1. set aside the judgment under appeal, in so far as it affects the appellants;

2. in the alternative, set aside the judgment under appeal in its entirety and annul point 8 of Article 2 of Commission Decision C(2010) 4387 final of 30 June 2010 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (Case COMP/38.344 — Prestressing Steel), as amended by Commission Decision C(2010) 6676 final of 30 September 2010 and by Commission Decision C(2011) 2269 final of 4 April 2011, and the letter dated 14 February 2011 from the Director-General of the Directorate-General for Competition, in so far as they affect the appellants;

   in the alternative, reduce the amount of the fine imposed on the appellants in point 8 of Article 2 of the abovementioned Commission decision;

3. in the alternative to the heads of claim appearing in points 1 and 2, refer the case back to the General Court for a ruling;

4. order the defendant at first instance to pay the costs in relation to the whole dispute.

Pleas in law and main arguments

The appeal is directed against the judgment of 15 July 2015 delivered by the Sixth Chamber of the General Court of the European Union.

Westfälische Drahtindustrie GmbH, Westfälische Drahtindustrie Verwaltungsgesellschaft mbH & Co. KG and Pampus Industriebeteiligungen GmbH & Co. KG invoke the following grounds in support of their appeal:

First, the General Court infringed Article 261 TFEU and Article 31 of Regulation No 1/2003, ([1]) the system of the allocation of powers and of institutional balance and the need to ensure effective legal protection, since it disregarded the limits of the unlimited jurisdiction conferred upon it and did not examine the contested Commission decision in the case, but rather reached its own independent decision imposing a fine. As a result of this, it assumed the role of the administration and deprived the appellants of the possibility of opposing materially inaccurate findings of fact, since rights of appeal available against decisions of the General Court are limited to points of law.

Secondly, the judgment under appeal infringed Article 261 TFEU and Article 31 of Regulation No 1/2003 in so far as the General Court misconstrued the relevant date for assessing the factual and legal situation and in so far as, in the — moreover incorrect, as mentioned above — exercise of its unlimited jurisdiction, it took into account the legal and factual situation at the time of its decision, or facts which occurred between 2011 and 2013, therefore after the adoption of the contested Commission decision. The position of the General Court is not justified by the decisions which it cites 'to that effect'; rather, it is clear from the decision-making practice of the European courts that additional information (i) can be taken into account only in favour of the undertakings concerned and (ii) only if it was already available at the time of the Commission decision.

Thirdly, by infringing the principle of proportionality and the equal treatment requirement, the General Court infringed the appellants' fundamental rights. By not taking into account the principle set out in point 35 of the Guidelines on fines, according to which undertakings which depend on a payment of the fine by instalments must, as a rule, be able to pay that fine in a period of three to five years, the General Court imposed an inappropriate fine on the appellants, which could at best pay that fine only at the end of an extremely long period. In addition, in the context of its analysis of the equal treatment requirement, for the purposes of applying the principles developed on the basis of point 35 of the Guidelines on fines and for the purposes of determining the relevant date, the General Court failed to have regard to the comparability of the situations at issue.

Lastly, in the judgment under appeal, the General Court also infringed the appellants' fundamental procedural right to the provision of effective legal protection because, in the exercise of its unlimited jurisdiction, it took refuge behind the calculations of the fine used by the Commission and the facts presented by the parties. This cannot satisfy the full and complete review which is required of a neutral court for the purposes of providing effective legal protection against Commission decisions imposing a fine.

([1]) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty; OJ 2003 L 1, p. 1.

GENERAL COURT

Judgment of the General Court of 25 September 2015 — PPG and SNF v ECHA

(Case T-268/10 RENV) ([1])

(REACH — Identification of acrylamide as a substance of very high concern — Intermediates — Action for annulment — Whether directly concerned — Admissibility — Proportionality — Equal treatment)

(2015/C 389/24)

Language of the case: English

Parties

Applicants: Polyelectrolyte Producers Group GEIE (PPG) (Brussels, Belgium) and SNF SAS (Andrézieux-Bouthéon, France) (represented by: R. Cana, D. Abrahams and E. Mullier, lawyers)

Defendant: European Chemicals Agency (ECHA) (represented by: M. Heikkilä, W. Broere and T. Zbihlej, acting as Agents, and by J. Stuyck and A.-M. Vandromme, lawyers)

Interveners in support of the defendant: Kingdom of the Netherlands (represented by: B. Koopman, acting as Agent); and European Commission (represented by: D. Kukovec, E. Manhaeve and K. Talabér-Ritz, acting as Agents)

Re:

Application for annulment of the decision of ECHA (EC No 201-173-7) identifying acrylamide as a substance fulfilling the criteria referred to in Article 57 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006, concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ 2006 L 396, p. 1), in accordance with Article 59 thereof.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Polyelectrolyte Producers Group GEIE (PPG) and SNF SAS to pay their own costs and those incurred by the European Chemicals Agency (ECHA);*

3. *Orders the Kingdom of the Netherlands and the European Commission to bear their own costs.*

([1]) OJ C 274, 9.10.2010.

Judgment of the General Court of 24 September 2015 — TV2/Danmark v Commission

(Case T-674/11) ([1])

(State aid — Public broadcasting service — Decision declaring the aid compatible with the internal market — Aid implemented by the Danish authorities in favour of the Danish public service broadcaster TV2/Danmark — Public financing granted to compensate for costs inherent in the performance of public service obligations — Concept of aid — Altmark judgment)

(2015/C 389/25)

Language of the case: Danish

Parties

Applicant: TV2/Danmark A/S (Odense, Denmark) (represented by: O. Koktvedgaard, lawyer)

Defendant: European Commission (represented by: B. Stromsky, C. Støvlbæk and U. Nielsen, Agents)

Intervener in support of the applicant: Kingdom of Denmark (represented initially by C. Vang and V. Pasternak Jørgensen, Agents, then subsequently by V. Pasternak Jørgensen, assisted by K. Lundgaard Hansen, lawyer, and finally by C. Thorning, Agent, assisted by K. Lundgaard Hansen and R. Holdgaard, lawyers)

Intervener in support of the defendant: Viasat Broadocasting UK Ltd (West Drayton, United Kingdom) (represented by: S. Kalsmose-Hjelmborg and M. Honoré, lawyers)

Re:

Partial annulment of Commission Decision 2011/839/EU of 20 April 2011 concerning Danish measures (C 2/03) in favour of TV2/Danmark (OJ 2011 L 340, p. 1).

Operative part of the judgment

The Court:

1. *Annuls Commission Decision 2011/839/EU of 20 April 2011 concerning Danish measures (C 2/03) in favour of TV2/Danmark in so far as the Commission found that the advertising revenues for the years 1995 and 1996 paid to TV2/Danmark through the TV2 Fund constituted State aid.*

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

3. *Orders TV2/Danmark A/S to bear its own costs and to pay three-quarters of the costs incurred by the European Commission.*

4. *Orders the Commission to bear one-quarter of its costs.*

5. *Orders the Kingdom of Denmark and Viasat Broadcasting UK Ltd each to bear their respective costs.*

([1]) OJ C 80, 17.3.2012.

Judgment of the General Court of 24 September 2015 — Viasat Broadcasting UK v Commission

(Case T-125/12) ([1])

(State aid — Public-service broadcasting — Decision declaring aid compatible with the internal market — Aid implemented by the Danish authorities in favour of the Danish public-service broadcaster TV2/ Danmark — Public funding granted to offset the costs involved in the performance of public-service obligations — Compatibility of aid — Judgment in Altmark)

(2015/C 389/26)

Language of the case: English

Parties

Applicant: Viasat Broadcasting UK Ltd (West Drayton, United Kingdom) (represented by: S. Kalsmose-Hjelmborg and M. Honoré, lawyers)

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

Interveners in support of the defendant: Kingdom of Denmark (represented initially by C. Vang and V. Pasternak Jørgensen, acting as Agents, and subsequently by V. Pasternak Jørgensen and K. Lundgaard Hansen, lawyer, and finally by C. Thorning, acting as Agent, and by K. Lundgaard Hansen and R. Holgaard, lawyer); and TV2/Danmark A/S (Odense, Denmark) (represented by: O. Koktvedgaard, lawyer)

Re:

Application for annulment in part of Commission Decision 2011/839/EU of 20 April 2011 on the measures implemented by Denmark (C 2/03) for TV2/Danmark (OJ 2011 L 340, p. 1).

Operative part of the judgment

The Court:

1. *Declares that it is unnecessary to adjudicate on the action, in so far as it seeks the annulment of Commission Decision 2011/839/EU of 20 April 2011 on the measures implemented by Denmark (C 2/03) for TV2/Danmark, in that the Commission found that the advertising revenue from 1995 and 1996 paid to TV2/Danmark A/S by the TV2 Fund amounted to State aid;*

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

3. *Orders Viasat Broadcasting UK Ltd to bear its own costs and to pay those incurred by the European Commission;*

4. *Orders the Kingdom of Denmark to bear its own costs;*

5. *Orders TV2/Danmark to bear its own costs.*

([1]) OJ C 138, 12.5.2012.

Judgment of the General Court of 30 September 2015 — Anagnostakis v Commission

(Case T-450/12) ([1])

(Law governing the institutions — European citizens' initiative — Economic and monetary policy — Non-reimbursement of sovereign debt — Affirmation of the principle of the 'State of necessity' — Refusal of registration — Powers of the Commission — Obligation to state reasons)

(2015/C 389/27)

Language of the case: Greek

Parties

Applicant: Alexios Anagnostakis (Athens, Greece) (represented by: A. Anagnostakis, lawyer)

Defendant: European Commission (represented by: H. Krämer and M. Konstantinidis, acting as Agents)

Re:

Application for annulment of Commission decision C(2012) 6289 final of 6 September 2012 rejecting the request to register the European citizens' initiative 'One Million Signatures for a Europe of Solidarity', submitted to the Commission on 13 July 2012.

Operative part of the judgment

The Court:

1. *Dismisses the application;*

2. *Orders Mr Alexios Anagnostakis to pay the costs.*

([1]) OJ C 399, 22.12.2012.

Judgment of the General Court of 23 September 2015 — Appelrath-Cüpper v OHIM — Ann Christine Lizenzmanagement (AC)

(Case T-60/13) ([1])

(Community trade mark — Opposition proceedings — Application for figurative Community trade mark AC — Earlier figurative national and international trade marks AC ANN CHRISTINE and earlier figurative Community trade marks AC ANN CHRISTINE OCEAN and AC ANN CHRISTINE INTIMATE — Relative ground for refusal — No likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 389/28)

Language of the case: English

Parties

Applicant: Reiner Appelrath-Cüpper Nachf. GmbH (Cologne, Germany) (represented by: C. Schumann and A. Berger, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Ann Christine Lizenzmanagement GmbH & Co. KG (Vienna, Austria) (represented by: M. Hartmann, N. Voß and S. Fröhlich, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 28 November 2012 (Case R 108/2012-4), concerning opposition proceedings between Ann Christine Lizenzmanagement GmbH & Co. KG and Reiner Appelrath-Cüpper Nachf. GmbH.

Operative part of the judgment

The Court:

1. *Orders that the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 28 November 2012 (Case R 108/2012-4) is annulled in so far as it upheld in part the opposition brought by Ann Christine Lizenzmanagement GmbH & Co. KG;*

2. *Orders OHIM to bear its own costs and to pay half the costs incurred by Reiner Appelrath-Cüpper Nachf. GmbH;*

3. *Orders Ann Christine Lizenzmanagement GmbH & Co. KG to bear its own costs and to pay half the costs incurred by Reiner Appelrath-Cüpper Nachf. GmbH for the purposes of the proceedings before the Board of Appeal.*

([1]) OJ C 101, 6.4.2013.

Judgment of the General Court of 23 September 2015 — Cerafogli v ECB

(Case T-114/13) ([1])

(Appeals — ECB Staff — Complaint of discrimination and psychological harassment — Decision of the ECB to close the administrative inquiry initiated following the complaint — Refusal of access to evidence during the administrative procedure — Rejection of a request for an order to produce evidence during the judicial proceedings — Right to effective judicial protection — Error of law)

(2015/C 389/29)

Language of the case: English

Parties

Appellant: Maria Concetta Cerafogli (Rome, Italy) (represented by: L. Levi, lawyer)

Other party to the proceedings: European Central Bank (ECB) (represented by: F. Feyerbacher, B. Ehlers, acting as Agents, and by B. Wägenbaur, lawyer)

Re:

Appeal brought against the judgment of the European Union Civil Service Tribunal (Third Chamber) of 12 December 2012 in *Cerafogli* v *ECB* (F-43/10, ECR, EU:F:2012:184), seeking the annulment of that judgment.

Operative part of the judgment

The Court:

1. *Sets aside the judgment of the European Union Civil Service Tribunal (Third Chamber) of 12 December 2012 in Cerafogli v ECB (F-43/10);*

2. *Refers the case back to the Civil Service Tribunal;*

3. *Reserves the costs.*

([1]) OJ C 114, 20.4.2013.

Judgment of the General Court of 24 September 2015 — Italy and Spain v Commission

(Case T-124/13 and T-191/13) ([1])

(Languages — Notice of open competition for the recruitment of administrators and assistants — Choice of second language from three languages — Language of communication with candidates in competitions — Regulation No 1 — Article 1d(1), Article 27 and Article 28(f) of the Staff Regulations — Principle of non-discrimination — Proportionality)

(2015/C 389/30)

Language of the case: Italian and Spanish

Parties

Applicants: Italian Republic (represented by: G. Palmieri, acting as Agent, assisted by P. Gentili, avvocato dello Stato) (Case T-124/13) and Kingdom of Spain (represented initially by S. Centeno Huerta, and subsequently by J. García-Valdecasas Dorrego, abogados del Estado) (Case T-191/13)

Defendant: European Commission (represented, in Case T-124/13, by J. Currall, B. Eggers and G. Gattinara and, in Case T-191/13, by J. Curral, J. Baquero Cruz and B. Eggers, acting as Agents)

Intervener in support of the applicant, Italian Republic: Kingdom of Spain (represented initially by S. Centeno Huerta, and subsequently by J. García-Valdecasas Dorrego, abogados del Estado)

Re:

In Case T-124/13, application for annulment, first, of the notice of open competition, EPSO/AST/125/12, for the drawing up of a reserve recruitment list for assistants in the fields of audit, finance and accounting, and economics and statistics (OJ 2012 C 394 A, p. 1), secondly, of the notice of open competition, EPSO/AST/126/12, for the drawing up of a reserve recruitment list of assistants in the fields of biology, life and health sciences, chemistry, physics and material sciences, nuclear research, civil and mechanical engineering, and electrical engineering and electronics (OJ 2012, C 394 A, p. 11) and, thirdly, of the notice of open competition, EPSO/AD/248/13, for the drawing up of a reserve recruitment list of administrators (AD 6) in the fields of buildings security and engineering in special building techniques (OJ 2013, C 29 A, p. 1), and in Case T-191/13, application for annulment of the notice of open competition, EPSO/AD/248/13.

Operative part of the judgment

The Court:

1. *Joins Cases T-124/13 and T-191/13 for the purposes of the judgment;*

2. *Annuls the notice of open competition, EPSO/AST/125/12, for the drawing up of a reserve recruitment list for assistants in the fields of audit, finance and accounting, and economics and statistics, the notice of open competition, EPSO/AST/126/12, for the drawing up of a reserve recruitment list of assistants in the fields of biology, life and health sciences, chemistry, physics and material sciences, nuclear research, civil and mechanical engineering, and electrical engineering and electronics, and the notice of open competition, EPSO/AD/248/13, for the drawing up of a reserve recruitment list of administrators (AD 6) in the fields of buildings security and engineering in special building techniques;*

3. *Orders the European Commission to bear its own costs and to pay those incurred by the Italian Republic in Case T-124/13 and those incurred by the Kingdom of Spain in Case T-191/13;*

4. *Orders the Kingdom of Spain to bear its own costs relating to its intervention in Case T-124/13.*

(1) OJ C 164, 8.6.2013.

Judgment of the General Court of 18 September 2015 — Petro Suisse Intertrade v Council

(Joined Cases T-156/13 and T-373/14) (1)

(Common foreign and security policy — Restrictive measures against Iran with the aim of preventing nuclear proliferation — Freezing of funds — Actions for annulment — Infra-State body — Locus standi and interest in bringing proceedings — Admissibility — Right to be heard — Obligation to notify — Obligation to state reasons — Rights of the defence — Manifest error of assessment — Right to property)

(2015/C 389/31)

Language of the case: English

Parties

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

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

Re:

Application for annulment, first, of Council Decision 2012/829/CFSP of 21 December 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2012 L 356, p. 71) and also of Council Implementing Regulation (EU) No 1264/2012 of 21 December 2012 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2012 L 356, p. 55), and, secondly, of the Council's decision contained in its letter of 14 March 2014 to maintain the restrictive measures taken against the applicant.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Petro Suisse Intertrade Co. SA to bear its own costs and to pay those incurred by the Council of the European Union.*

(1) OJ C 147, 25.5.2013.

Judgment of the General Court of 23 September 2015 — Netherlands v Commission

(Joined Cases T-261/13 and T-86/14) (1)

(HICP — Regulation (EC) No 2494/95 — Harmonised indices of consumer prices at constant tax rates (HICP-CT) — Regulation (EU) No 119/2013 — Owner-occupied housing price indices — Regulation (EU) No 119/2013 — Eurostat — Committee procedure — Implementing measures — Regulatory procedure with scrutiny)

(2015/C 389/32)

Language of the case: Dutch

Parties

Applicant: Kingdom of the Netherlands (represented, in Case T-261/13, by M. Bulterman, J. Langer and B. Koopman and, in Case T-86/14, by M. Bulterman and J. Langer, acting as Agents)

Defendant: European Commission (represented by: M. Clausen and P. Van Nuffel, acting as Agents)

Re:

In Case T-261/13, an application for annulment of Commission Regulation (EU) No 119/2013 of 11 February 2013 amending Regulation (EC) No 2214/96 concerning harmonised indices of consumer prices (HICP): transmission and dissemination of sub-indices of the HICP, as regards establishing harmonised indices of consumer prices at constant tax rates (OJ 2013 L 41, p. 1) and, in the alternative, an application for annulment of Article 1(2) of Regulation No 119/2013 as well as, in Case T-86/14, an application for annulment of Commission Regulation (EU) No 93/2013 of 1 February 2013 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 concerning harmonised indices of consumer prices, as regards establishing owner-occupied housing price indices (OJ 2013 L 33, p. 14) and, in the alternative, an application for annulment of Article 4(1) of Regulation No 93/2013.

Operative part of the judgment

The Court:

1. *Annuls, in Case T-261/13, Article 1(2) of Commission Regulation (EU) No 119/2013 of 11 February 2013 amending Regulation (EC) No 2214/96 concerning harmonised indices of consumer prices (HICP): transmission and dissemination of sub-indices of the HICP, as regards establishing harmonised indices of consumer prices at constant tax rates;*

2. *Annuls, in Case T-86/14, Article 4(1) of Commission Regulation (EU) No 93/2013 of 1 February 2013 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95 concerning harmonised indices of consumer prices, as regards establishing owner-occupied housing price indices;*

3. *Orders the European Commission to bear its own costs and to pay those incurred by the Kingdom of the Netherlands.*

(1) OJ C 189, 29.6.2013.

Judgment of the General Court of 25 September 2015 — VECCO and Others v Commission

(Case T-360/13) (1)

(REACH — Inclusion of chromium trioxide in the list of substances subject to authorisation — Uses or categories of uses exempted from the authorisation requirement — Concept of 'existing specific Community legislation imposing minimum requirements relating to the protection of human health or the environment for the use of the substance' — Manifest error of assessment — Proportionality — Rights of the defence — Principle of sound administration)

(2015/C 389/33)

Language of the case: English

Parties

Applicants: Verein zur Wahrung von Einsatz und Nutzung von Chromtrioxid und anderen Chrom-VI-verbindungen in der Oberflächentechnik eV (VECCO) (Memmingen, Germany) and the other 185 applicants whose names are listed in Annex I to the judgment (represented by: C. Mereu, K. Van Maldegem, lawyers, and J. Beck, Solicitor)

Defendant: European Commission (represented by: K. Talabér-Ritz and J. Tomkin, acting as Agents)

Interveners in support of the applicants: Assogalvanica (Padua, Italy) and the 31 other interveners whose names are listed in Annex II to the judgment (represented by: C. Mereu, K. Van Maldegem and J. Beck)

Intervener in support of the defendant: European Chemicals Agency (ECHA) (represented by: W. Broere, M. Heikkilä and T. Zbihlej, acting as Agents)

Re:

Application for partial annulment of Commission Regulation (EU) No 348/2013 of 17 April 2013 amending Annex XIV to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) (OJ 2013 L 108, p. 1).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Verein zur Wahrung von Einsatz und Nutzung von Chromtrioxid und anderen Chrom-VI-verbindungen in der Oberflächentechnik eV (VECCO) and the applicants whose names are listed in Annex I to bear their own costs and to pay those incurred by the European Commission;*

3. *Orders Assogalvanica and the other interveners whose names are listed in Annex II to bear their own costs;*

4. *Orders the European Chemicals Agency (ECHA) to bear its own costs.*

([1]) OJ C 260, 7.9.2013.

Judgment of the General Court of 30 September 2015 — Mocek, Wenta KAJMAN Firma Handlowo-Usługowo-Produkcyjna v OHIM — Lacoste (KAJMAN)

(Case T-364/13) ([1])

(Community trade mark — Opposition proceedings — Application for Community figurative mark KAJMAN — Earlier Community figurative mark representing a crocodile — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — Applications for annulment and alteration brought by the intervener — Article 134(3) of the Rules of Procedure of 2 May 1991)

(2015/C 389/34)

Language of the case: English

Parties

Applicant: Eugenia Mocek and Jadwiga Wenta KAJMAN Firma Handlowo-Usługowo-Produkcyjna (Chojnice, Poland) (represented by: K. Grala and B. Szczepaniak, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Lacoste SA (Paris, France) (represented by: P. Gaultier, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 10 May 2013 (Case R 2466/2010-4), relating to opposition proceedings between Lacoste SA and Eugenia Mocek, Jadwiga Wenta KAJMAN Firma Handlowo-Usługowo-Produkcyjna.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Dismisses the applications for annulment and alteration submitted by Lacoste SA;*

3. *Orders Eugenia Mocek, Jadwiga Wenta KAJMAN Firma Handlowo-Usługowo-Produkcyjna to pay all the costs relating to the action and to bear its own costs relating to the applications of Lacoste SA for annulment and alteration;*

4. *Orders Lacoste SA to bear its own costs relating to its applications for annulment and alteration.*

(1) OJ C 260, 7.9.2013.

Judgment of the General Court of 23 September 2015 — L'Oréal v OHIM — Cosmetica Cabinas (AINHOA)

(Case T-400/13) (1)

(Community trade mark — Invalidity proceedings — Community word mark AINHOA — Earlier Community and international figurative marks NOA — Relative grounds for refusal — Likelihood of confusion — Article 8(1)(b) and 8(5) of Regulation (EC) No 207/2009)

(2015/C 389/35)

Language of the case: Spanish

Parties

Applicant: L'Oréal (Paris, France) (represented by: H. Granado Carpenter and M.L. Polo Carreño, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Cosmetica Cabinas SL (El Masnou, Spain) (represented by: L. Montoya Terán and J.-B. Devaureix, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 6 June 2013 (Case R 1643/2012-1), relating to invalidity proceedings between L'Oréal and Cosmetica Cabinas SL.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders L'Oréal to pay the costs.*

(1) OJ C 298, 12.10.2013.

Judgment of the General Court of 23 September 2015 — L'Oréal v OHIM — Cosmetica Cabinas (AINHOA)

(Case T-426/13) (1)

(Community trade mark — Revocation proceedings — Community word mark AINHOA — Genuine use of the mark — Article 15(1)(a) and Article 51(1)(a) of Regulation (EC) No 207/2009 — Form differing in elements which do not alter the mark's distinctive character)

(2015/C 389/36)

Language of the case: Spanish

Parties

Applicant: L'Oréal (Paris, France) (represented by: H. Granado Carpenter and M. L. Polo Carreño, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Cosmetica Cabinas SL (El Masnou, Spain) (represented by: L. Montoya Terán and J.-B. Devaureix, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 6 June 2013 (Case R 1642/2012-1), relating to revocation proceedings between L'Oréal and Cosmetica Cabinas SL.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders L'Oréal to pay the costs.*

(1) OJ C 304, 19.10.2013.

Judgment of the General Court of 24 September 2015 — Germany v Commission

(Case T-557/13) ([1])

(EAGGF — Guarantee Section — EAGF and EAFRD — Expenditure excluded from financing — Expenditure in the context of the European quota system in relation to the production of potato starch — Rights of the defence)

(2015/C 389/37)

Language of the case: German

Parties

Applicant: Federal Republic of Germany (represented by: T. Henze and J.Möller, acting as Agents)

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

Intervener in support of the applicant: Kingdom of the Netherlands (represented by: M.K. Bulterman, C.S. Schillemans and J. Langer, acting as Agents)

Re:

Application for annulment of Commission Implementing Decision 2013/433/EU of 13 August 2013 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2013 L 219, p. 49), in so far as it applies a financial correction to the Federal Republic of Germany, in the context of the European quota system in relation to the production of potato starch for 2003 to 2005, totalling EUR 6 192 951,34.

Operative part of the judgment

The Court:

1. *Annuls Commission Implementing Decision 2013/433/EU of 13 August 2013 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD), in so far as it applies a financial correction to the Federal Republic of Germany, in the context of the European quota system in relation to the production of potato starch, for 2003 to 2005;*

2. *Orders the European Commission to pay the costs;*

3. *Orders the Kingdom of the Netherlands to bear its own costs.*

([1]) OJ C 9, 11.1.2014.

Judgment of the General Court of 30 September 2015 — Ecolab USA v OHIM (GREASECUTTER)

(Case T-610/13) ([1])

(Community trade mark — International registration designating the European Community — Word mark GREASECUTTER — Absolute grounds for refusal — Descriptive character — No distinctive character — Article 7(1)b) and (c) of Regulation (EC) No 207/2009)

(2015/C 389/38)

Language of the case: English

Parties

Applicant: Ecolab USA, Inc. (Wilmington, Delaware, United States) (represented by: G. Hasselblatt and V. Töbelmann, lawyers)

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

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 5 September 2013 (Case R 1704/2012-2), concerning the international registration designating the European Community of the word mark GREASECUTTER.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Ecolab USA, Inc. to pay the costs.*

([1]) OJ C 24, 25.1.2014.

Judgment of the General Court of 2 October 2015 — The Tea Board v OHIM — Delta Lingerie (Darjeeling)

(Case T-624/13) ([1])

(Community trade mark — Opposition proceedings — Figurative mark Darjeeling — Earlier Community collective word and figurative marks DARJEELING — Relative grounds for refusal — Article 8(1)(b) and (5) of Regulation (EC) No 207/2009)

(2015/C 389/39)

Language of the case: English

Parties

Applicant: The Tea Board (Calcutta, India) (represented by: A. Nordemann and M. Maier, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Delta Lingerie (Cachan, France) (represented by: G. Marchais and P. Martini-Berthon, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 17 September 2013 (Case R 1504/2012-2) concerning opposition proceedings between The Tea Board and Delta Lingerie.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 17 September 2013 (Case R 1504/2012-2) as regards the goods in Class 25 of the Nice Agreement concerning the International Classification of Goods and Services for the purposes of the Registration of Marks of 15 June 1957, as revised and amended, and the '[r]etailing of women's underwear and lingerie, perfumes, toilet water and cosmetic lotions, household and bath linen' services in Class 35 of that agreement covered by the mark applied for;*

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

3. *Orders each party to bear its own costs.*

([1]) OJ C 45, 15.2.2014.

Judgment of the General Court of 2 October 2015 — The Tea Board v OHIM — Delta Lingerie (Darjeeling collection de lingerie)

(Case T-625/13) ([1])

(Community trade mark — Opposition proceedings — Figurative mark Darjeeling collection de lingerie — Earlier Community collective word and figurative marks DARJEELING — Relative grounds for refusal — Article 8(1)(b) and (5) of Regulation (EC) No 207/2009)

(2015/C 389/40)

Language of the case: English

Parties

Applicant: The Tea Board (Calcutta, India) (represented by: A. Nordemann and M. Maier, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Delta Lingerie (Cachan, France) (represented by: G. Marchais and P. Martini-Berthon, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 17 September 2013 (Case R 1502/2012-2) concerning opposition proceedings between The Tea Board and Delta Lingerie.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 17 September 2013 (Case R 1502/2012-2) as regards the goods in Class 25 of the Nice Agreement concerning the International Classification of Goods and Services for the purposes of the Registration of Marks of 15 June 1957, as revised and amended, and the '[r]etailing of women's underwear and lingerie, perfumes, toilet water and cosmetic lotions, household and bath linen' services in Class 35 of that agreement covered by the mark applied for;*

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

3. *Orders each party to bear its own costs.*

([1]) OJ C 45, 15.2.2014.

Judgment of the General Court of 2 October 2015 — The Tea Board v OHIM — Delta Lingerie (DARJEELING collection de lingerie)

(Case T-626/13) ([1])

(Community trade mark — Opposition proceedings — Figurative mark Darjeeling collection de lingerie — Earlier Community collective word and figurative marks DARJEELING — Relative grounds for refusal — Article 8(1)(b) and (5) of Regulation (EC) No 207/2009)

(2015/C 389/41)

Language of the case: English

Parties

Applicant: The Tea Board (Calcutta, India) (represented by: A. Nordemann and M. Maier, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Delta Lingerie (Cachan, France) (represented by: G. Marchais and P. Martini-Berthon, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 17 September 2013 (Case R 1501/2012-2) concerning opposition proceedings between The Tea Board and Delta Lingerie.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 17 September 2013 (Case R 1501/2012-2) as regards the goods in Class 25 of the Nice Agreement concerning the International Classification of Goods and Services for the purposes of the Registration of Marks of 15 June 1957, as revised and amended, and the '[r]etailing of women's underwear and lingerie, perfumes, toilet water and cosmetic lotions, household and bath linen' services in Class 35 of that agreement covered by the mark applied for;*

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

3. *Orders each party to bear its own costs.*

([1]) OJ C 45, 15.2.2014.

Judgment of the General Court of 2 October 2015 — The Tea Board v OHIM — Delta Lingerie (Darjeeling)

(Case T-627/13) ([1])

(Community trade mark — Opposition proceedings — Figurative mark Darjeeling — Earlier Community collective word and figurative marks DARJEELING — Relative grounds for refusal — Article 8(1)(b) and (5) of Regulation (EC) No 207/2009)

(2015/C 389/42)

Language of the case: English

Parties

Applicant: The Tea Board (Calcutta, India) (represented by: A. Nordemann and M. Maier, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Delta Lingerie (Cachan, France) (represented by: G. Marchais and P. Martini-Berthon, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 11 September 2013 (Case R 1387/2012-2) concerning opposition proceedings between The Tea Board and Delta Lingerie.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 11 September 2013 (Case R 1387/2012-2) as regards the goods in Class 25 of the Nice Agreement concerning the International Classification of Goods and Services for the purposes of the Registration of Marks of 15 June 1957, as revised and amended, and the '[r]etailing of women's underwear and lingerie, perfumes, toilet water and cosmetic lotions, household and bath linen' services in Class 35 of that agreement covered by the mark applied for;*

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

3. *Orders each party to bear its own costs.*

([1]) OJ C 45, 15.2.2014.

Judgment of the General Court of 23 September 2015 — Reed Exhibitions v OHIM (INFOSECURITY)

(Case T-633/13) ([1])

(Community trade mark — Application for Community word mark INFOSECURITY — Absolute ground for refusal — Descriptive character — No distinctive character — No distinctive character acquired through use — Article 7(1)(b) and (c) and Article 7(3) of Regulation (EC) No 207/2009 — Obligation to state reasons)

(2015/C 389/43)

Language of the case: English

Parties

Applicant: Reed Exhibitions Ltd (Richmond, United Kingdom) (represented by: S. Malynicz, Barrister)

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

Re:

Action brought against the decision of the Fifth Board of Appeal of OHIM of 10 September 2013 (Case R 1544/2012-5) concerning an application for registration of the word sign INFOSECURITY as a Community trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Reed Exhibitions Ltd to pay the costs.*

([1]) OJ C 52, 22.2.2014.

Judgment of the General Court of 25 September 2015 — Copernicus-Trademarks v OHIM (BLUECO)

(Case T-684/13) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark BLUECO — Prior Community word mark BLUECAR — Relative ground for refusal — Distinctive character of the earlier mark — Article 8(1)(b) of Regulation (EC) No 207/2009 — Application for alteration made by the intervener — Article 65(4) of Regulation No 207/2009)

(2015/C 389/44)

Language of the case: German

Parties

Applicant: Copernicus-Trademarks Ltd (Borehamwood, United Kingdom) (represented by: L. Pechan and S. Körber, 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, intervening before the General Court: Bolloré SA (Érgue-Gaberic, France) (represented initially by: B. Fontaine, and subsequently by: O. Legrand, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 8 October 2013 (Case R 2029/2012-1) concerning opposition proceedings between Bolloré SA and Copernicus-Trademarks Ltd.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Rejects the application for alteration made by Bolloré SA;*

3. *Orders Copernicus-Trademarks Ltd to pay the costs.*

([1]) OJ C 52, 22.2.2014.

Judgment of the General Court of 30 September 2015 — GAT Microencapsulation v OHIM — BASF (KARIS)

(Case T-720/13) ([1])

(Community trade mark — Opposition proceedings — Application for the Community word mark KARIS — Earlier Community marks and earlier international word mark CARYX — Earlier national marks and earlier Benelux word mark AKRIS — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 389/45)

Language of the case: English

Parties

Applicant: GAT Microencapsulation GmbH (formerly GAT Microencapsulation AG) (Ebenfurth, Austria) (represented by: S. Soler Lerma and C. March Cabrelles, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: BASF SE (Ludwigshafen, Germany)

Re:

Action brought against the decision of the Fifth Board of Appeal of OHIM of 28 October 2013 (Case R 1862/2012-5) relating to opposition proceedings between BASF SE and GAT Microencapsulation GmbH (formerly GAT Microencapsulation AG).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Gat Microencapsulation GmbH to pay the costs.*

([1]) OJ C 71, 8.3.2014.

Judgment of the General Court of 30 September 2015 — Tilda Riceland Private v OHIM — Siam Grains (BASmALI)

(Case T-136/14) ([1])

(Community trade mark — Opposition proceedings — Application for the Community figurative mark BASmALI — Earlier non-registered trade mark or earlier sign BASMATI — Relative ground for refusal — Article 8(4) of Regulation (EC) No 207/2009)

(2015/C 389/46)

Language of the case: English

Parties

Applicant: Tilda Riceland Private Ltd (Gurgaon, India) (represented by: S. Malynicz, Barrister, N. Urwin and D. Sills, Solicitors)

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

Other party to the proceedings before the Board of Appeal of OHIM: Siam Grains Co. Ltd (Bangkok, Thailand)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 18 December 2013 (Case R 1086/2012-4) relating to opposition proceedings between Tilda Riceland Private Ltd and Siam Grains Co. Ltd.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 18 December 2013 (Case R 1086/2012-4);*

2. *Orders OHIM to bear its own costs and to pay those incurred by Tilda Riceland Private Ltd.*

(1) OJ C 135, 5.5.2014.

Judgment of the General Court of 23 September 2015 — Cristiano di Thiene v OHIM — Nautica Apparel (AERONAUTICA)

(Case T-193/14) (1)

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

(2015/C 389/47)

Language of the case: English

Parties

Applicant: Cristiano di Thiene SpA (Thiene, Italy) (represented by: F. Fischetti and F. Celluprica, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Nautica Apparel, Inc. (New York, New York, United States) (represented by: C. Hawkes, Solicitor, and B. Brandreth, Barrister)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 10 January 2014 (Case R 96/2013-4) concerning opposition proceedings between Nautica Apparel, Inc. and Cristiano di Thiene SpA.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Cristiano di Thiene SpA to pay the costs.*

(1) OJ C 151, 19.5.2014.

Judgment of the General Court of 24 September 2015 — Primagaz v OHIM — Reeh (PRIMA KLIMA)

(Case T-195/14) ([1])

(Community trade mark — Opposition proceedings — Application for Community figurative mark PRIMA KLIMA — Earlier Community figurative mark PRIMAGAZ — Relative ground for refusal — Likelihood of confusion — Relevant public — Similarity of goods and services — Similarity of the signs — Distinctive character of a laudatory word element — Conceptual comparison — Distinctive character of the earlier mark — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2015/C 389/48)

Language of the case: German

Parties

Applicant: Compagnie des gaz de pétrole Primagaz SA (Paris, France) (represented by: D. Régnier, 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, intervening before the General Court: Gerhard Reeh (Radnice, Czech Republic) (represented by: W. Riegger, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 7 January 2014 (Case R 2304/2012-1), relating to opposition proceedings between Compagnie des gaz de pétrole Primagaz SA and Mr Gerhard Reeh.

Operative part of the judgment

The Court:

1. *Annuls the decision of the First Board of Appeal of the Office for harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 7 January 2014 (Case R 2304/2012-1) in so far as the Board of Appeal dismissed the action before it as regards the goods 'apparatus for lighting, heating, drying and ventilating; activated carbon filters for ventilation purposes';*

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

3. *Orders each party to bear its own costs.*

([1]) OJ C 175, 10.6.2014.

Judgment of the General Court of 23 September 2015 — Schroeder v Council and Commission

(Case T-205/14) ([1])

(Non-contractual liability — Dumping — Imports of certain prepared or preserved citrus fruits originating in China — Regulation (EC) No 1355/2008 declared by the Court of Justice to be invalid — Loss allegedly suffered by the applicant following the adoption of the regulation — Action for compensation — Exhaustion of domestic remedies — Admissibility — Sufficiently serious infringement of a rule of law conferring rights on individuals — Article 2(7)(a) of Regulation (EC) No 384/96 (now Article 2(7)(a) of Regulation (EC) No 1225/2009) — Duty of care — Causal link)

(2015/C 389/49)

Language of the case: German

Parties

Applicant: I. Schroeder KG (GmbH & Co.) (Hamburg, Germany) (represented by: K. Landry, lawyer)

Defendants: Council of the European Union (represented by: J.-P. Hix, acting as Agent, and initially D. Geradin and N. Tuominen, and subsequently N. Tuominen, lawyers) and European Commission (represented by: T. Maxian Rusche and R. Sauer, acting as Agents)

Re:

Action for compensation for the harm which the applicant claims to have suffered following the adoption of Council Regulation (EC) No 1355/2008 of 18 December 2008 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain prepared or preserved citrus fruits (namely mandarins, etc.) originating in the People's Republic of China (OJ 2008 L 350, p. 35), declared invalid by the judgment of 22 March 2012 in *GLS* (C-338/10, ECR, EU:C:2012:158)..

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders I. Schroeder KG (GmbH & Co.) to pay the costs.*

([1]) OJ C 212, 7.7.2014.

Judgment of the General Court of 23 September 2015 — Hüpeden v Council and Commission

(Case T-206/14) ([1])

(Non-contractual liability — Dumping — Imports of certain prepared or preserved citrus fruits originating in China — Regulation (EC) No 1355/2008 declared invalid by the Court of Justice — Loss allegedly suffered by the applicant as a result of the adoption of the regulation — Action for damages — Exhaustion of remedies under domestic law — Admissibility — Sufficiently serious breach of a rule of law conferring rights on individuals — Article 2(7)(a) of Regulation (EC) No 384/96 (now Article 2(7)(a) of Regulation (EC) No 1225/2009) — Duty of care — Causal link)

(2015/C 389/50)

Language of the case: German

Parties

Applicant: Hüpeden & Co. (GmbH & Co.) KG (Hamburg, Germany) (represented by K. Landry, lawyer)

Defendants: Council of the European Union (represented by J.-P. Hix, acting as Agent, assisted initially by D. Geradin and N. Tuominen, and subsequently by N. Tuominen, lawyers); and European Commission (represented by T. Maxian Rusche and R. Sauer, acting as Agents)

Re:

Action for damages seeking compensation for the loss allegedly suffered as a result of the adoption of Council Regulation (EC) No 1355/2008 of 18 December 2008 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain prepared or preserved citrus fruits (namely mandarins, etc.) originating in the People's Republic of China (OJ 2008 L 350, p. 35), declared invalid by the judgment of 22 March 2012 in *GLS* (C-338/10, ECR, EU:C:2012:158).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Hüpeden & Co. (GmbH & Co.) KG to pay the costs.*

([1]) OJ C 212, 7.7.2014.

Judgment of the General Court of 25 September 2015 — Bopp v OHIM (Representation of a green octagonal frame)

(Case T-209/14) ([1])

(Community trade mark — Application for figurative Community mark representing a green octagonal frame — Absolute ground for refusal — Distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009)

(2015/C 389/51)

Language of the case: German

Parties

Applicant: Carsten Bopp (Glashütten, Germany) (represented by: C. Russ, lawyer)

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

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 9 January 2014 (Case R 1276/2013-1) concerning an application for registration of a figurative sign representing a green octagonal frame as a Community trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Carsten Bopp to pay the costs.*

([1]) OJ C 151, 19.5.2014.

Judgment of the General Court of 24 September 2015 — Klement v OHIM — Bullerjan (Form of an oven)

(Case T-211/14) ([1])

(Community trade mark — Revocation proceedings — Three-dimensional Community mark — Form of an oven — Genuine use of a mark — Article 15(1)(a) and Article 51 (1)(a) of Regulation (EC) No 207/2009 — Nature of use of the mark — Form differing in elements which do not alter the distinctive character)

(2015/C 389/52)

Language of the case: German

Parties

Applicant: Toni Klement (Dippoldiswalde, Germany) (represented by: J. Weiser and A. Grohmann, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: Bullerjan GmbH (Isernhagen-Kirchhorst, Germany)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 9 January 2014 (Case R 927/2013-1), relating to revocation proceedings between Mr Toni Klement and Bullerjan GmbH.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Toni Klement to pay the costs.*

([1]) OJ C 245, 28.7.2014.

Judgment of the General Court of 24 September 2015 — Klement v OHIM — Bullerjan (Form of an oven)

(Case T-317/14) ([1])

(Community trade mark — Revocation proceedings — Three-dimensional Community mark — Form of an oven — Genuine use of a mark — Article 15(1)(a) and Article 51(1)(a) of Regulation (EC) No 207/2009 — Nature of use of the mark — Form differing in elements which do not alter the distinctive character)

(2015/C 389/53)

Language of the case: German

Parties

Applicant: Toni Klement (Dippoldiswalde, Germany) (represented by: J. Weiser and A. Grohmann, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: Bullerjan GmbH (Isernhagen-Kirchhorst, Germany)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 27 February 2014 (Case R 1656/2013-1), relating to revocation proceedings between Mr Toni Klement and Bullerjan GmbH.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Toni Klement to pay the costs.*

([1]) OJ C 261, 11.8.2014.

Judgment of the General Court of 25 September 2015 — August Storck v OHIM — (2good)

(Case T-366/14) ([1])

(Community trade mark — Application for Community word mark 2good — Mark consisting of an advertising slogan — Absolute ground for refusal — No distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009)

(2015/C 389/54)

Language of the case: English

Parties

Applicant: August Storck KG (Berlin, Germany) (represented by: I. Rohr, A. C. Richter, P. Goldenbaum and T. Melchert, lawyers)

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

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 27 February 2014 (Case R 996/2013-1), concerning an application for registration of the word sign 2good as a Community trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders August Storck KG to pay the costs.*

(1) OJ C 253, 4.8.2014.

Judgment of the General Court of 30 September 2015 — Sequoia Capital Operations LLC v OHIM — Sequoia Capital (SEQUOIA CAPITAL)

(Case T-369/14) (1)

(Community trade mark — Invalidity proceedings — Community word mark SEQUOIA CAPITAL — Earlier Community word mark SEQUOIA — Relative ground for refusal — Article 8(1)(b) and Article 53 (1)(a) of Regulation (EC) No 207/2009 — Likelihood of confusion)

(2015/C 389/55)

Language of the case: English

Parties

Applicant: Sequoia Capital Operations LLC (Menlo Park, California, United States) (represented by: F. Delord, A. Rendle, Solicitors, and G. Hollingworth, Barrister)

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

Other party to the proceedings before the Board of Appeal of OHIM: Sequoia Capital LLP (London, United Kingdom)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 18 March 2014 (Case R 1457/2013-4), concerning invalidity proceedings between Sequoia Capital LLP and Sequoia Capital Operations LLC.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Sequoia Capital Operations LLC to pay the costs.*

(1) OJ C 253, 4.8.2014.

Judgment of the General Court of 24 September 2015 — Rintisch v OHIM — Compagnie laitière européenne (PROTICURD)

(Case T-382/14) ([1])

(Community trade mark — Opposition proceedings — International registration designating the European Community — Word mark PROTICURD — Earlier national word marks PROTI and PROTIPLUS — Earlier national figurative mark Proti Power — Relative ground for refusal — Admissibility — Article 59 of Regulation (EC) No 207/2009 and Article 8(3) of Regulation (EC) No 216/96 — Obligation to state reasons — Article 75 of Regulation No 207/2009 — Genuine use of the earlier marks — Article 42(2) of Regulation No 207/2009 — Likelihood of confusion — Article 8(1)(b) of Regulation No 207/2009)

(2015/C 389/56)

Language of the case: English

Parties

Applicant: Bernhard Rintisch (Bottrop, Germany) (represented by: A. Dreyer, 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, intervener before the General Court: Compagnie laitière européenne SA (Condé-sur-Vire, France) (represented by C. Hertz-Eichenrode, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 14 March 2014 (Case R 609/2011-4) relating to opposition proceedings between Mr Bernhard Rintisch and Compagnie laitière européenne SA

Operative part of the judgment

The Court:

1. *Annuls the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 14 March 2014 (Case R 609/2011-4);*

2. *Orders OHIM to bear its own costs and to pay those incurred by Mr Bernhard Rintisch;*

3. *Orders Compagnie laitière européenne SA to bear its own costs.*

([1]) OJ C 282, 25.8.2014.

Judgment of the General Court of 30 September 2015 — Volkswagen v OHIM (ULTIMATE)

(Case T-385/14) ([1])

(Community trade mark — Application for Community word ULTIMATE — Absolute ground for refusal — Absence of distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009)

(2015/C 389/57)

Language of the case: German

Parties

Applicant: Volkswagen AG (Wolfsburg, Germany) (represented by: U. Sander, lawyer)

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

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 24 March 2014 (Case R 1787/2013-1), concerning an application for registration of the word sign ULTIMATE as a Community trade mark.

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders Volkswagen AG to bear its own costs and to pay those incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM).*

([1]) OJ C 253, 4.8.2014.

Judgment of the General Court of 23 September 2015 — Mechadyne International v OHIM (FlexValve)

(Case T-588/14) ([1])

(Community trade mark — Application for a Community figurative mark FlexValve — Absolute grounds for refusal — Descriptive character — Lack of distinctive character — Article 7(1)(b) and (c) of Regulation (EC) No 207/2009 — Rights of the defence — Duty to state reasons — Article 75 of Regulation No 207/2009)

(2015/C 389/58)

Language of the case: German

Parties

Applicant: Mechadyne International Ltd (Kirtlington, United Kingdom) (represented by S. von Petersdorff-Campen and E. Schaper, lawyers)

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

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 3 June 2014 (Case R 2435/2013-4), concerning an application for registration of the figurative sign FlexValve as a Community trade mark.

Operative part of the judgment

The Court

1) *Dismisses the action;*

2) *Orders Mechadyne International Ltd to pay the costs.*

(1) OJ C 361, 13.10.2014.

Judgment of the General Court of 25 September 2015 — BSH v OHIM (PerfectRoast)

(Case T-591/14) (1)

(Community mark — Application for Community word mark PerfectRoast — Refusal of registration — Absolute grounds for refusal — Descriptive character — Lack of distinctive character — Article 7(1)(b) and (c) of Regulation (EC) No 207/2009 — Obligation to state reasons — Article 75 of Regulation No 207/2009)

(2015/C 389/59)

Language of the case: German

Parties

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

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

Re:

Action brought against the decision of the Fifth Board of Appeal of OHIM of 16 June 2014 (Case R 359/2014-5), concerning an application for registration of the word sign PerfectRoast.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 16 June 2014 (Case R 359/2014-5) in so far as it dismissed the appeal against the examiner's decision to reject the application for registration of the Community trade mark PerfectRoast for 'water heaters', 'immersion heaters' and 'egg-cookers'.*

2. *Dismisses the remainder of the action;*

3. *Orders each party to bear its own costs.*

(1) OJ C 351, 6.10.2014.

Judgment of the General Court of 24 September 2015 — Dellmeier v OHIM — Dell (LEXDELL)

(Case T-641/14) ([1])

(Community trade mark — Opposition proceedings — Application for the Community word mark LEXDELL — Earlier Community figurative mark DELL — Relative grounds for refusal — Detriment to the distinctive character or the repute of the earlier mark — Article 8(5) of Regulation (EC) No 207/2009 — Likelihood of confusion — Similarity of the signs — Article 8(1)(b) of Regulation No 207/2009)

(2015/C 389/60)

Language of the case: English

Parties

Applicant: Alexandra Dellmeier (Munich, Germany) (represented by: initially J. Khöber, and subsequently by H. Eckermann, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Dell, Inc. (Round Rock, Texas, United States) (represented by: A. Renck and E. Nicolás Gómez, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 4 June 2014 (Case R 966/2013-2) relating to opposition proceedings between Dell, Inc., and Ms Alexandra Dellmeier

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Ms Alexandra Dellmeier to pay the costs.*

([1]) OJ C 380, 27.10.2014.

Judgment of the General Court of 25 September 2015 — Grundig Multimedia v OHIM (DetergentOptimiser)

(Case T-707/14) ([1])

(Community trade mark — Application for the Community word mark DetergentOptimiser — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 207/2009 — Equal treatment)

(2015/C 389/61)

Language of the case: English

Parties

Applicant: Grundig Multimedia AG (Stansstad, Switzerland) (represented by: S. Walter and M. Neuner, lawyers)

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

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 9 July 2014 (case R 172/2014-1), relating to an application for the word mark DetergentOptimiser as a Community trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Grundig Multimedia AG to pay the costs.*

([1]) OJ C 409, 17.11.2014.

Order of the General Court of 2 October 2015 — Société européenne des chaux et liants v ECHA

(Case T-540/13) ([1])

(Action for annulment — REACH — Imposition of an administrative charge for an error in the declaration relating to the size of the enterprise — Language regime — Time-limit for bringing an action — Inadmissibility)

(2015/C 389/62)

Language of the case: French

Parties

Applicant: Société européenne des chaux et liants (Bourgoin-Jallieu, France) (represented by: J. Dezarnaud, lawyer)

Defendant: European Chemicals Agency (ECHA) (represented by: M. Heikkilä, A. Iber and C. Schultheiss, acting as Agents)

Re:

Application for the partial annulment of Decision SME (2013) 1665 of the ECHA of 21 May 2013, in so far as it imposes an administrative charge on the applicant.

Operative part of the order

The Court:

1. *Dismisses the action;*

2. *Orders the Société européenne des chaux et liants to bear its own costs and to pay those incurred by the European Chemicals Agency (ECHA).*

([1]) OJ C 31, 1.2.2014.

Order of the General Court of 5 October 2015 — Kafetzakis and Others v Parliament and Others

(Case T-38/14) ([1])

(Application for failure to act and for damages — Restructuring of Greek public debt — Involvement of the private sector — Harm resulting from the reduction of bonds provided as a redundancy payment — Statements of heads of State or governments of the Euro zone and of EU institutions — Statement of the Eurogroup — Lack of substantiation of causality with the alleged harm — Inadmissibility)

(2015/C 389/63)

Language of the case: Greek

Parties

Applicants: Georgios Kafetzakis (Athens, Greece) and the 102 other applicants whose names are indicated in the annex to the order (represented by: C. Papadimitriou, lawyer)

Defendants: European Parliament (represented by: A. Troupiotis and L. Visaggio, acting as Agents); European Council; Eurogroup; Council of the European Union (represented by: A. de Gregorio Merino, M. Balta and E. Dumitriu Segnana, acting as Agents); European Commission (represented by: M. Konstantinidis, J. P. Keppenne and B. Smulders, acting as Agents); and European Central Bank (ECB) (represented by: P. Papapaschalis and P. Senkovic, acting as Agents)

Re:

Application for (i) a declaration that the defendants unlawfully failed to adopt the necessary legislative measures for ensuring that the bonds held by the applicants as employees made redundant by Olympiaki Aeroporia would not be affected by the private sector involvement in the debt relief programme plan (PSI), reducing the value of Greek State debt, and (ii) damages for the harm allegedly suffered by the applicants resulting from that unlawful failure to act.

Operative part of the order

The Court:

1. *Dismisses the action.*

2. *Orders Mr. Georgios Kafetzakis and the 102 other applicants whose names are indicated in the annex to pay the costs of the proceedings.*

([1]) OJ C 292, 1.9.2014.

Order of the General Court of 5 October 2015 — Arvanitis and Others v Parliament and Others

(Case T-350/14) ([1])

(Application for failure to act and for damages — Winding up of Olympiaki Aeroporia (OA) — Harm allegedly suffered by the temporary staff of OA due to the failure of the defendants to ensure the application of EU law upon redundancy — Lack of substantiation of causality between the alleged harm and the conduct of the defendants — Inadmissibility)

(2015/C 389/64)

Language of the case: Greek

Parties

Applicants: Athanasios Arvanitis (Rhodes, Greece) and the 47 other applicants whose names are indicated in the annex to the order (represented by: C. Papadimitriou, lawyer)

Defendants: European Parliament (represented by: L. Visaggio and A. Troupiotis, acting as Agents); European Council; Eurogroup; Council of the European Union (represented by: A. de Gregorio Merino and M. Balta, acting as Agents); European Commission (represented by: J. P. Keppenne and M. Konstantinidis, acting as Agents); and European Central Bank (ECB) (represented by: P. Papapaschalis and P. Senkovic, acting as Agents)

Re:

Application for (i) a declaration that the defendants unlawfully failed to act by not ensuring that certain rules of EU law were correctly applied when the applicants were made redundant and (ii) for damages for the harm allegedly suffered by the applicants as a result of that failure to act and of the adoption of measures by the Greek authorities pursuant to certain decisions of the Commission, the Eurogroup and the European Central Bank.

Operative part of the order

The Court:

1. *Dismisses the action.*

2. *Orders Athanasios Arvanitis and the 47 other applicants whose names are indicated in the annex to the present order to pay the costs of the proceedings.*

(1) OJ C 439, 8.12.2014.

Order of the General Court of 5 October 2015 — Grigoriadis and Others v Parliament and Others

(Case T-413/14) (1)

(Action for failure to act and for damages — Restructuring of the Greek public debt — Involvement of the private sector — Loss consisting in the reduction of sums owed — Statements by the Heads of State or Government of the euro area and the EU institutions — Eurogroup statement — Failure to specify the causal link with the loss pleaded — Inadmissibility)

(2015/C 389/65)

Language of the case: Greek

Parties

Applicants: Grigoris Grigoriadis (Athens, Greece), Faidra Grigoriadou (Athens), Ioannis Tsolias (Thessaloniki, Greece), Dimitrios Alexopoulos (Thessaloniki), Nikolaos Papageorgiou (Athens) and Ioannis Marinopoulos (Athens) (represented by: C. Papadimitriou, lawyer)

Defendants: European Parliament (represented by: A. Troupiotis and L. Visaggio, acting as Agents); European Council; Eurogroup; Council of the European Union (represented by: A. de Gregorio Merino and M. Balta, acting as Agents); European Commission (represented by: J.-P. Keppenne and M. Konstantinidis, acting as Agents); and European Central Bank (ECB) (represented by: P. Papapaschalis and P. Senkovic, acting as Agents)

Re:

First, an application for a declaration that the defendants unlawfully failed to act in order for the bonds held by the applicants not to be affected by the plan for private sector involvement in the debt financing programme (PSI), reducing the value of the Greek State's debt, and second, an application seeking compensation for the loss allegedly suffered by the applicants following that unlawful failure to act.

Operative part of the order

1. *The action is dismissed.*

2. *Grigoris Grigoriadis, Faidra Grigoriadou, Ioannis Tsolias, Dimitrios Alexopoulos, Nikolaos Papageorgiou and Ioannis Marinopoulos shall pay the costs.*

([1]) OJ C 439, 8.12.2014.

Order of the General Court of 8 October 2015 — Nieminen v Council

(Case T-464/14 P) ([1])

(Appeal — Civil service — Officials — Promotion — 2010 and 2011 promotion procedures — Decision not to promote the appellant to grade AD 12 — Right to a fair hearing — Rights of defence — Scope of the judicial review at first instance — Manifest error of assessment — No error of law and of distortion — Appeal manifestly lacking any foundation in law)

(2015/C 389/66)

Language of the case: French

Parties

Appellant: Risto Nieminen (Kraainem, Belgium) (represented by: initially, M. de Abreu Caldas, D. de Abreu Caldas and J.-N. Louis, and subsequently, J.-N. Louis, lawyers)

Other party to the proceedings: Council of the European Union (represented by: M. Bauer and E. Rebasti, acting as Agents)

Re:

Appeal against the judgment of the European Union Civil Service Tribunal (Second Chamber) of 10 April 2014 in *Nieminen* v *Council* (F-81/12, ECR-SC, EU:F:2014:50), seeking to have that judgment set aside.

Operative part of the order

1. *The appeal is dismissed.*

2. *Mr Risto Nieminen shall pay the costs.*

(1) OJ C 261, 11.8.2014.

Order of the General Court of 6 October 2015 — GEA Group v OHIM (engineering for a better world)

(Case T-545/14) (1)

(Community trade mark — Application for Community word mark engineering for a better world — Merely confirmatory decision — Finality of the confirmed decision — Finding of the Court of its own motion — Inadmissibility)

(2015/C 389/67)

Language of the case: German

Parties

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

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

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 2 June 2014 (Case R 303/2014-4) concerning an application for registration of the word sign 'engineering for a better world' as a Community trade mark.

Operative part of the order

1. *The action is dismissed.*

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

(1) OJ C 339, 29.9.2014.

Action brought on 28 August 2015 — Oltis Group v European Commission

(Case T-497/15)

(2015/C 389/68)

Language of the case: Czech

Parties

Applicant: Oltis Group a.s. (Olomouc, Czech Republic) (represented by: P. Konečný, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the decision of the European Commission rejecting the applicant's tender, or tenders, for the innovation programmes 'The Innovation Programme IP 4 — IT Solutions for Attractive Railway Services' and 'The Innovation Programme IP 5 — Technologies for Sustainable & Attractive European Freight' in the context of the 'Shift2Rail' project;

— award the applicant the costs of the proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the assessment body exceeded the bounds of its jurisdiction

   The applicant claims, inter alia, in this regard that the assessment body could not, in its procedure, supplant the exclusive right of the applicant to combine several separate tenders for the grant of the status of an associated member of the company 'Shift2Rail' in a single tender and it has thereby vitiated its assessment procedure. The applicant further submits that, if the submission of two separate tenders by one tenderer for different innovation programmes was not in accordance with the procurement documents, from the point of view of the assessment body, and if those documents do not provide for such a situation, then it should have been warned regarding that fact pursuant to Part 8.2 of the procurement documents, and therefore it should retain its right to dispose of the tenders submitted.

2. Second plea in law, alleging that the procedure followed by the assessment body was not in accordance with the procurement documents

   The applicant claims in this connection that the assessment body did not act in accordance with the procurement documents, inasmuch as it disposed of the applicant' tenders without notifying the applicant or calling on it to clarify any ambiguities or errors.

   The applicant is further of the opinion that the assessment body should have assessed (and awarded points to) its tenders separately, even after they were combined in a single tender, since it is only by following this procedure that the principle of objective evaluation and assessment may be complied with. The procedure followed by the assessment body, in assessing the applicant's tenders together and thus also awarding points with regard to the assessment criteria together, is misleading, discriminatory and in conflict with the basic principle of the procurement documents, and renders the decision impossible to review.

Action brought on 23 September 2015 — Portugal v Commission

(Case T-550/15)

(2015/C 389/69)

Language of the case: Portuguese

Parties

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

Defendant: European Commission

Form of order sought

1. Annul Commission Implementing Decision (EU) 2015/1119, ([1]) in so far it excludes from European Union financing the sum of EUR 8 206 006,65 relating to expenditure declared by the Portuguese Republic in connection with the Other Direct Aid — Ewe and Goats measure for the marketing years 2010, 2011 and 2012;

2. order the European Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on the following pleas in law, alleging the following defects:

A — As regards the 2009 and 2010 marketing years — Controls during the retention period

1. misinterpretation and misapplication of Article 34(2) of Regulation No 796/2004 ([2]) as regards the concept of controls to be carried out 'throughout the retention period';

2. infringement of the principle of non-retroactivity, on account of the Commission's improper retroactive application of Article 2(10) of Regulation (EU) No 1368/2011, ([3]) in so far as it is only with the amendment of Article 41 of Regulation (EU) No 1122/2009 ([4]) that EU legislation provided that on-the-spot checks are to be 'spread throughout the entire retention period';

3. infringement of the principles of the protection of legitimate expectations and legal certainty, in so far as those principles require that any measures adopted by the institutions which produce legal effects must be clear and precise and that the persons concerned be made aware of such measures so that they are able to discern with certainty when those measure begin to have legal effects;

4. infringement of the principle of equality, given that the guidelines for the application of Article 34(2), in so far as such guidelines exist, must be in writing, failing which the principle of equality will be undermined, since there is no guarantee that measures will always be adopted in a uniform manner by all Member States in accordance with the principle of equality;

5. infringement of the principle of proportionality and of Article 5 TEU, in so far as the on-the-spot checks carried out the Portuguese authorities attain exactly the objective set out in the provisions in question, irrespective of whether the checks are carried out at the beginning, as claimed by the Commission, in the middle, or closer to the end, provided they are carried out unannounced and unexpectedly during the retention period;

B — As regards the 2011 marketing year — New regulatory electronic identification requirements

1. infringement of Article 11 of Regulation (EC) No 885/2006, ([5]) in so far as adequate reasons are not given for the decision, the grounds for which are imprecise and, as such, the decision fails to have regard to the rationale and objective of Article 11(1) of Regulation No 885/2006;

2. infringement of Article 31(2) of Regulation No 1290/2005 ([6]) and the principle of proportionality, given that, in the present case, the four requirements set out in the guidelines provided by the Commission on this subject are not fulfilled and in so far as those four requirements are cumulative.

([1]) Commission Implementing Decision (EU) 2015/1119 of 22 June 2015 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2015 L 182, p. 39).

([2]) Commission Regulation (EC) No 795/2004 of 21 April 2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers (OJ 2004 L 141, p. 18).

([3]) Commission Implementing Regulation (EU) No 1368/2011 of 21 December 2011 amending Regulation (EC) No 1121/2009 laying down detailed rules for the application of Council Regulation (EC) No 73/2009 as regards the support schemes for farmers provided for in Titles IV and V thereof, and Regulation (EC) No 1122/2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for in that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector (OJ 2011 L 341, p. 33).

([4]) Commission Regulation (EC) No 1122/2009 of 30 November 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector (OJ 2009 L 316, p. 65).

([5]) Commission Regulation (EC) No 885/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the accreditation of paying agencies and other bodies and the clearance of the accounts of the EAGF and of the EAFRD (OJ 2006 L 171, p. 90).

([6]) Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ 2005 L 209, p. 1).

Action brought on 25 September 2015 — Portugal v Commission

(Case T-551/15)

(2015/C 389/70)

Language of the case: Portuguese

Parties

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

Defendant: European Commission

Form of order sought

(1) Annul Commission Implementing Decision (EU) 2015/1119, ([1]) in so far it excludes from European Union financing the sum of EUR 501 445,57 relating to expenditure declared by the Portuguese Republic in connection with the flax and hemp measure for the marketing year 1999/2000;

(2) order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law, alleging the following defects:

1. infringement of Article 5(2) of Regulation No 729/70: ([2]) the Commission has failed to demonstrate any infringement of the rules governing the common organisation of agricultural markets;

2. infringement of Article 5(2) of Regulation No 729/70 on the ground that the conditions laid down by the Commission in the uniform guidelines set out in Document No VI/5330/97 ([3]) for the application of a flat-rate 25 % financial correction are not fulfilled;

3. infringement of Article 31 of Regulation No 1290/2005: ([4]) expenditure incurred more than 24 months previously — on the ground that, by excluding from Community financing expenditure incurred in 1999 and 2000, the contested decision refuses to fund expenditure incurred more than 24 months before the Commission gave the Portuguese authorities written notification of its inspection findings deriving from the annulment of the Commission's decision of 28 April 2006. ([5])

([1]) Commission Implementing Decision (EU) 2015/1119 of 22 June 2015 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2015 L 182, p. 39).
([2]) Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy (OJ English Special Edition, 1970(I), p. 218).
([3]) Commission Document No VI/5330/97 of 23 December 2007, Commission guidelines on the calculation of financial consequences when preparing decisions concerning the clearance of EAGGF, Guarantee Section, accounts.
([4]) Council Regulation (EU) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ 2005 L 209, p. 1).
([5]) Commission Decision of 28 April 2006 excluding from Community financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) (OJ 2006 L 124, p. 21).

Action brought on 24 September 2015 — Universidad Internacional de la Rioja v OHIM — Universidad de la Rioja (UNIVERSIDAD INTERNACIONAL DE LA RIOJA UNiR)

(Case T-561/15)

(2015/C 389/71)

Language in which the application was lodged: Spanish

Parties

Applicant: Universidad Internacional de la Rioja, SA (Logroño, Spain) (represented by: C. Lema Devesa and A. Porras Fernandez-Toledano, lawyers)

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

Other party to the proceedings before the Board of Appeal: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community figurative mark containing the word elements 'UNIVERSIDAD INTERNACIONAL DE LA RIOJA UNiR' — Application for registration No 11 738 093

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 22 June 2015 in Case R 1914/2014-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision insofar as OHIM rejected Community trade mark application No 11 738 093 and, accordingly, allow the registration to proceed;

— order OHIM to pay the costs.

Pleas in law

The applicant claims that:

— the contested decision fails to correctly identify the average consumers of the actual goods or services;

— the contested decision fails to carry out an adequate analysis of the likelihood of confusion.

Action brought on 25 September 2015 — Aldi v OHIM — Rouard (GOURMET)

(Case T-572/15)

(2015/C 389/72)

Language in which the application was lodged: German

Parties

Applicant: Aldi GmbH & Co. KG (Mülheim an der Ruhr, Germany) (represented by: C. Fürsen und N. Bertram, lawyers)

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

Other party to the proceedings before the Board of Appeal: Pierre-André Rouard (Madrid, Spain)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community figurative mark with the word element 'GOURMET' — Application No 10 509 446

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 24 July 2015 in Case R 1985/2013-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Pleas in law

— Infringement of Article 63 of Regulation No 207/2009 in conjunction with Rule 20(7) of Regulation No 2868/95;

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

Order of the General Court of 16 July 2015 — Greenwood Houseware (Zhuhai) and Others v Council

(Case T-191/10) ([1])

(2015/C 389/73)

Language of the case: English

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

([1]) OJ C 179, 3.7.2010.

Order of the General Court of 7 October 2015 — db-Technologies Deutschland v OHIM — MIP Metro (Sigma)

(Case T-267/15) ([1])

(2015/C 389/74)

Language of the case: German

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

([1]) OJ C 245, 27.7.2015.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Order of the Civil Service Tribunal (Second Chamber) of 15 October 2015 — DI v EASO

(Case F-113/13)

(Civil Service — EASO staff — Contractual staff — Probationary period — Dismissed as manifestly unsuitable — Action for annulment — Lack of concordance between the application and the claim — Manifest inadmissibility — Action for damages)

(2015/C 389/75)

Language of the case: English

Parties

Applicant: DI (represented by: I. Vlaic, lawyer)

Defendant: European Asylum Support Office (EASO) (represented by: L. Cerdán Ortiz-Quintana, acting as Agent, and D. Waelbroeck and A. Duron, lawyers)

Re:

Application for annulment of the decision of the European Asylum Support Office (EASO) to terminate the applicant's employment contract after the probationary period, which was extended by three months.

Operative part of the order

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

2. *DI shall bear his own costs and pay the costs incurred by the European Asylum Support Office.*

Order of the Civil Service Tribunal of 15 October 2015 — Drakeford v EMA

(Case F-29/13 RENV)

(2015/C 389/76)

Language of the case: French

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

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