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(2016/C 068/01)

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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Third Chamber) of 17 December 2015 (request for a preliminary ruling from the Tribunal de première instance francophone de Bruxelles — Belgium) — Proximus SA, formerly Belgacom SA v Commune d'Etterbeek

(Case C-454/13) ([1])

(Reference for a preliminary ruling — Electronic communications networks and services — Directive 2002/20/EC — Articles 12 and 13 — Administrative charges — Fee for rights to install facilities — Scope — Municipal legislation — Charge on mobile telephony antennae)

(2016/C 068/02)

Language of the case: French

Referring court

Tribunal de première instance francophone de Bruxelles

Parties to the main proceedings

Applicant: Proximus SA, formerly Belgacom SA

Defendant: Commune d'Etterbeek

Operative part of the judgment

Articles 12 and 13 of Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) must be interpreted as not precluding a charge, such as that at issue in the main proceedings, being imposed on any natural or legal persons who are proprietors of a right in rem over, or of a right to operate, a mobile telephony antenna.

([1]) OJ C 313, 26.10.2013.

Judgment of the Court (Third Chamber) of 17 December 2015 (request for a preliminary ruling from the Tribunal de première instance de Namur — Belgium) — Proximus SA, formerly Belgacom SA, continuing the proceedings brought by Belgacom Mobile SA v Province of Namur

(Case C-517/13) ([1])

(Reference for a preliminary ruling — Electronic communications networks and services — Directive 97/13/EC — Articles 4 and 11 — Directive 2002/20/EC — Article 6 — Conditions which may be attached to the general authorisation and to the rights of use for radio frequencies and numbers, and specific obligations — Article 13 — Fee for the rights to install facilities — Scope — Provincial legislation — Charge on mobile telephony network transmission and reception pylons and/or units)

(2016/C 068/03)

Language of the case: French

Referring court

Tribunal de première instance de Namur

Parties to the main proceedings

Applicant: Proximus SA, formerly Belgacom SA, continuing the proceedings brought by Belgacom Mobile SA

Defendant: Province of Namur

Operative part of the judgment

Articles 6 and 13 of Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) must be interpreted as not precluding a charge, such as that at issue in the main proceedings, being imposed on any natural or legal persons operating mobile telephony network transmission and reception pylons and/or units.

([1]) OJ C 352, 30.11.2013.

Judgment of the Court (Fifth Chamber) of 17 December 2015 (requests for a preliminary ruling from the Conseil d'État — France) — Union des syndicats de l'immobilier (UNIS) v Ministre du Travail, de l'Emploi et de la Formation professionnelle et du Dialogue social, Syndicat national des résidences de tourisme (SNRT) and Others (C-25/14), Beaudout Père et Fils SARL v Ministre du Travail, de l'Emploi et de la Formation professionnelle et du Dialogue social, Confédération nationale de la boulangerie et boulangerie-pâtisserie française, Fédération générale agro-alimentaire — CFDT and Others (C-26/14)

(Joined Cases C-25/14 and C-26/14) ([1])

(Reference for a preliminary ruling — Article 56 TFEU — Freedom to provide services — Principles of equality and of non-discrimination — Obligation of transparency — Scope of that obligation — National collective agreements — Social protection scheme supplemental to the general scheme — Appointment by the social partners of an insurer responsible for managing that scheme — Extension of that scheme by ministerial order to all employees and employers of the sector concerned — Limitation of the temporal effects of a preliminary ruling of the Court of Justice)

(2016/C 068/04)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicants: Union des syndicats de l'immobilier (UNIS) (C-25/14), Beaudout Père et Fils SARL (C-26/14)

Defendants: Ministre du Travail, de l'Emploi et de la Formation professionnelle et du Dialogue social, Syndicat national des résidences de tourisme (SNRT) and Others (C-25/14), Ministre du Travail, de l'Emploi et de la Formation professionnelle et du Dialogue social, Confédération nationale de la boulangerie et boulangerie-pâtisserie française, Fédération générale agro-alimentaire — CFDT and Others (C-26/14)

Operative part of the judgment

The obligation of transparency, which flows from Article 56 TFEU, precludes the extension by a Member State, to all employers and employees within a sector, of a collective agreement concluded by the employers' and employees' respective representatives for a sector, under which a single economic operator, chosen by the social partners, is entrusted with the management of a compulsory social insurance scheme established for employees, where the national rules do not provide for publicity sufficient to enable the competent public authority to take full account of information which has been submitted concerning the existence of a more favourable offer.

The effects of the present judgment do not concern the collective agreements under which a single body was appointed to manage a supplementary social insurance scheme and which a public authority has, before the date of delivery of the present judgment, made binding on all employers and employees within a sector, without prejudice to legal proceedings brought before that date.

([1]) OJ C 85, 22.3.2014.

Judgment of the Court (Grand Chamber) of 15 December 2015 — European Parliament v Council of the European Union

(Joined Cases C-132/14 to C-136/14) ([1])

(Actions for annulment — Regulation (EU) No 1385/2013 — Directive 2013/62/EU — Directive 2013/64/EU — Legal basis — Article 349 TFEU — Outermost regions of the European Union — Amendment of the status of Mayotte with regard to the European Union)

(2016/C 068/05)

Language of the case: French

Parties

Applicants: European Parliament (represented by: I. Liukkonen, L. Visaggio and J. Rodrigues, acting as Agents), European Commission (represented by: R. Lyal, W. Mölls, D. Bianchi and D. Martin, acting as Agents)

Defendant: Council of the European Union (represented by: A. Westerhof Löfflerová, E. Karlsson, F. Florindo Gijón and J. Czuczai, acting as Agents)

Interveners in support of the defendant: Kingdom of Spain (represented by: M. Sampol Pucurull, acting as Agent), French Republic (represented by: G. de Bergues, F. Fize, D. Colas and N. Rouam, acting as Agents), Portuguese Republic (represented by: L. Inez Fernandes, B. Andrade Correia, M. Duarte and S. Marques, acting as Agents)

Operative part of the judgment

The Court:

1. *Dismisses the actions in Cases C-132/14 to C-136/14;*

2. *Orders the European Parliament to pay the costs of the Council of the European Union relating to Cases C-132/14 and C-136/14;*

3. *Orders the European Commission to pay the costs of the Council of the European Union relating to Cases C-133/14 to C-135/14;*

4. *Orders the Kingdom of Spain, the French Republic and the Portuguese Republic to bear their own costs.*

([1]) OJ C 175, 10.6.2014.

Judgment of the Court (Fourth Chamber) of 17 December 2015 (request for a preliminary ruling from the Conseil d'État — France) — Neptune Distribution SNC v Ministre de l'Économie et des Finances

(Case C-157/14) ([1])

(Reference for a preliminary ruling — Regulation (EC) No 1924/2006 — Directive 2009/54/EC — Articles 11(1) and 16 of the Charter of Fundamental Rights of the European Union — Consumer protection — Nutrition and health claims — Natural mineral waters — Sodium/salt content — Calculation — Sodium chloride (table salt) or total amount of sodium — Freedom of expression and information — Freedom to conduct a business)

(2016/C 068/06)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Neptune Distribution SNC

Defendant: Ministre de l'Économie et des Finances

Operative part of the judgment

1. *Article 8(1) of Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods, as amended by Regulation (EC) No 107/2008 of the European Parliament and of the Council of 15 January 2008, read in conjunction with the annex thereto, must be interpreted as meaning that it prohibits the use of the claim 'very low in sodium/salt' and any claim likely to have the same meaning for the consumer as regards natural mineral waters and other waters.*

   Article 9(2) of Directive 2009/54/EC of the European Parliament and of the Council of 18 June 2009 on the exploitation and marketing of natural mineral waters, read in conjunction with Annex III thereto, must be interpreted as meaning that it precludes packaging, labels or advertising for natural mineral waters from displaying claims or indications suggesting to the consumer that the waters concerned are low in sodium or salt or are suitable for a low-sodium diet where the total sodium content, in all the chemical forms present, is equal to or more than 20 mg/l.

2. *The examination of the second question has not revealed any information capable of affecting the validity of Article 9(1) and (2) of Directive 2009/54, read in conjunction with Annex III thereto and with the annex to Regulation No 1924/2006.*

([1]) OJ C 184, 16.6.2014.

Judgment of the Court (Ninth Chamber) of 23 December 2015 — European Commission v Hellenic Republic

(Case C-180/14) ([1])

(Failure of a Member State to fulfil obligations — Directive 2003/88/EC — Organisation of working time — Daily rest — Weekly rest — Maximum weekly working time)

(2016/C 068/07)

Language of the case: Greek

Parties

Applicant: European Commission (represented by: M. Patakia and M. van Beek, acting as Agents)

Defendant: Hellenic Republic (represented by: A. Samoni-Rantou, N. Dafniou and S. Vodina, acting as Agents)

Operative part of the judgment

The Court:

1. *Declares that, by failing to implement an average weekly working time of not more than 48 hours and by failing to ensure a minimum daily rest period or an equivalent period of compensatory rest which directly follows the working time which that period is supposed to compensate for, the Hellenic Republic has failed to fulfil its obligations under Articles 3 and 6 of Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time;*

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

3. *Orders the Hellenic Republic to pay the costs.*

([1]) OJ C 184, 16.6.2014.

Judgment of the Court (Fourth Chamber) of 17 December 2015 (request for a preliminary ruling from the Tribunal du travail de Liège — Belgium) — Abdoulaye Amadou Tall v Centre public d'action sociale de Huy

(Case C-239/14) ([1])

(Reference for a preliminary ruling — Area of freedom, security and justice — Directive 2005/85/EC — Minimum standards on procedures in Member States for granting and withdrawing refugee status — Article 39 — Right to an effective remedy — Multiple asylum claims — Non-suspensory effect of an appeal against a decision of the competent national authority not to further examine a subsequent application for asylum — Social protection — Charter of Fundamental Rights of the European Union — Article 19(2) — Article 47)

(2016/C 068/08)

Language of the case: French

Referring court

Tribunal du travail de Liège

Parties to the main proceedings

Applicant: Abdoulaye Amadou Tall

Defendant: Centre public d'action sociale de Huy

Intervener: Agence fédérale pour l'accueil des demandeurs d'asile (Fedasil)

Operative part of the judgment

Article 39 of Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, read in the light of Articles 19(2) and 47 of the Charter of Fundamental Rights of the European Union, must be interpreted as not precluding national legislation which does not confer suspensory effect on an appeal brought against a decision, such as the one at issue in the main proceedings, not to further examine a subsequent application for asylum.

(1) OJ C 223, 14.7.2014.

Judgment of the Court (First Chamber) of 23 December 2015 (request for a preliminary ruling from the Conseil d'État — France) — Air France-KLM, formerly Air France (C-250/14), Hop!-Brit Air SAS, formerly Brit Air (C-289/14) v Ministère des Finances et des Comptes publics

(Joined Cases C-250/14 and C-289/14) (1)

(VAT — Chargeable event and chargeability — Air transport — Ticket purchased but not used — Provision of the transport service — Issue of the ticket — Time of payment of the tax)

(2016/C 068/09)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicants: Air France-KLM, formerly Air France (C-250/14), Hop!-Brit Air SAS, formerly Brit Air (C-289/14)

Defendant: Ministère des Finances et des Comptes publics

Operative part of the judgment

1. *Articles 2(1) and 10(2) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, as amended by Council Directive 1999/59/EC of 17 June 1999, then by Council Directive 2001/115/EC of 20 December 2001, must be interpreted as meaning that the issue by an airline company of tickets is subject to value added tax where the tickets issued have not been used by passengers and the latter are unable to obtain a refund for those tickets.*

2. *Article 2(1) and the first and second subparagraphs of Article 10(2) of the Sixth Directive 77/388, as amended by Directive 1999/59, then by Directive 2001/115, must be interpreted as meaning that the value added tax paid when the air ticket was purchased by a passenger who has not used it becomes chargeable on receipt of payment of the ticket price, whether by the airline company itself, by a third party acting in its name and on its behalf, or by a third party acting in its own name but on behalf of the airline company.*

3. *Articles 2(1) and 10(2) of the Sixth Directive 77/388, as amended by Directive 1999/59, then by Directive 2001/115, must be interpreted as meaning that, in the event that a third party sells an airline company's tickets on behalf of that company in the context of a franchise agreement and pays that company, in respect of tickets issued and no longer valid, a lump sum calculated as a percentage of the annual turnover from the corresponding flight routes, that sum constitutes a sum that is taxable as consideration for those tickets.*

([1]) OJ C 253, 4.8.2014.
OJ C 261, 11.8.2014.

Judgment of the Court (First Chamber) of 23 December 2015 (request for a preliminary ruling from the Oberster Gerichtshof — Austria) — Gebhart Hiebler v Walter Schlagbauer

(Case C-293/14) ([1])

(Reference for a preliminary ruling — Directive 2006/123/EC — Scope ratione materiae — Activities which are connected with the exercise of official authority — The trade of chimney sweep — Fire safety regulation tasks — Territorial restriction of the licence to trade — Service of general economic interest — Necessity — Proportionality)

(2016/C 068/10)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Applicant: Gebhart Hiebler

Defendant: Walter Schlagbauer

Operative part of the judgment

1. *Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market must be interpreted as covering, in all respects, the pursuit of a trade, such as the trade of chimney sweep as described in the main proceedings, even though that trade entails the performance not only of private economic activities but also of fire safety regulation tasks.*

2. *Articles 10(4) and 15(1), (2)(a) and (3) of Directive 2006/123 must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which limits, in all respects, a license to trade as a chimney sweep to a particular geographical area, if that legislation does not seek to attain, in a consistent and systematic manner, the objective of public health protection, which is a matter to be determined by the national court.*

   Article 15(4) of Directive 2006/123 must be interpreted as not precluding such legislation where fire safety regulation tasks are classified as tasks connected with a service of general economic interest, provided that the territorial restriction imposed is necessary and proportionate to the performance of those tasks under economically viable conditions. It is for the national court to carry out that assessment.

([1]) OJ C 303, 8.9.2014.

Judgment of the Court (Fourth Chamber) of 23 December 2015 (request for a preliminary ruling from the Bundesgerichtshof — Germany) — Rüdiger Hobohm v Benedikt Kampik Ltd & Co. KG, Benedikt Aloysius Kampik, Mar Mediterraneo Werbe- und Vertriebsgesellschaft für Immobilien SL

(Case C-297/14) ([1])

(Reference for a preliminary ruling — Judicial cooperation in civil and commercial matters — Regulation (EC) No 44/2001 — Jurisdiction in respect of consumer contracts — Articles 15(1)(c) and 16(1) — Meaning of a commercial or professional activity 'directed to' the Member State of the consumer's domicile — Transaction-management contract designed to achieve the economic objective pursued by means of a brokerage contract concluded beforehand in the course of a commercial or professional activity 'directed to' the Member State of the consumer's domicile — Close link)

(2016/C 068/11)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Rüdiger Hobohm

Defendants: Benedikt Kampik Ltd & Co. KG, Benedikt Aloysius Kampik, Mar Mediterraneo Werbe- und Vertriebsgesellschaft für Immobilien SL

Operative part of the judgment

Article 15(1)(c) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, read in conjunction with Article 16(1) of that regulation, must, in so far as it relates to the contract concluded in the context of a commercial or professional activity 'directed' by the professional 'to' the Member State of the consumer's domicile, be interpreted as meaning that it may be applied to a contract concluded between a consumer and a professional which on its own does not come within the scope of the commercial or professional activity 'directed' by that professional 'to' the Member State of the consumer's domicile, but which is closely linked to a contract concluded beforehand by those same parties in the context of such an activity. It is for the national court to determine whether the constituent elements of that link are present, in particular whether the parties to both of those contracts are identical in law or in fact, whether the economic objective of those contracts concerning the same specific subject-matter is identical and whether the second contract complements the first contract in that it seeks to make it possible for the economic objective of that first contract to be achieved.

([1]) OJ C 303, 8.9.2014.

Judgment of the Court (Fourth Chamber) of 17 December 2015 (request for a preliminary ruling from the Hof van beroep te Antwerpen — Belgium) — Imtech Marine Belgium NV v Radio Hellenic SA

(Case C-300/14) ([1])

(Reference for a preliminary ruling — Judicial cooperation in civil matters — Regulation (EC) No 805/2004 — European Enforcement Order for uncontested claims — Conditions for certification — Rights of the debtor — Review of the judgment)

(2016/C 068/12)

Language of the case: Dutch

Referring court

Hof van beroep te Antwerpen

Parties to the main proceedings

Applicant: Imtech Marine Belgium NV

Defendant: Radio Hellenic SA

Operative part of the judgment

1. *Article 19 of 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, read in the light of Article 288 TFEU, must be interpreted as not requiring Member States to establish in their national law a review procedure such as that referred to in Article 19 of that regulation.*

2. *Article 19(1) of Regulation No 805/2004 must be interpreted as meaning that, in order to certify a judgment delivered in absentia as a European Enforcement Order, the court ruling on such an application must satisfy itself that its national law effectively and without exception allows for a full review, in law and in fact, of such a judgment in the two situations referred to in that provision and that it allows the periods for challenging a judgment on an uncontested claim to be extended, not only in the event of force majeure, but also where other extraordinary circumstances beyond the debtor's control prevented him from contesting the claim in question.*

3. *Article 6 of Regulation No 805/2004 must be interpreted as meaning that the certification of a judgment as a European Enforcement Order, which may be applied for at any time, can be carried out only by a judge.*

([1]) OJ C 303, 8.9.2014.

Judgment of the Court (Fourth Chamber) of 17 December 2015 (request for a preliminary ruling from the Gyulai Közigazgatási és Munkaügyi Bíróság — Hungary) — Gergely Szemerey v Miniszterelnökséget vezető miniszter, successor in law to Mezőgazdasági és Vidékfejlesztési Hivatal Központi Szerve

(Case C-330/14) ([1])

(Reference for a preliminary ruling — Common agricultural policy — Rural development support measures — Agri-environmental payments — Regulation (EC) No 1122/2009 — Articles 23 and 58 — Regulation (EC) No 1698/2005 — Regulation (EC) No 1975/2006 — Aid in respect of the cultivation of a rare plant species — Application for payment — Contents — Certificate requirement — Penalties for non-presentation)

(2016/C 068/13)

Language of the case: Hungarian

Referring court

Gyulai Közigazgatási és Munkaügyi Bíróság

Parties to the main proceedings

Applicant: Gergely Szemerey

Defendant: Miniszterelnökséget vezető miniszter, successor in law to Mezőgazdasági és Vidékfejlesztési Hivatal Központi Szerve

Operative part of the judgment

1. *Article 23 of 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 by 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, read in conjunction with Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), as amended by Council Regulation (EC) No 473/2009 of 25 May 2009 and Commission Regulation (EC) No 1975/2006 of 7 December 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures, as amended by Commission Regulation (EC) No 484/2009 of 9 June 2009, must be interpreted as not precluding national legislation such as that at issue in the main proceedings from requiring that the applicant for agri-environmental aid supply to the paying authority, at the same time as its aid application, a certificate in relation to the rare plant species which gives the applicant the right to payment of that aid, on the condition that that legislation permits the operators concerned to comply under reasonable conditions with the requirements of that legislation, a matter which it is for the referring court to determine.*

2. *Article 58, third paragraph, of Regulation No 1122/2009 must be interpreted as meaning that the penalty imposed in that provision does not apply to an applicant for agri-environmental aid who does not attach a document to his aid application, such as the certificate at issue in the main proceedings, which entitles him to payment of that aid. Article 23(1), third paragraph, of that regulation must be interpreted as meaning that such an omission leads, in principle, to the inadmissibility of the application for payment of agri-environmental aid.*

([1]) OJ C 303, 8.9.2014.

Judgment of the Court (Second Chamber) of 23 December 2015 (request for a preliminary ruling from the Court of Session (Scotland) — United Kingdom) — Scotch Whisky Association and Others v Lord Advocate, Advocate General for Scotland

(Case C-333/14) ([1])

(Reference for a preliminary ruling — Common organisation of the markets in agricultural products — Regulation (EU) No 1308/2013 — Free movement of goods — Article 34 TFEU — Quantitative restrictions — Measures having equivalent effect — Minimum price of alcoholic drinks calculated according to the alcoholic strength of the product — Justification — Article 36 TFEU — Protection of human life and health — Assessment by the national court)

(2016/C 068/14)

Language of the case: English

Referring court

Court of Session (Scotland)

Parties to the main proceedings

Applicants: Scotch Whisky Association, spiritsEUROPE, Comité de la Communauté économique européenne des Industries et du Commerce des Vins, Vins aromatisés, Vins mousseux, Vins de liqueur et autres Produits de la Vigne (CEEV)

Defendants: The Lord Advocate, Advocate General for Scotland

Operative part of the judgment

1. *Regulation (EU) No 1308/2013 of the European Parliament and the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 must be interpreted as not precluding a national measure, such as that at issue in the main proceedings, which imposes a minimum price per unit of alcohol for the retail selling of wines, provided that that measure is in fact an appropriate means of securing the objective of the protection of human life and health and that, taking into consideration the objectives of the common agricultural policy and the proper functioning of the common organisation of agricultural markets, it does not go beyond what is necessary to attain that objective of the protection of human life and health.*

2. *Articles 34 TFEU and 36 TFEU must be interpreted as precluding a Member State choosing, in order to pursue the objective of the protection of human life and health by means of increasing the price of the consumption of alcohol, the option of legislation, such as that at issue in the main proceedings, which imposes a minimum price per unit of alcohol for the retail selling of alcoholic drinks and rejecting a measure, such as increased excise duties, that may be less restrictive of trade and competition within the European Union. It is for the referring court to determine whether that is indeed the case having regard to a detailed analysis of all the relevant factors in the case before it. The fact that the latter measure may procure additional benefits and be a broader response to the objective of combating alcohol misuse cannot in itself justify the rejection of that measure.*

3. *Article 36 TFEU must be interpreted as meaning that, where a national court examines national legislation in the light of the justification relating to the protection of the health and life of humans, under that article, it is bound to examine objectively whether it may reasonably be concluded from the evidence submitted by the Member State concerned that the means chosen are appropriate for the attainment of the objectives pursued and whether it is possible to attain those objectives by measures that are less restrictive of the free movement of goods and of the common organisation of agricultural markets.*

4. *Article 36 TFEU must be interpreted as meaning that the review of proportionality of a national measure, such as that at issue in the main proceedings, is not to be confined to examining only information, evidence or other material available to the national legislature when it adopted that measure. In circumstances such as those of the main proceedings, the compatibility of that measure with EU law must be reviewed on the basis of the information, evidence or other material available to the national court on the date on which it gives its ruling, under the conditions laid down by its national law.*

([1]) OJ C 339, 29.9.2014.

Judgment of the Court (Fourth Chamber) of 17 December 2015 (request for a preliminary ruling from the Bundesfinanzhof — Germany) — X-Steuerberatungsgesellschaft v Finanzamt Hannover-Nord

(Case C-342/14) ([1])

(Reference for a preliminary ruling — Recognition of professional qualifications — Directive 2005/36/EC — Article 5 — Freedom to provide services — Directive 2006/123/EC — Articles 16 and 17(6) — Article 56 TFEU — Tax consultancy company established in a Member State and providing services in another Member State — Legislation of a Member State requiring the registration and recognition of tax consultancy companies)

(2016/C 068/15)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: X-Steuerberatungsgesellschaft

Defendant: Finanzamt Hannover-Nord

Operative part of the judgment

On a proper construction of Article 56 TFEU, legislation of a Member State which defines the conditions of access to the activity of professional assistance in tax matters may not restrict the freedom to provide services of a tax consultancy company — formed in accordance with the law of another Member State in which that company is established, which draws up, in the latter Member State where tax consultancy work is not regulated, a tax return on behalf of a recipient of services in the first Member State and sends that tax return to the tax authority of the first Member State —, without the qualification obtained by that company, or by the natural persons providing services of professional assistance in tax matters for that company, in other Member States being accorded its proper value and being duly taken into account.

(1) OJ C 372, 20.10.2014.

Judgment of the Court (Fourth Chamber) of 17 December 2015 (request for a preliminary ruling from the Finanzgericht Hamburg — Germany) — APEX GmbH Internationale Spedition v Hauptzollamt Hamburg-Stadt

(Case C-371/14) (1)

(Reference for a preliminary ruling — Commercial policy — Dumping — Gas-fuelled, non-refillable pocket flint lighters — Regulation (EC) No 1225/2009 — Article 11(2) — Expiry — Article 13 — Circumvention — Implementing Regulation (EU) No 260/2013 — Validity — Extension of an anti-dumping duty at a date on which the regulation which imposed it is no longer in force — Change in the pattern of trade)

(2016/C 068/16)

Language of the case: German

Referring court

Finanzgericht Hamburg

Parties to the main proceedings

Applicant: APEX GmbH Internationale Spedition

Defendant: Hauptzollamt Hamburg-Stadt

Operative part of the judgment

Council Implementing Regulation (EU) No 260/2013 of 18 March 2013 extending the definitive anti-dumping duty imposed by Regulation (EC) No 1458/2007 on imports of gas-fuelled, non-refillable pocket flint lighters originating in the People's Republic of China to imports of gas-fuelled, non-refillable pocket flint lighters consigned from the Socialist Republic of Vietnam, whether declared as originating in the Socialist Republic of Vietnam or not, is invalid.

(1) OJ C 372, 20.10.2014.

Judgment of the Court (Third Chamber) of 17 December 2015 (request for a preliminary ruling from the Finanzgericht Köln — Germany) — Timac Agro Deutschland GmbH v Finanzamt Sankt Augustin

(Case C-388/14) ([1])

(Reference for a preliminary ruling — Tax legislation — Corporation tax — Freedom of establishment — Non-resident permanent establishment — Avoidance of double taxation by exemption of the income of the non-resident permanent establishment — Taking account of losses incurred by that permanent establishment — Reincorporation of the losses deducted previously in the event that the non-resident establishment is transferred — Definitive losses)

(2016/C 068/17)

Language of the case: German

Referring court

Finanzgericht Köln

Parties to the main proceedings

Applicant: Timac Agro Deutschland GmbH

Defendant: Finanzamt Sankt Augustin

Operative part of the judgment

1. *Article 49 TFEU must be interpreted as not precluding a Member State's tax regime, such as that at issue in the main proceedings, under which, in the event of transfer by a resident company to a non-resident company within the same group of a permanent establishment situated in another Member State, the losses previously deducted in respect of the establishment transferred are reincorporated into the taxable profit of the transferring company where, under a double taxation convention, the income of such a permanent establishment is exempt from tax in the Member State in which the company to which that establishment belonged has its seat.*

2. *Article 49 TFEU is to be interpreted as not precluding a Member State's tax regime, such as that at issue in the main proceedings, which, in the event of transfer by a resident company to a non-resident company within the same group of a permanent establishment situated in another Member State, excludes the possibility, for the resident company, of taking into account in its tax base the losses of the establishment transferred where, under a double taxation convention, the exclusive power to tax the profits of that establishment lies with the Member State in which the establishment is situated.*

([1]) OJ C 372, 20.10.2014.

Judgment of the Court (Third Chamber) of 17 December 2015 (request for a preliminary ruling from the Dioikitiko Efeteio Athinon — Greece) — Viamar — Elliniki Aftokiniton kai Genikon Epicheiriseon AE v Elliniko Dimosio

(Case C-402/14) ([1])

(References for a preliminary ruling — Free movement of goods — Tax provisions — Internal taxation — Customs duties of a fiscal nature — Charges having equivalent effect — Formalities connected with the crossing of frontiers — Article 30 TFEU — Article 110 TFEU — Directive 92/12/EEC — Article 3(3) — Directive 2008/118/EC — Article 1(3) — Not implemented in domestic law — Direct effect — Levying of a tax on motor vehicles at the time of their import into the territory of a Member State — Tax linked to registration and potential putting into circulation of the vehicle — Refusal to refund the tax where the vehicle is not registered)

(2016/C 068/18)

Language of the case: Greek

Referring court

Dioikitiko Efeteio Athinon

Parties to the main proceedings

Applicant: Viamar — Elliniki Aftokiniton kai Genikon Epicheiriseon AE

Defendant: Elliniko Dimosio

Operative part of the judgment

1. *Article 1(3) of Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC must be interpreted as fulfilling the conditions for producing direct effect allowing individuals to rely on it before a national court in a dispute between them and a Member State.*

2. *Article 30 TFEU must be interpreted as precluding a practice by a Member State, such as that at issue in the main proceedings, by which the registration tax collected upon import of motor vehicles originating from other Member States is not refunded when the vehicles concerned were never registered in that Member State and were re-exported to another Member State.*

([1]) OJ C 380, 27.10.2014.

Judgment of the Court (Fourth Chamber) of 17 December 2015 (request for a preliminary ruling from the Juzgado de lo Social No 1 de Córdoba — Spain) — María Auxiliadora Arjona Camacho v Securitas Seguridad España SA

(Case C-407/14) ([1])

(Reference for a preliminary ruling — Social policy — Directive 2006/54/EC — Equal treatment of men and women in matters of employment and occupation — Discriminatory dismissal — Article 18 — Compensation or reparation for the loss and damage actually sustained — Deterrent effect — Article 25 — Penalties — Punitive damages)

(2016/C 068/19)

Language of the case: Spanish

Referring court

Juzgado de lo Social No 1 de Córdoba

Parties to the main proceedings

Applicant: María Auxiliadora Arjona Camacho

Defendant: Securitas Seguridad España SA

Operative part of the judgment

Article 18 of Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation must be interpreted as meaning that, in order for the loss and damage sustained as a result of discrimination on grounds of sex to be the subject of genuine and effective compensation or reparation in a way which is dissuasive and proportionate, that article requires Member States which choose the financial form of compensation to introduce in their national legal systems, in accordance with detailed arrangements which they determine, measures providing for payment to the person injured of compensation which covers in full the loss and damage sustained.

([1]) OJ C 409, 17.11.2014.

Judgment of the Court (Third Chamber) of 17 December 2015 (request for a preliminary ruling from the Fővárosi Közigazgatási és Munkaügyi bíróság — Hungary) — WebMindLicenses Kft v Nemzeti Adó- és Vámhivatal Kiemelt Adó- és Vám Főigazgatóság

(Case C-419/14) ([1])

(Reference for a preliminary ruling — Value added tax — Directive 2006/112/EC — Articles 2, 24, 43, 250 and 273 — Place of supply of electronically supplied services — Artificial fixing of that place by means of an arrangement not reflecting economic reality — Abuse of rights — Regulation (EU) No 904/2010 — Charter of Fundamental Rights of the European Union — Articles 7, 8, 41, 47, 48, 51(1) and 52 (1) and (3) — Rights of the defence — Right to be heard — Use by the tax authorities of evidence obtained without the taxable person's knowledge in the context of a parallel criminal procedure that has not been concluded — Interception of telecommunications and seizure of emails)

(2016/C 068/20)

Language of the case: Hungarian

Referring court

Fővárosi Közigazgatási és Munkaügyi bíróság

Parties to the main proceedings

Applicant: WebMindLicenses Kft

Defendant: Nemzeti Adó- és Vámhivatal Kiemelt Adó- és Vám Főigazgatóság

Operative part of the judgment

1. *EU law must be interpreted as meaning that, in order to determine whether, in circumstances such as those of the main proceedings, a licensing agreement concerning the making available of know-how enabling operation of a website by which interactive audiovisual services were supplied, concluded with a company established in a Member State other than that in which the company granting the licence is established, arose from an abuse of rights designed to benefit from the fact that the rate of value added tax applicable to those services was lower in that other Member State, the fact that the manager and sole shareholder of the latter company was the creator of that know-how, that that same person exercised influence or control over the development and exploitation of that know-how and over the supply of the services which were based on it and that management of the financial transactions, staff and technical instruments necessary for the supply of those services was carried out by subcontractors, and the reasons which may have led the company granting the licence to make the know-how at issue available to a company established in that other Member State instead of exploiting it itself, do not appear decisive in themselves.*

It is incumbent upon the referring court to analyse all the circumstances of the main proceedings in order to determine whether that agreement constituted a wholly artificial arrangement concealing the fact that the services at issue were not actually supplied by the company acquiring the licence, but were in fact supplied by the company granting it, examining in particular whether the establishment of the place of business or fixed establishment of the company acquiring the licence was not genuine, whether that company, for the purpose of engaging in the economic activity concerned, did not possess an appropriate structure in terms of premises and human and technical resources and whether it did not engage in that economic activity in its own name and on its own behalf, under its own responsibility and at its own risk.

2. *EU law must be interpreted as meaning that, if an abusive practice is found which has resulted in the place of supply of services being fixed in a Member State other than the Member State where it would have been fixed in the absence of that abusive practice, the fact that value added tax has been paid in that other Member State in accordance with its legislation does not preclude an adjustment of that tax in the Member State in which the place where those services have actually been supplied is located.*

3. *Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax must be interpreted as meaning that the tax authorities of a Member State which are examining whether value added tax is chargeable in respect of supplies of services that have already been subject to that tax in other Member States are required to send a request for information to the tax authorities of those other Member States when such a request is useful, or even essential, for determining that value added tax is chargeable in the first Member State.*

4. *EU law must be interpreted as not precluding, for the purposes of the application of Article 4(3) TEU, Article 325 TFEU and Articles 2, 250(1) and 273 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, the tax authorities from being able, in order to establish the existence of an abusive practice concerning value added tax, to use evidence obtained without the taxable person's knowledge in the context of a parallel criminal procedure that has not yet been concluded, by means, for example, of the interception of telecommunications and seizure of emails, provided that the obtaining of that evidence in the context of the criminal procedure and its use in the context of the administrative procedure do not infringe the rights guaranteed by EU law.*

5. *In circumstances such as those of the main proceedings, by virtue of Articles 7, 47 and 52(1) of the Charter of Fundamental Rights of the European Union it is incumbent upon the national court which reviews the legality of the decision founded on such evidence adjusting value added tax to verify, first, whether the interception of telecommunications and seizure of emails were means of investigation provided for by law and were necessary in the context of the criminal procedure and, secondly, whether the use by the tax authorities of the evidence obtained by those means was also authorised by law and necessary. It is incumbent upon that court, furthermore, to verify whether, in accordance with the general principle of observance of the rights of the defence, the taxable person had the opportunity, in the context of the administrative procedure, of gaining access to that evidence and of being heard concerning it. If the national court finds that the taxable person did not have that opportunity or that that evidence was obtained in the context of the criminal procedure, or used in the context of the administrative procedure, in breach of Article 7 of the Charter of Fundamental Rights of the European Union, it must disregard that evidence and annul that decision if, as a result, the latter has no basis. That evidence must also be disregarded if the national court is not empowered to check that it was obtained in the context of the criminal procedure in accordance with EU law or cannot at least satisfy itself, on the basis of a review already carried out by a criminal court in an inter partes procedure, that it was obtained in accordance with EU law.*

([1]) OJ C 439, 8.12.2014.

Judgment of the Court (Third Chamber) of 23 December 2015 — European Parliament v Council of the European Union

(Case C-595/14) ([1])

(Actions for annulment — Replacement of the contested decision in the course of the proceedings — Purpose of the action — Police and judicial cooperation in criminal matters — New psychoactive substance subjected to control measures — Legal framework applicable after the entry into force of the Treaty of Lisbon — Transitional provisions — Consultation of the European Parliament)

(2016/C 068/21)

Language of the case: French

Parties

Applicant: European Parliament (represented by: F. Drexler, A. Caiola and M. Pencheva, acting as Agents)

Defendant: Council of the European Union (represented by: K. Pleśniak and K. Michoel, acting as Agents)

Operative part of the judgment

The Court:

1. *Annuls Council Implementing Decision 2014/688/EU of 25 September 2014 on subjecting 4-iodo-2,5-dimethoxy-N-(2-methoxybenzyl)phenethylamine (25I-NBOMe), 3,4-dichloro-N-[[1-(dimethylamino)cyclohexyl]methyl]benzamide (AH-7921), 3,4-methylenedioxypyrovalerone (MDPV) and 2-(3-methoxyphenyl)-2-(ethylamino)cyclohexanone (methoxetamine) to control measures;*

2. *Orders that the effects of Implementing Decision 2014/688 be maintained in force;*

3. *Orders the Council of the European Union to pay the costs.*

([1]) OJ C 138, 27.4.2015.

Judgment of the Court (Seventh Chamber) of 17 December 2015 (request for a preliminary ruling from the Korkein oikeus — Finland) — Virpi Komu, Hanna Ruotsalainen, Ritva Komu v Pekka Komu, Jelena Komu

(Case C-605/14) ([1])

(Reference for a preliminary ruling — Regulation (EC) No 44/2001 — Scope — Exclusive jurisdiction — Article 22(1) — Proceedings concerning rights in rem in immovable property — Concept — Action to terminate, by way of sale, the co-ownership in undivided shares of immovable property)

(2016/C 068/22)

Language of the case: Finnish

Referring court

Korkein oikeus

Parties to the main proceedings

Applicants: Virpi Komu, Hanna Ruotsalainen, Ritva Komu

Defendants: Pekka Komu, Jelena Komu

Operative part of the judgment

The first paragraph of Article 22(1) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that an action for the termination of co-ownership in undivided shares of immovable property by way of sale, by an appointed agent, falls within the category of proceedings 'which have as their object rights in rem in immovable property' within the meaning of that provision.

(1) OJ C 81, 9.3.2015.

Judgment of the Court (Sixth Chamber) of 23 December 2015 (request for a preliminary ruling from the Bayerischer Verwaltungsgerichtshof — Germany) — Firma Theodor Pfister v Landkreis Main-Spessart

(Case C-58/15) (1)

(Reference for a preliminary ruling — Agriculture — Health inspections — Official feed and food controls — Financing of controls — Inspection costs relating to slaughter — Regulation (EC) No 882/2004 — Directive 85/73/EEC — Possibility of levying fees covering the actual cost of inspection, exceeding the fees set by that directive)

(2016/C 068/23)

Language of the case: German

Referring court

Bayerischer Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Firma Theodor Pfister

Defendant: Landkreis Main-Spessart

Operative part of the judgment

The second sentence of the first subparagraph of Article 27(3) of Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules, as amended by Council Regulation (EC) No 1791/2006 of 20 November 2006, must be interpreted as authorising, for the transitional period of 2007, the levying of fees for the costs occasioned by inspections and controls relating to meat hygiene so as to cover the costs incurred by the competent authority, in accordance with Council Directive 85/73/EEC of 29 January 1985 on the financing of veterinary inspections and controls covered by Directives 89/662/EEC, 90/425/EEC, 90/675/EEC and 91/496/EEC, as amended by Council Directive 97/79/EC of 18 December 1997.

(1) OJ C 171, 26.5.2015.

Order of the Court (Sixth Chamber) of 17 December 2015 (request for a preliminary ruling from the Verwaltungsgericht Berlin — Germany) — Sandra Bitter, acting as insolvency administrator of Ziegelwerk Höxter GmbH v Bundesrepublik Deutschland

(Case C-580/14) (1)

(Reference for a preliminary ruling — Directive 2003/87/EC — Scheme for greenhouse gas emission allowances trading — Excess emissions penalty — Proportionality)

(2016/C 068/24)

Language of the case: German

Referring court

Verwaltungsgericht Berlin

Parties to the main proceedings

Applicant: Sandra Bitter, acting as insolvency administrator of Ziegelwerk Höxter GmbH

Defendant: Bundesrepublik Deutschland

Operative part of the order

Examination of the question referred has revealed nothing capable of affecting, in the light of the principle of proportionality, the validity of the second sentence of Article 16(3) of 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, as amended by Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009, in that it provides for a penalty of EUR 100 for each tonne of carbon dioxide equivalent emitted for which the operator has not surrendered allowances.

([1]) OJ C 96, 23.3.2015.

Appeal brought on 12 May 2015 by Edward Guja against the order of the General Court (Second Chamber) made on 14 April 2015 in Case T-823/14 Guja v Poland

(Case C-352/15 P)

(2016/C 068/25)

Language of the case: Polish

Parties

Appellant: Edward Guja (represented by: M. Szczepara, adwokat)

Other party to the proceedings: Republic of Poland

By order of the Court of Justice (Third Chamber) of 17 December 2015 the appeal was dismissed.

Action brought on 10 July 2015 — European Commission v Republic of Slovenia

(Case C-357/15)

(2016/C 068/26)

Language of the case: Slovene

Parties

Applicant: European Commission (represented by: E. Sanfrutos Cano, M. Heller, D. Kukovec, acting as Agents)

Defendant: Republic of Slovenia

Form of order sought

By order of 29 October 2015, the President of the Court decided:

— Case C–357/15 is removed from the Register of the Court.

— The Republic of Slovenia is ordered to pay the costs.

Request for a preliminary ruling from the Curtea de Apel Craiova (Romania) lodged on 20 November 2015 — Rodica Popescu v Direcția Sanitar Veterinară și pentru Siguranța Alimentelor Gorj

(Case C-614/15)

(2016/C 068/27)

Language of the case: Romanian

Referring court

Curtea de Apel Craiova

Parties to the main proceedings

Appellant: Rodica Popescu

Respondent: Direcția Sanitar Veterinară și pentru Siguranța Alimentelor Gorj

Questions referred

1. Is the fact that the activity of the staff specifically responsible for inspections in the veterinary health sector is intrinsically linked to the continuation of the activity of the type of establishments mentioned in paragraph [5] [of the order for reference] sufficient grounds for the repeated conclusion of fixed-term contracts, by way of derogation from the general rule adopted in order to transpose Directive 70/1999? ([1])

2. Does the retaining in national legislation of special provisions permitting the repeated conclusion, for a period such as that described [in the order for reference], of fixed-term employment contracts in the veterinary health inspection sector constitute a failure to fulfil an obligation of the State when transposing Directive 70/1999?

([1]) Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP (OJ 1999 L 175, p. 43).

Request for a preliminary ruling from the Juzgado Contencioso-Administrativo de Oviedo (Spain) lodged on 27 November 2015 — Carlos Álvarez Santirso v Consejería de Educación, Cultura y Deporte del Principado de Asturias

(Case C-631/15)

(2016/C 068/28)

Language of the case: Spanish

Referring court

Juzgado Contencioso-Administrativo de Oviedo

Parties to the main proceedings

Applicant: Carlos Álvarez Santirso

Defendant: Consejería de Educación, Cultura y Deporte del Principado de Asturias

Question referred

Must Clause 4 of the Framework Agreement to which Council Directive 1999/70/EC ([1]) of 28 June 1999 on fixed-term work refers be interpreted as precluding regional legislation such as the Law of the Principality of Asturias 6/2009 of 29 December 2009 on public teaching evaluation and incentives which, under Article 2, makes eligibility for inclusion in the evaluation plan (with the resulting entitlement to the associated economic incentives) dependent on having the status of a career civil servant, thereby excluding interim civil servants?

([1]) Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP (OJ 1999 L 175, p. 43).

Request for a preliminary ruling from the Înalta Curte de Casație și Justiție (Romania) lodged on 30 November 2015 — Costin Popescu v Guvernul României, Ministerul Afacerilor Interne, Direcția Regim Permise de Conducere și Înmatriculare a Vehiculelor, Direcția Rutieră, Serviciul Public Comunitar Regim Permise de Conducere si Inmatriculare a Vehiculelor

(Case C-632/15)

(2016/C 068/29)

Language of the case: Romanian

Referring court

Înalta Curte de Casație și Justiție

Parties to the main proceedings

Applicant: Costin Popescu

Defendants: Guvernul României, Ministerul Afacerilor Interne, Direcția Regim Permise de Conducere și Înmatriculare a Vehiculelor, Direcția Rutieră, Serviciul Public Comunitar Regim Permise de Conducere si Inmatriculare a Vehiculelor

Question referred

In the case of riders of mopeds in possession of an official document which gave them the right to ride on the public highway before 19 January 2013, do the provisions of Directive 2006/126/EC of the European Parliament and of the Council ([1]) permit the Romanian State to impose a requirement, for the purpose of being able to continue to ride a moped after that date, to obtain a driving licence by undergoing tests/examinations similar to those required for other motor vehicles?

([1]) Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences (Recast) (OJ 2006 L 403, p. 18).

Appeal brought on 2 December 2015 by Toni Klement against the judgment of the General Court (Third Chamber) of 24 September 2015 in Case T-211/14 Toni Klement v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-642/15 P)

(2016/C 068/30)

Language of the case: German

Parties

Appellant: Toni Klement (represented by: J. Weiser, Rechtsanwalt)

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

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal of the General Court of 24 September 2015 in Case T-211/14;

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

Grounds of appeal and main arguments

The appellant relies on three grounds of appeal:

1. It is not disputed that the trade mark at issue was used exclusively with the additional word element 'Bullerjan'. The appellant claims that, in determining the distinctive character of the added element 'Bullerjan', the evidence was distorted. The General Court deemed the character of the added element to be (only) normally distinctive. There is no basis in the evidence presented for a finding of (only) normally distinctive character, since the evidence contains no detail on the extent, duration and intensity of the element 'Bullerjan', which itself is registered as a trade mark.

2. In the second ground of appeal, the appellant claims that the General Court contradicted itself in its reasoning for finding that the trade mark at issue was highly distinctive. On the one hand, the General Court stated that the trade mark at issue has an 'unusual form' yet, on the other hand, confirmed that other manufacturers sell ovens of a very similar form. There is a further contradiction in the General Court's finding, on the one hand, that the highly distinctive character of the trade mark at issue is independent of its possible functionality whereas, on the other hand, the highly distinctive character is not called into question by the very similar form of other ovens, since this such similarity could be attributed to the pursuit of a particular technical result. The reasoning of the General Court is therefore contradictory from two points of view and is thus vitiated by errors of law.

3. In the third ground of appeal, the appellant claims that Article 15(1)(a) of Regulation No 207/2009 ([1]) was, in several respects, incorrectly interpreted and applied. First, in the context of the examination of the distinctiveness of the trade mark required under Article 15(1)(a) of Regulation No 207/2009, the General Court did not follow Court of Justice's case-law on determining the distinctiveness of three-dimensional product trade marks. The General Court did not in that regard compare the trade mark at issue with the oven forms commonly used in the sector, as required by the Court of Justice's case-law. Second, the General Court assumed that the possible functionality of the form of the trade mark at issue was irrelevant for determining its distinctiveness. The General Court thereby infringed the recognised principle that account must be taken of all the relevant circumstances of the case at issue in determining the distinctiveness of a trade mark. Third, the General Court did not follow the Court of Justice's case-law on use so as to preserve the rights of a trade mark proprietor in connection with a registered trade mark used as part of a composite trade mark. The General Court considered it sufficient in that regard that a trade mark used as part of a composite trade mark is still recognised as a reference of origin to the former trade mark. The General Court failed to have regard to the obligation laid down clearly in Article 15(1)(a) of Regulation No 207/2009 and the Court of Justice's case-law always to assess whether the distinctiveness of the registered trade mark has been influenced. The General Court failed to conduct that assessment.

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

Request for a preliminary ruling from the Vestre Landsret (Denmark) lodged on 14 December 2015 — Jyske Finans A/S v Ligebehandlingsnævnet, acting on behalf of Ismar Huskic

(Case C-668/15)

(2016/C 068/31)

Language of the case: Danish

Referring court

Vestre Landsret

Parties to the main proceedings

Applicant: Jyske Finans A/S

Defendant: Ligebehandlingsnævnet, acting on behalf of Ismar Huskic

Questions referred

1. Must the prohibition on direct discrimination on grounds of ethnic origin in Article 2(2)(a) of Council Directive 2000/43/EC ([1]) of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin be interpreted as precluding a practice such as the one in the present case, by which persons in an equivalent situation who are born outside the Nordic countries, a Member State, Switzerland and Liechtenstein are treated less favourably than persons born in the Nordic countries, a Member State, Switzerland and Liechtenstein?

2. If the first question is answered in the negative: does such a practice thus give rise to indirect discrimination on grounds of ethnic origin within the meaning of Article 2(2)(b) of Council Directive 2000/43/EC — unless it is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary?

3. If the second question is answered in the affirmative, can such a practice in principle be justified as an appropriate and necessary means for safeguarding the enhanced customer due diligence measures provided for in Article 13 of Directive 2005/60/EC ([2]) of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing?

([1]) OJ 2000 L 180, p. 22.
([2]) OJ 2005 L 309, p. 15.

Action brought on 17 December 2015 — European Commission v Council of the European Union

(Case C-687/15)

(2016/C 068/32)

Language of the case: English

Parties

Applicant: European Commission (represented by: F. Erlbacher, L. Nicolae, agents)

Defendant: Council of the European Union

The applicant claims that the Court should:

— annul the Council Conclusions on the World Radiocommunication Conference 2015 (WRC-15) of the International Telecommunication Union (ITU) adopted on 26 October 2015 at the 3419th meeting of the Council in Luxembourg;

— order the Council to bear the costs.

Pleas in law and main arguments

1. By way of the present application the Commission seeks the annulment of the 'Council Conclusions on the World Radiocommunication Conference 2015 (WRC-15) of the International Telecommunication Union (ITU)' adopted on 26 October 2015 at the 3419th meeting of the Council in Luxembourg.

2. The Application is founded on a single plea in law namely that in adopting the Conclusions on the World Radiocommunication Conference 2015 (WRC-15) of the International Telecommunication Union (ITU) instead of a Decision as proposed by the Commission, the Council has violated Article 218(9) TFEU which applies to the adoption of the position to be taken on behalf of the Union at the WRC-15.

3. In this regard, the Commission argues, first, that Article 218 (9) TFEU applies to positions to be adopted on the Union's behalf in a situation as the one at hand where the European Union has a status in the international organisation concerned, namely that of a Sector member which, in accordance with Article 3(2) of the ITU Constitution, provides the European Union certain rights of activities in the organisation.

4. Second, the Commission argues that the revisions of the Radio Regulations for which the Commission has proposed the adoption of a position to be taken in accordance with Article 218(9) TFEU produce legal effects in the sense of that provision both under the applicable international legal framework and under the relevant Union rules.

5. Third, as regards the other conditions for the application of Article 218(9) TFEU, the Commission argues that these are equally fulfilled in the present case as the organs of ITU are bodies 'set up by an agreement' and that the acts in relation to which the Commission has proposed the adoption of a position to be taken do not '[supplement] or [amend] the institutional framework of the agreement'.

GENERAL COURT

Judgment of the General Court of 10 December 2015 — Front Polisario v Council

(Case T-512/12) ([1])

(External relations — Agreement in the form of an Exchange of Letters between the European Union and Morocco — Reciprocal liberalisation of agricultural products, processed agricultural products, fish and fishery products — Application of the Agreement to the territory of Western Sahara — Front Polisario — Action for annulment — Capacity to bring proceedings — Direct and individual concern — Admissibility — Compliance with international law — Obligation to state reasons — Rights of the defence)

(2016/C 068/33)

Language of the case: French

Parties

Applicant: Front populaire pour la libération de la saguia-el-hamra et du rio de oro (Front Polisario) (represented initially by C.-E. Hafiz and G. Devers, and subsequently by G. Devers, lawyers)

Defendant: Council of the European Union (represented by: S. Kyriakopoulou, A. Westerhof Löfflerová and N. Rouam, acting as Agents)

Intervener in support of the defendant: European Commission (represented initially by F. Castillo de la Torre, E. Paasivirta and D. Stefanov, and subsequently by F. Castillo de la Torre and E. Paasivirta, acting as Agents)

Re:

Action for annulment of Council Decision 2012/497/EU of 8 March 2012 on the conclusion of an Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco concerning reciprocal liberalisation measures on agricultural products, processed agricultural products, fish and fishery products, the replacement of Protocols 1, 2 and 3 and their Annexes and amendments to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part (OJ 2012 L 241, p. 2).

Operative part of the judgment

The Court:

1. *Annuls Council Decision 2012/497/EU of 8 March 2012 on the conclusion of an Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco concerning reciprocal liberalisation measures on agricultural products, processed agricultural products, fish and fishery products, the replacement of Protocols 1, 2 and 3 and their Annexes and amendments to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, in so far as it approves the application of the Agreement to the territory of Western Sahara;*
2. *Orders the Council of the European Union and the European Commission to each bear their own costs and to pay those incurred by the Front populaire pour la libération de la saguia-el-hamra et du rio de oro (Front Polisario).*

([1]) OJ C 55, 23.2.2013.

Order of the General Court of 17 December 2015 — Universal Music v OHIM — Yello Strom (Yellow Lounge)

(Case T-379/14) ([1])

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

(2016/C 068/34)

Language of the case: German

Parties

Applicant: Universal Music GmbH (Berlin, Germany) (represented by: M. Viefhus, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM intervening before the General Court: Yello Strom GmbH (Cologne, Germany) (represented by: K. Gründig-Schnelle, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 20 March 2014 (Case R 274/2013-4) concerning opposition proceedings between Yello Strom GmbH and Universal Music GmbH.

Operative part of the order

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

2. *Universal Music GmbH and Yello Strom GmbH shall bear their own costs and shall each pay half of the costs incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM).*

([1]) OJ C 292, 1.9.2014.

Order of the General Court of 17 December 2015 — Murnauer Markenvertrieb v OHIM — Bach Flower Remedies (MURNAUERS Bachblüten)

(Case T-534/14) ([1])

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

(2016/C 068/35)

Language of the case: German

Parties

Applicant: Murnauer Markenvertrieb GmbH (Egelsbach, Germany) (represented by: F. Traub and D. Horst, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM intervening before the General Court: Bach Flower Remedies Ltd (Wimbledon, United Kingdom) (represented by: A. Renck and M. Petersen, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 5 May 2014 (Case R 2041/2012-2) concerning opposition proceedings between Murnauer Markenvertrieb GmbH and Bach Flower Remedies Ltd.

Operative part of the order

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

2. *Murnauer Markenvertrieb GmbH and Bach Flower Remedies Ltd shall bear their own costs and shall each pay half of the costs incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM).*

([1]) OJ C 351, 6.10.2014.

Order of the General Court of 18 December 2015 — CompuGroup Medical v OHIM — Schatteiner (SAM)

(Case T-850/14)

(Action for annulment — Community trade mark — Time-limit for bringing an action — Notification of the decision of the Board of Appeal to the electronic account at OHIM of the applicant's representative — Out of time — No force majeure or unforeseeable circumstances — Manifest inadmissibility)

(2016/C 068/36)

Language of the case: German

Parties

Applicant: CompuGroup Medical AG (Koblenz, Germany) (represented by: B. Dix, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM intervening before the General Court: Simon Schatteiner (Vienna, Austria) (represented by: F. Schulz and H. Pernez, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 23 July 2014 (Case R 818/2013-4) relating to opposition proceedings between Mr Simon Schatteiner and CompuGroup Medical AG.

Operative part of the order

1. *The action is dismissed.*

2. *CompuGroup Medical AG shall pay the costs.*

Order of the General Court of 17 December 2015 — Garcia Minguez v Commission

(Case T-357/15 P) ([1])

(Appeal — Civil Service — Recruitment — Commission internal competition open to the institution's temporary staff — Non-admission to a member of the temporary staff of an executive agency — Article 29 (1)(b) of the Staff Regulations — Equal treatment — Appeal manifestly devoid of any basis in law)

(2016/C 068/37)

Language of the case: French

Parties

Appellant: Maria Luisa Garcia Minguez (Brussels, Belgium) (represented by: L. Ortiz Blanco and Á. Givaja Sanz, lawyers)

Other party to the proceedings: European Commission (represented initially by: J. Currall, G. Gattinara and F. Simonetti, and subsquently by: G. Gattinara and F. Simonetti, acting as Agents)

Re:

Appeal against the order of the European Union Civil Service Tribunal (Second Chamber) of 28 April 2015 in Garcia Minguez v Commission (F-72/14, ECR-SC, EU:F:2015:40), seeking to have that order set aside.

Operative part of the order

1. *The appeal is dismissed.*

2. *Ms Maria Luisa Garcia Minguez shall pay the costs.*

([1]) OJ C 279, 24.8.2015

Action brought on 11 November 2015 — Frame v OHIM – Bianca-Moden (BIANCALUNA)

(Case T-627/15)

(2016/C 068/38)

Language in which the application was lodged: English

Parties

Applicant: Frame Srl (San Giuseppe Vesuviano, Italy) (represented by: M. Borghese, R. Giordano, and E. Montelione, lawyers)

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

Other party to the proceedings before the Board of Appeal: Bianca-Moden GmbH & Co. KG (Ochtrup, Germany)

Details of the proceedings before OHIM

Applicant for the trade mark at issue: Applicant

Trade mark at issue: Community word mark 'BIANCALUNA' — Application for registration No 11 251 808

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 7 August 2015 in Case R 2952/2014-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision; and/or

— remit the case to OHIM so that the likelihood of confusion is properly analyzed taking into account the results of the proof of use filed by Bianca-Moden GmbH & Co. KG;

— order OHIM to pay the costs both at the first instance and on the present proceedings;

— in the alternative, reform the contested decision so that the following goods in class 25 would be registered: underwear, pyjamas, t-shirts, panties, undues.

Pleas in law

— Erroneous interpretation of Regulation No 207/2009 in selecting just one earlier right;

— Erroneous interpretation of Regulation No 207/2009 in evaluating the likelihood of confusion amongst the signs in comparison.

Action brought on 3 December 2015 — BikeWorld v Commission

(Case T-702/15)

(2016/C 068/39)

Language of the case: German

Parties

Applicant: BikeWorld GmbH (St. Ingbert, Germany) (represented by: J. Jovy, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission's decision of 1 October 2014 in so far as it concerns the applicant;

— suspend the enforcement of the decision vis-à-vis the applicant until the present action has been decided on (Article 278 TFEU).

Pleas in law and main arguments

By the present action, the applicant seeks the annulment in part of Commission Decision C(2014) 3634 final of 1 October 2014 on German State aid granted to the Nürburgring (SA.31550 (2012/C) (ex 2012/NN)).

In support of the action, the applicant relies, in essence, on the following:

1. The applicant is no longer identical to the party to the proceedings in which the decision was adopted. No proceedings could therefore be brought against it.

2. The applicant was not a party to the proceedings that led to the adoption of the contested decision. Its right to a fair hearing was therefore not respected.

3. The applicant's current shareholders are not remotely connected to the original shareholders/owners at the time that the loans were granted.

4. The objective 'to prevent particular competitive advantages' sought by the recovery cannot be attained by the decision, for the applicant has not been in competition with anyone and that has been the case since the last loan was granted.

5. The applicant has already agreed to its liquidation and winding-up, should that prove necessary, in order to avoid imminent insolvency, which would not be avoidable, if it had to make any payment on the basis of the recovery of State aid.

Action brought on 28 November 2015 — Micula e.a. v Commission

(Case T-704/15)

(2016/C 068/40)

Language of the case: English

Parties

Applicants: Viorel Micula (Oradea, Romania), European Drinks SA (Ștei, Romania), Rieni Drinks SA (Rieni, Romania), Transilvania General Import-Export SRL (Oradea), West Leasing International SRL (Pantasesti, Romania) (represented by: J. Derenne, A. Dashwood, D. Vallindas, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission Decision (EU) 2015/1470 of 30 March 2015 on State aid SA.38517 (2014/C) (ex 2014/NN) implemented by Romania [Arbitral award Micula v Romania of 11 December 2013 (notified under document C(2015) 2112)] (OJ 2015 L 232, p. 43);

— alternatively, annul the contested decision insofar as

i. it identifies Viorel Micula as an 'undertaking', and therefore part of the alleged single economic unit constituting the beneficiary of the aid,

ii. identifies the beneficiary of the aid as a single economic unit comprising Viorel Micula, Ioan Micula, S.C. European Food SA, S.C. Starmill S.R.L., S.C. Multipack, European Drinks SA, Rieni Drinks SA, Scandic Distilleries SA, Transilvania General Import-Export SRL, and

iii. orders, at Article 2(2), that Viorel Micula, Ioan Micula, S.C. European Food SA, S.C. Starmill S.R.L., S.C. Multipack, European Drinks SA, Rieni Drinks SA, Scandic Distilleries SA, Transilvania General Import-Export SRL, and West Leasing SRL shall be jointly liable to repay the State aid received by any one of them;

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

Pleas in law and main arguments

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

1. First plea in law, alleging a lack of competence and misuse of powers. By its mischaracterisation of the execution of the ICSID arbitral award (the 'Award') as the granting of State aid within the meaning of Article 107(1) TFEU, the Commission is effectively asserting powers, which it enjoys in relation to State aid granted by Romania following that country's accession to the EU, retrospectively to the pre-accession period. The Commission manifestly lacks competence to use its State aid powers in this way. The adoption of a decision having such purpose and effect further entails the misuse of those powers.

2. Second plea in law, alleging a violation of Article 107(1) TFEU

— First, the decision does not demonstrate the existence of an economic advantage as it identifies the execution/implementation of the Award as the incompatible aid. The present case meets the conditions of the Asteris case-law (judgment of 27 September 1988 in Asteris and Others, 106/87 to 120/87). Any advantage (quod non) pre-dates Romania's accession to the EU and is thus outside the scope of EU State aid rules. Second, the decision does not demonstrate the existence of selectivity. The Bilateral Investment Treaty Romania-Sweden ('BIT' — the legal basis of the Award) establishes a system of general liability that is equally applicable to any investor. Third, the decision does not demonstrate that the measure in question is imputable to the Romanian State. Romania has no margin of appreciation to execute the Award.

3. Third plea in law, alleging a violation of Article 351 TFEU and general principles of law. Article 351 TFEU protects the obligations incurred by Romania through the execution of the BIT with Sweden, while it was still an agreement between a Member State (Sweden) and a third country (Romania), against any possible post-accession effects of the EU State aid rules.

4. Fourth plea in law, alleging a violation of the principle of the protection of legitimate expectations. The EU authorities actively encouraged the conclusion of BITs, and consequently caused to entertain a legitimate expectation that an effort to enforce such a BIT through arbitration would not be blocked e.g. under State aid rules.

5. Fifth plea in law, alleging in the alternative, that the alleged aid should be considered as compatible aid. The national measure in question which was at the origin of the arbitration and the Award was never the subject of a definitive finding of incompatibility. In any event, it would have been compatible with EU State aid rules.

6. Sixth plea in law, alleging, in the alternative, that the decision incorrectly determines the beneficiaries of the alleged aid. The decision does not demonstrate either that Viorel and Ioan Micula form part of the alleged single economic unit, or that there is a single economic unit in this case.

7. Seventh plea in law, alleging errors in the recovery ordered by the decision. As the decision incorrectly determines the beneficiaries of the alleged aid, it orders the recovery from individuals and companies which are not beneficiaries of the alleged aid.

8. Eighth plea in law, alleging a violation of an essential procedural requirement (right to be heard). The decision opening the formal investigation procedure did not mention at any point the applicants European Drinks, Rieni Drinks, West Leasing and Transilvania General Import-Export.

Action brought on 9 December 2015 — BASF v OHIM — Evonik Industries (DINCH)

(Case T-721/15)

(2016/C 068/41)

Language in which the application was lodged: German

Parties

Applicant: BASF SE (Ludwigshafen am Rhein, Germany) (represented by: A. Schulz and C. Onken, lawyers)

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

Other party to the proceedings before the Board of Appeal: Evonik Industries AG (Marl, Germany)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: The applicant

Trade mark at issue: Community word mark 'DINCH' — Community trade mark No 2 563 856

Procedure before OHIM: Invalidity proceedings

Contested decision: Decision of the First Board of Appeal of OHIM of 23 September 2015 in Case R 2080/2014-1

Form of order sought

The applicant claims that the Court should:

— amend the contested decision to the effect that the appeal of the other party before the Board of Appeal be dismissed;

— in the alternative, annul the contested decision;

— order OHIM to pay the costs.

Pleas in law

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

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

Action brought on 4 December 2015 — Verband der Bayerischen Privaten Milchwirtschaft v Commission

(Case T-724/15)

(2016/C 068/42)

Language of the case: German

Parties

Applicant: Verband der Bayerischen Privaten Milchwirtschaft e. V. (Munich, Germany) (represented by: C. Bittner and N. Thies, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should

— annul the contested decision in so far as it

  — found in Article 1 that, in Germany, with regard to the milk quality tests carried out in Bavaria, State aid had been granted in favour of the undertakings in the dairy industry concerned, in infringement of Article 108(3) TFEU, and that that aid had been incompatible with the internal market since 1 January 2007;

  — ordered, in Articles 2 to 4, the recovery of that aid together with interest from the recipients;

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

Pleas in law and main arguments

By the present action the applicant requests the partial annulment of Commission Decision C(2015) 6295 final of 18 September 2015 on State aid No SA.35484 (2013/C) (ex SA.35484 (2012/NN)) granted by Germany for milk quality tests within the framework of the Milk and Fat Law.

In support of the action the applicant puts forward six pleas in law, which are, in essence, identical or similar to the pleas in law put forward in Case T-722/15 *Interessengemeinschaft privater Milchverarbeiter Bayerns* v *Commission*.

Action brought on 11 December 2015 — Chemtura Netherlands/EFSA

(Case T-725/15)

(2016/C 068/43)

Language of the case: English

Parties

Applicant: Chemtura Netherlands (Amsterdam, Netherlands) (represented by: C. Mereu and K. Van Maldegem, lawyers)

Defendant: European Food Safety Authority

Form of order sought

The applicant claims that the Court should:

— declare its application admissible and well-founded;

— annul the European Food Safety Authority ('EFSA') Decision of 10 December 2015 concerning the publication of certain parts of the EFSA Conclusion on the Peer Review on the review of the approval of the active substance diflubenzuron regarding the metabolite PCA in respect of which the applicant claimed confidentiality pursuant to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ 2009 L 309, p. 1);

— order the defendant to pay all the costs and expenses of these proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging an infringement of Regulation 1107/2009 and the fundamental right to the protection of business secrets.

   — The applicant questions the legal basis on which the defendant concluded that it had a duty to publish its conclusions. Even if the publication of EFSA conclusions taken under Article 21 of Regulation 1107/2009 was legitimate, the defendant has violated Article 63 of Regulation 1107/2009 by publishing confidential information.

2. Second plea in law, alleging a manifest error of appraisal

   — The applicant submits that the defendant based its decision on an inaccurate understanding of the facts and related science, which led to a manifest error of appraisal of their confidentiality claims.

3. Third plea in law, alleging a breach of fundamental principles of EU law: right of defence and the principle of sound administration

   — The applicant was not given a chance to comment on documents on which the EFSA's conclusions are based.

4. Fourth plea in law, alleging a breach of EFSA's own duties

   — The defendant has not based its assessment on all available scientific evidence, whereas it is under an obligation to produce work of the highest scientific quality.

5. Fifth plea in law, alleging a breach of legitimate expectations

   — The applicant is in ongoing discussions with the Commission and correspondence from the Commission reflects that the applicant would be given a chance to comment on the EFSA conclusions as part of the Commission's review process. The applicant's comments should be taken into account before the publication of the EFSA conclusion.

Action brought on 12 December 2015 — Klyuyev v Council

(Case T-731/15)

(2016/C 068/44)

Language of the case: English

Parties

Applicant: Sergiy Klyuyev (Donetsk, Ukraine) (represented by: R. Gherson, Solicitor, B. Kennelly, Barrister, and T. Garner, Solicitor)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision 2015/1781/CFSP of 5 October 2015 amending Council Decision 2014/119 of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine and Council Implementing Regulation (EU) No 2015/1777 implementing Council Regulation (EU) No 208/2014 of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine insofar as they apply to the applicant; and

— order the defendant to pay the applicant's costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Council failed to identify a proper legal base. Article 29 TEU was not a proper legal base for the contested decision because the complaint made against the applicant did not identify him as an individual having undermined the rule of law or human rights in Ukraine (within the meaning of Articles 21(2) and 23 TEU). As the decision was invalid, the Council could not rely on Article 215(2) TFEU to enact the contested regulation. At the time that the restrictive measures were imposed, there was no charge against the applicant in the context of judicial proceedings that his activities threatened to undermine the rule of law, or violated any human rights in Ukraine. The restrictive measures in fact endorse a violation of the rule of law by the Ukrainian authorities in their treatment of the applicant.

2. Second plea in law, alleging that the Council made a manifest error of appreciation in finding that the applicant satisfied the criterion for listing. The allegations presented to the Council by the prosecutor general's office were excessively generic and unsupported by any (still less 'concrete') evidence of any judicial proceedings against the applicant. The applicant pointed out the errors in the allegations in advance of the restrictive measures and the Council failed to obtain answers and the necessary evidence from the Ukrainian authorities. The Council erred in accepting the allegations at face value, not least because of the lack of a judicial process in Ukraine which meets European standards.

3. Third plea in law, alleging that the Council violated the applicant's rights of defence and the right to effective judicial protection. In a re-designation case, the Council has a heightened duty to make full inquiries of the requesting authorities and to provide that information to the designated person. That duty was breached in this instance.

4. Fourth plea in law, alleging that the Council failed to give the applicant sufficient reasons for his inclusion. These reasons given were insufficiently detailed and precise.

5. Fifth plea in law, alleging that the Council severely infringed the applicant's fundamental rights to property and reputation. The restrictive measures were imposed without proper safeguards enabling the applicant to put his case effectively to the Council. The restrictive measures are not restricted to any specific property which is said to represent misappropriated state funds or even limited to the amount of funds alleged to have been misappropriated.

6. Sixth plea in law, alleging that to the extent that the Council is correct that the criteria for designation can extend to any investigation unconnected to judicial proceedings, the criteria are disproportionate and illegal.

Action brought on 16 December 2015 — Portuguese Republic v Commission

(Case T-733/15)

(2016/C 068/45)

Language of the case: Portuguese

Parties

Applicant: Portuguese Republic (represented by: L. Inez Fernandes and M. Figueiredo, Agents, assisted by L. Silva Morais, lawyer)

Defendant: European Commission

Form of order sought

— Annul the Commission decision notified by the Secretariat-General of the Commission in Case SG-Greffe (2015) D/11533 of 12 October 2015; ([1])

— order the European Commission to pay the costs.

Pleas in law and main arguments

The Portuguese Republic maintains that the request for payment sent by the Secretariat-General of the European Commission in Case SG-Greffe (2015) D/11533 of 12 October 2015 is flawed by reason of the following and must, therefore, be declared invalid:

1. There is no justification for the contested measure as the Commission has usurped the powers of EU judicature and therefore lacks competence.

2. The measure is based on an artificial division of the effects of the judgment of the Court of Justice in Case C-76/13, thus resulting in infringement of the Treaties or of any rule of law relating to their application.

3. The Commission measure that is contested in this annulment action disregards the principle of *res judicata*, resulting once again in infringement of the Treaties or of any rule of law relating to their application.

4. The measure is also unlawful on the ground that it disregards the principles of legal certainty, the stability of legal relations and legitimate expectations, recognised by EU law.

5. The measure infringes the principle of the prohibition of double penalties, which precludes obtaining, through a new individual legal act, what could not be obtained previously by means of the judicial decision, resulting in infringement of the Treaties or of any rule of law relating to their application.

([1]) Decision of the Director General of the Directorate-General for Communications Networks, Content and Technology of the European Commission, which required the Portuguese Republic to pay, between 25 June and 21 August 2014, the sum of EUR 580 000 by way of application of the periodic penalty payment which it was ordered go pay by the Court of Justice in Case C-76/13.

Appeal brought on 17 December 2015 by the European Commission against the judgment of the Civil Service Tribunal of 6 October 2015 in Case F-119/14, FE v Commission

(Case T-734/15 P)

(2016/C 068/46)

Language of the case: French

Parties

Appellant: European Commission (represented by F. Simonetti and G. Gattinara, acting as Agents)

Other party to the proceedings: FE (Luxembourg, Luxembourg)

Form of order sought by the appellant

The appellant claims that the Court should:

— set aside the judgment of the Civil Service Tribunal of 6 October 2015 in Case F-119/14, *FE* v *Commission*;

— dismiss the action brought by FE in Case F-119/14 as unfounded;

— decide that each of the parties is to bear its own costs relating to the present proceedings;

— order FE to pay the costs of the proceedings brought before the Civil Service Tribunal.

Grounds of appeal and main arguments

In support of the appeal, the appellant relies on three grounds.

1. First ground, alleging a number of errors of law committed by the Civil Service Tribunal (CST) and a distortion of the documents in the file in the selection board's interpretation and application of the condition for admission relating to minimum professional experience.

2. Second ground, alleging an error of law in the CST's conclusion that the Appointing Authority committed a manifest error of assessment.

3. Third ground, alleging an error of law and a number of breaches of the obligation to state reasons committed by the CST in ordering the Commission to pay EUR 10 000 to the applicant at first instance.

Action brought on 18 December 2015 — The Art Company B & S/OHMI — Manifatture Daddato et Laurora (SHOP ART)

(Case T-735/15)

(2016/C 068/47)

Language in which the application was lodged: English

Parties

Applicant: The Art Company B & S, SA (Quel, Spain) (represented by: L. Sánchez Calderón and J. Villamor Muguerza, lawyers)

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

Other party to the proceedings before the Board of Appeal: Manifatture Daddato SpA (Barletta, Italy), Sabina Laurora (Trani, Italy)

Details of the proceedings before OHIM

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

Trade mark at issue: Figurative mark containing the word elements 'SHOP ART' — Application for registration No 12 030 921

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of OHIM of 8 October 2015 in Case R 3050/2014-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision.

Plea in law

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

Action brought on 18 December 2015 — British Aggregates e.a. v Commission

(Case T-741/15)

(2016/C 068/48)

Language of the case: English

Parties

Applicants: British Aggregates Association (Lanark, United Kingdom), Tinney Quarries Ltd (St. Johnston, Ireland), MBC Quarries Ltd (Ballybofey, Ireland), Mac Sand Ltd (Stranorlar, Ireland) (represented by: L. Van den Hende, lawyer, and A. White, Solicitor)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— order the annulment of the Commission Decision of 4 August 2014 published in the Official Journal of the European Union on 25 September 2015 on the Aid Scheme SA.18859 (11/C) (ex 65/10 NN) implemented by the United Kingdom — Relief from Aggregates Levy in Northern Ireland (ex N 2/04); and

— order the Commission to pay the applicants' costs in these proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission has made an error of law in determining that the breach of Article 110 TFUE, and thereby of Article 107 TFEU, could be retroactively rectified and thereby render the relief from the Aggregates Levy for Northern Ireland compatible with the internal market.

2. Second plea in law, alleging that, in the alternative to the first plea in law, the Commission has made an error of law and errors of assessment in determining that the retroactive remedy undertaken by the United Kingdom was compatible with the principle of effectiveness and the right to an effective remedy.

3. Third plea in law, alleging that the Commission has made errors of assessment in determining that the relief from the Aggregates Levy for Northern Ireland was compatible with the Community guidelines on State aid for environmental protection ([1]) (2008 Environmental Aid Guidelines), and thereby with Article 107(3)(c) TFEU. In particular, the Commission has made errors of assessment in finding that the third limb of the necessity criterion under the 2008 Environmental Aid Guidelines had been fulfilled, namely whether or not Northern Irish quarries could not pass on the Aggregates Levy to customers without leading to important sales reductions.

4. Fourth plea in law, alleging that the Commission has failed to make a genuinely diligent and impartial examination as to whether the retroactive remedy undertaken by the United Kingdom was compatible with the principle of effectiveness and the right to an effective remedy, and as to whether the third limb of the necessity test under the 2008 Environmental Aid Guidelines had been fulfilled.

5. Fifth plea in law, alleging that the Commission has failed to state reasons in accordance with Article 296 TFEU on why the retroactive remedy undertaken by the United Kingdom was compatible with the principle of effectiveness and the right to an effective remedy, and on why the third limb of the necessity test under the 2008 Environmental Aid Guidelines had been fulfilled.

([1]) Community guidelines on State aid for environmental protection, OJ 2008 C 82, p. 1.

Action brought on 21 December 2015 — Nausicaa Anadyomène and Banque d'Escompte v ECB

(Case T-749/15)

(2016/C 068/49)

Language of the case: French

Parties

Applicants: Nausicaa Anadyomène (Paris, France) and Banque d'Escompte (Paris) (represented by: S. Rodrigues and A. Tymen, lawyers)

Defendant: European Central Bank (ECB)

Form of order sought

— Declare the action admissible and well founded;

In consequence:

— Hold the defendant liable, within the meaning of Article 340 TFEU, for the errors committed in its monetary policy concerning the Greek debt instruments;

— Order the defendant to pay compensation in respect of the loss suffered, assessed at EUR 10 901 448,38for Nausicaa, subject to increase, and EUR 239 058,84for the Banque d'Escompte;

— In any event, order the defendant to pay all the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging sufficiently serious infringements committed by the ECB. The plea is divided into three parts:

   — First part, alleging infringement of the principle of legal certainty and the principle of protection of legitimate expectations;

   — Second part, alleging infringement of the principle of equal treatment and the principle of non-discrimination and of Articles 20 and 21 of the Charter of Fundamental Rights of the European Union ('the Charter');

   — Third part, alleging infringement of the principle of sound administration, of Article 41 of the Charter and of the duty of care.

2. Second plea in law, alleging a loss suffered by the applicants and a causal link between the unlawful conduct of the ECB and that loss.

Action brought on 21 December 2015 — Contact Software v Commission

(Case T-751/15)

(2016/C 068/50)

Language of the case: German

Parties

Applicant: Contact Software GmbH (Bremen, Germany) (represented by: J.-M. Schultze, S. Pautke and C. Ehlenz, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— Annul Decision C(2015) 7006 final in Case AT.39846 — CONTACT/Dassault & PTC of 9 October 2015;

— Order the defendant to pay the costs.

Pleas in law and main arguments

By the present action, the applicant requests the annulment of Decision C(2015) 7006 final in Case AT.39846 — CONTACT/Dassault & PTC of 9 October 2015 with which the applicant's complaint of 18 November 2010 was rejected on the basis of Article 7(2) of Regulation (EC) No 773/2004. ([1])

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

1. First plea in law: erroneous definition of the relevant markets

   The applicant submits that the defendant erred in law and made manifest errors of assessment in the interpretation and application of Article 102 TFEU by not investigating the applicant's references and arguments relating to a narrower definition of the relevant markets, which suggest that there are, first, separate markets for supplier-specific 'Computer Aided Design' ('CAD') software or at least for high end CAD software for car manufacturers and car suppliers and, secondly, a market for interface information about the CAD software of every supplier.

2. Second plea in law: infringement of Article 102 TFEU

   With this plea, the applicant submits that the defendant made a manifest error in its assessment of the dominant market position of the undertakings concerned, which error is above all based on the erroneous market definition which has already been referred to.

3. Third plea in law: infringement of the obligation to state reasons

   In the context of the third plea, the applicant submits that the rejection of its complaint was not sufficiently reasoned.

4. Fourth plea in law: incorrect exercise of discretion

   With the fourth plea the applicant submits that the defendant's conclusion that, having regard to the Community interest, there were no sufficient reasons to further investigate a possible infringement of Article 102 TFEU is manifestly incorrect.

([1]) Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty (OJ 2004 L 123, p. 18).

Action brought on 22 December 2015 — European Dynamics Luxembourg and Evropaïki Dynamiki v Commission

(Case T-752/15)

(2016/C 068/51)

Language of the case: Greek

Parties

Applicants: European Dynamics Luxembourg SA (Luxembourg, Luxembourg) and Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece) (represented by: M. Sfyri and C. Dede)

Defendant: European Commission

Form of order sought

The applicants claim that the General Court should:

— annul the decision of the European Commission of which they were notified by letter of 29 October 2015 under reference DIGIT/R/3/SDP/PT 5107460 (2015), by which the Commission ranked in sixth place the applicants' tender for one of the three individual lots, specifically Lot 3, in the context of the open procurement procedure under No DIGIT/R3/PO/2015/0008 entitled 'Support and consulting services for technical informatics staff IV (STIS IV)';

— order the Commission to compensate the applicants for the harm suffered by them in respect of the opportunity which they lost to be ranked in first place for Lot 3 of the framework agreement STIS IV;

— order the Commission to pay all the costs of the applicants.

Pleas for annulment and main arguments

According to the applicants, the contested decision must be annulled as it provided a defective statement of reasons: (i) as regards the appraisal of the applicants' technical offer, (ii) as regards the reasons for which the financial offers of the successful companies and consortia were not considered abnormally low, and on account of infringement by the Commission of the contractual documents and EU law in relation to the existence of manifest errors of assessment.

Action brought on 22 December 2015 — Facebook v OHIM — Brand IP Licensing (lovebook)

(Case T-757/15)

(2016/C 068/52)

Language in which the application was lodged: English

Parties

Applicant: Facebook, Inc. (Menlo Park, United States) (represented by: M. Granado Carpenter and M. Polo Carreño, lawyers)

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

Other party to the proceedings before the Board of Appeal: Brand IP Licensing Ltd (Road Town, British Virgin Islands)

Details of the proceedings before OHIM

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

Trade mark at issue: Community word mark 'lovebook' — Community trade mark application No 9 926 577

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 30 September 2015 in Case R 2028/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision in its entirety, insofar as it annuls the decision of the Opposition Division which upheld the opposition against the CTM application No 9 926 577 LOVEBOOK on the basis of likelihood of confusion, based in its conclusions that the similarities of the signs are minor in relation to their differences, that the overall impression of the signs in the perception of the relevant public is that they are not similar, and that this is so, even if the earlier trademarks enjoy enhanced distinctiveness;

— order reimbursement of its costs in this appeal before the General Court.

Plea in law

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

Action brought on 22 December 2015 — EDF Toruń v European Chemicals Agency (ECHA)

(Case T-758/15)

(2016/C 068/53)

Language of the case: Polish

Parties

Applicant: EDF Toruń SA (Toruń, Poland) (represented by: K. Sienkiewicz, lawyer)

Defendant: European Chemicals Agency (ECHA)

Form of order sought

The applicant claims that the Court should:

— annul Decision No SME(2015)4950 of 3 November 2015 issued by the European Chemicals Agency, and VAT invoice No 10054011 of 3 November 2015, relating to the charging of an administrative fee for the incorrect indication of the undertaking's size when making a notification to the REACH register;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea, relating to a lack of binding force of the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (2003/361/EC) and to the need to apply national provisions in this regard;

2. Second plea, relating to infringement of the provisions of Commission Regulation (EC) No 340/2008, ([1]) given the fact that the agency is not entitled to impose financial penalties on entities making a notification to the REACH register;

3. Third plea, relating to infringement of the principle of proportionality through the charging of an administrative fee whose amount is excessively high in relation to the work required to determine the correct value for the undertaking;

4. Fourth plea, relating to misuse of powers through the charging of a fee on the basis of Decision 14/2015 of the Management Board of the European Chemicals Agency when that decision does not have binding force;

5. Fifth plea, relating to infringement of the principle of equality by setting the amount of administrative fees on the basis of the size of the entity which is to be charged the fee, when there are no arguments at all supporting the correctness of such a solution.

([1]) Commission Regulation (EC) No 340/2008 of 16 April 2008 on the fees and charges payable to the European Chemicals Agency pursuant 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 2008 L 107, p. 6).

Action brought on 23 December 2015 — Sogepa v Commission

(Case T-761/15)

(2016/C 068/54)

Language of the case: French

Parties

Applicant: Société wallonne de gestion et de participations (Sogepa) (Liège, Belgium) (represented by: A. Lepièce and H. Baeyens, lawyers)

Defendant: European Commission

Form of order sought

— annulment of Articles 3, 4, 5 and 6 of the European Commission decision of 31 July 2014 on non-notified State aid SA.34791 (2013/C) (ex 2012/NN) — Belgium — Rescue aid for Val Saint-Lambert SA in that it orders the recovery of an amount of aid corresponding to double the economic advantage which actually benefitted the company Val Saint-Lambert;

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law alleging the error of law which the Commission made when categorising the economic advantage in the context of the grant of the loan to Val Saint-Lambert SA and to the imposition of a double reimbursement of the economic advantage to the beneficiary.

Action brought on 29 December 2015 — Deutsche Lufthansa v Commission

(Case T-764/15)

(2016/C 068/55)

Language of the case: German

Parties

Applicant: Deutsche Lufthansa AG (Cologne, Germany) (represented by: A. Martin-Ehlers, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the European Commission of 1 October 2014 in Case SA.32833 (2011/C) (ex 20111NN) — Hahn Airport;

— Order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant submits, in essence, the following:

— procedural defects due to failing to hold further talks with the applicant in 2014,

— incomplete presentation of the case, although the facts of the case were known to the defendant at the time of the adoption of the contested decision,

— incorrect legal assessment of the measures in favour of the airport concerned in so far as certain measures were not classified as State aid for the purposes of Article 107(1) of TFEU and others were classified as State aid which is compatible with the common market,

— failure to take into consideration that all the aid referred to in the contested decision in favour of the airport concerned was, in end effect, passed on to Ryanair as the most important user of that airport.

Action brought on 30 December 2015 — BelTechExport/Council

(Case T-765/15)

(2016/C 068/56)

Language of the case: English

Parties

Applicant: BelTechExport ZAO (Minsk, Belarus) (represented by: J. Jerņeva and E. Koškins, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Regulation (EU) 2015/1948 of 29 October 2015 amending Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus (OJ 2015 L 284, p. 62) to the extent that it extends the applicability of the restrictive measures, even if temporarily suspended, with respect to the applicant,

— annul Council Decision (CFSP) 2015/1957 of 29 October 2015 amending Decision 2012/642/CFSP concerning restrictive measures against Belarus (OJ 2015 L 284, p. 149), to the extent that it extends the applicability of the restrictive measures, even if temporarily suspended, with respect to the applicant, and

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

Pleas in law and main arguments

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

1. First plea in law, alleging that the contested acts do not provide for adequate reasoning for the continuous listing of the applicant in the relevant annexes and that the Council has failed to comply with the provisions of Article 296(2) TFEU, which requires the Council to give reasons

2. Second plea in law, alleging that the contested acts infringe the right of defence and the right to a fair hearing provided for in Article 47 of the Charter of Fundamental Rights of the European Union (the 'Charter') and Articles 6 and 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms ('ECHR') in that they were adopted without the applicant being provided with the possibility to effectively exercise its rights of defence, in particular the right to be heard and the right to benefit from a procedure allowing him to effectively request his removal from the lists of persons covered by the restrictive measures

3. Third plea in law, alleging that the contested acts are vitiated by manifest errors of assessment in that they are based upon false assumption that the applicant, as a major company in the Belarusian sector of arms manufacture and arms export, benefits from the Lukashenka regime

4. Fourth plea in law, alleging that the contested acts infringe the fundamental right to property provided for in Article 17 of the Charter and Article 1 of the Protocol No 1 of the ECHR, and that this infringement is not based upon compelling evidence, is unjustified and is disproportionate

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EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Action brought on 19 November 2015 — ZZ v Parliament

(Case F-143/15)

(2016/C 068/57)

Language of the case: French

Parties

Applicant: ZZ (represented by: A. Fombaron, lawyer)

Defendant: European Parliament

Subject-matter and description of the proceedings

Application for annulment of the decision rejecting the applicant's complaint seeking annulment of the decision terminating early his employment at the European Parliament.

Form of order sought

The applicant claims that the Tribunal should:

— annul the decision dated 19 August 2015 rejecting the complaint brought on the basis of Article 90(2) of the Staff Regulations of Officials of the European Communities;

— annul the European Parliament's decision dated 25 February 2015;

— annul the European Parliament's decision dated 2 February 2015;

— order the European Parliament to pay all the costs of the proceedings.

Action brought on 27 November 2015 — ZZ v Parliament

(Case F-146/15)

(2016/C 068/58)

Language of the case: French

Parties

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

Defendant: European Parliament

Subject-matter and description of the proceedings

Application for annulment of the Parliament's decision rejecting the applicant's request that his appraisal reports drawn up since his promotion to grade AD 12 be converted to merit points.

Form of order sought

The applicant claims that the Tribunal should:

— annul the appointing authority's decision of 8 April 2015 rejecting the applicant's request that his appraisal reports drawn up since his promotion to grade AD 12 be converted to merit points;

— order the Parliament to pay the costs.

Action brought on 17 December 2015 — ZZ v Parliament

(Case F-147/15)

(2016/C 068/59)

Language of the case: French

Parties

Applicant: ZZ (represented by: M. Casado García-Hirschfeld, lawyer)

Defendant: European Parliament

Subject-matter and description of the proceedings

Application for annulment of the decision terminating the applicant's contract.

Form of order sought

The applicant claims that the Tribunal should:

— annul the contested decision dated 24 February 2015;

— so far as necessary, annul the rejection decision dated 9 September 2015;

— order the Parliament to pay the costs.

Action brought on 21 December 2015 — ZZ v Commission

(Case F-149/15)

(2016/C 068/60)

Language of the case: French

Parties

Applicant: ZZ (represented by: L. Levi, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Application for annulment of the decision imposing on the applicant the penalty of deferment of advancement to a higher step and obliging the applicant to pay compensation in respect of harm allegedly incurred by the European Union, and an application for compensation in respect of the non-material harm and the reputational damage allegedly incurred.

Form of order sought

The applicant claims that the Tribunal should:

— annul Decision CMS 13-005 of the Tripartite appointing authority in so far as it provides for deferment of the applicant's advancement to a higher step for 18 months and payment of compensation in respect of harm assessed by the decision at EUR 108 596,35;

— so far as necessary, annul the decision rejecting the applicant's complaint;

— in the alternative, reduce the financial penalty contained in Decision CMS 13-005;

— order the defendant to pay compensation in respect of the non-material harm and reputational damage incurred by the applicant assessed at EUR 20 000;

— order the defendant to pay all the costs.

Order of the Civil Service Tribunal of 12 January 2016 — Vermoesen and Herkens v Commission

(Case F-108/15) ([1])

(2016/C 068/61)

Language of the case: French

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

([1]) OJ C 320, 28/9/2015, p. 54.

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