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Contents

EN

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COURT OF JUSTICE OF THE EUROPEAN UNION

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

(2016/C 305/01)

Last publication

OJ C 296, 16.8.2016

Past publications

OJ C 287, 8.8.2016

OJ C 279, 1.8.2016

OJ C 270, 25.7.2016

OJ C 260, 18.7.2016

OJ C 251, 11.7.2016

OJ C 243, 4.7.2016

These texts are available on:

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

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Fifth Chamber) of 16 June 2016 — SKW Stahl-Metallurgie GmbH, SKW Stahl-Metallurgie Holding AG v European Commission, Gigaset AG

(Case C-154/14 P) ([1])

(Appeal — Competition — Agreements, decisions and concerted practices — Article 81 EC — Markets for calcium carbide powder, calcium carbide granulates and magnesium granulates in a substantial part of the European Economic Area — Price fixing, market sharing and exchange of information — Regulation (EC) No 773/2004 — Articles 12 and 14 — Right to be heard — In camera hearing)

(2016/C 305/02)

Language of the case: German

Parties

Appellants: SKW Stahl-Metallurgie GmbH, SKW Stahl-Metallurgie Holding AG (represented by: A. Birnstiel and S. Janka, Rechtsanwälte)

Other parties to the proceedings: European Commission (represented by: G. Meessen and R. Sauer, acting as Agents, and A. Böhlke, Rechtsanwalt), Gigaset AG, formerly Arques Industries AG

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders SKW Stahl-Metallurgie GmbH and SKW Stahl-Metallurgie Holding AG to pay the costs of the European Commission and to bear their own costs.*

([1]) OJ C 159, 26.5.2014.

Judgment of the Court (Fifth Chamber) of 16 June 2016 — Evonik Degussa GmbH, AlzChem AG, formerly AlzChem Trostberg GmbH v European Commission

(Case C-155/14 P) ([1])

(Appeal — Competition — Article 81 EC — Agreements, decisions and concerted practices — Markets for calcium carbide powder, calcium carbide granulates and magnesium granulates in a substantial part of the European Economic Area — Price fixing, market sharing and exchange of information — Liability of a parent company for infringements of the competition rules committed by its subsidiaries — Decisive influence exercised by the parent company over its subsidiary — Rebuttable presumption in the case of a 100 % shareholding — Condition for the rebuttal of that presumption — Disregard of an express instruction)

(2016/C 305/03)

Language of the case: German

Parties

Appellants: Evonik Degussa GmbH, AlzChem AG, formerly AlzChem Trostberg GmbH (represented by: C. Steinle and I. Bodenstein, Rechtsanwälte)

Other party to the proceedings: European Commission (represented by: G. Meessen and R. Sauer, acting as Agents, and A. Böhlke, Rechtsanwalt)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Evonik Degussa GmbH and AlzChem AG to bear their own costs and pay those of the European Commission.*

([1]) OJ C 184, 16.6.2014.

Judgment of the Court (Grand Chamber) of 14 June 2016 — European Parliament v Council of the European Union

(Case C-263/14) ([1])

(Action for annulment — Common foreign and security policy (CFSP) — Decision 2014/198/CFSP — Agreement between the European Union and the United Republic of Tanzania on the conditions of transfer of suspected pirates and associated seized property from the European Union-led naval force to the United Republic of Tanzania — Choice of legal basis — Obligation to inform the European Parliament immediately and fully at all stages of the procedure of negotiation and conclusion of international agreements — Maintenance of the effects of the decision in the event of annulment)

(2016/C 305/04)

Language of the case: English

Parties

Applicant: European Parliament (represented by: R. Passos, A. Caiola and M. Allik, acting as Agents)

Intervener in support of the applicant: European Commission (represented by: M. Konstantinidis, R. Troosters and D. Gauci, acting as Agents)

Defendant: Council of the European Union (represented by: F. Naert, G. Étienne, M. Bishop and M.-M. Joséphidès, acting as Agents)

Interveners in support of the defendant: Czech Republic (represented by: M. Smolek, E. Ruffer, J. Vláčil, J. Škeřik and M. Hedvábná, acting as Agents), Kingdom of Sweden (represented by: A. Falk, C. Meyer-Seitz, U. Persson, M. Rhodin, E. Karlsson and L. Swedenborg, acting as Agents), United Kingdom of Great Britain and Northern Ireland (represented by: J. Kraehling and V. Kaye, acting as Agents, and by G. Facenna, Barrister)

Operative part of the judgment

The Court:

1. *Annuls Council Decision 2014/198/CFSP of 10 March 2014 on the signature and conclusion of the Agreement between the European Union and the United Republic of Tanzania on the conditions of transfer of suspected pirates and associated seized property from the European Union-led naval force to the United Republic of Tanzania;*

2. *Orders that the effects of Decision 2014/198 be maintained in force;*

3. *Orders the European Parliament and the Council of the European Union each to bear their own costs;*

4. *Orders the Czech Republic, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland, and the European Commission, each to bear their own costs.*

(1) OJ C 235, 21.7.2014.

Judgment of the Court (First Chamber) of 14 June 2016 — European Commission v United Kingdom of Great Britain and Northern Ireland

(Case C-308/14) (1)

(Failure of a Member State to fulfil obligations — Coordination of social security systems — Regulation (EC) No 883/2004 — Article 4 — Equal treatment as regards access to social security benefits — Right of residence — Directive 2004/38/EC — National legislation under which child benefit and child tax credit are not granted to nationals of other Member States who do not have a right of lawful residence)

(2016/C 305/05)

Language of the case: English

Parties

Applicant: European Commission (represented by: D. Martin and M. Wilderspin, acting as Agents)

Defendant: United Kingdom of Great Britain and Northern Ireland (represented by: M. Holt and J. Beeko, acting as Agents, and J. Coppel QC)

Operative part of the judgment

The Court:

1. *Dismisses the action;*

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

(1) OJ C 329, 22.9.2014.

Judgment of the Court (Second Chamber) of 16 June 2016 (request for a preliminary ruling from the Juzgado de lo Social No 33 de Barcelona — Spain) — Estrella Rodríguez Sánchez v Consum Sociedad Cooperativa Valenciana

(Case C-351/14) ([1])

(Reference for a preliminary ruling — Social policy — Directive 2010/18/EU — Revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC — Reconciliation of professional and family life — Return from maternity leave of a worker member — Request for a reduction of working hours and for a change in work pattern — Situation which does not fall within the scope of Clause 6(1) of the revised Framework Agreement — Inadmissibility of the request for a preliminary ruling)

(2016/C 305/06)

Language of the case: Spanish

Referring court

Juzgado de lo Social No 33 de Barcelona

Parties to the main proceedings

Applicant: Estrella Rodríguez Sánchez

Defendant: Consum Sociedad Cooperativa Valenciana

Operative part of the judgment

The request for a preliminary ruling made by the Juzgado de lo Social No 33 de Barcelona (Social Court No 33, Barcelona, Spain) is inadmissible.

([1]) OJ C 339, 29.9.2014.

Judgment of the Court (Grand Chamber) of 14 June 2016 — European Commission v Peter McBride and Others

(Case C-361/14 P) ([1])

(Appeal — Resource conservation measures and restructuring of the fisheries sector — Requests for increased safety tonnage — Annulment by the European Union judicature of the decision initially rejecting those requests — Article 266 TFEU — Repeal of the legal basis on which that initial decision was founded — Competence and legal basis to adopt new decisions — Annulment by the General Court of new decisions rejecting the requests — Principle of legal certainty)

(2016/C 305/07)

Language of the case: English

Parties

Appellant: European Commission (represented by: A. Bouquet and A. Szmytkowska, acting as Agents, and by B. Doherty, Barrister-at-Law)

Other parties to the proceedings: Peter McBride, Hugh McBride, Mullglen Ltd, Cathal Boyle, Thomas Flaherty, Ocean Trawlers Ltd, Patrick Fitzpatrick, Eamon McHugh, Eugene Hannigan, Larry Murphy, Brendan Gill (represented by: N. Travers, Senior Counsel, D. Barry, Solicitor, and E. Barrington, Senior Counsel)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

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

([1]) OJ C 339, 29.9.2014.

Judgment of the Court (Third Chamber) of 16 June 2016 (request for a preliminary ruling from the Tribunale di Bologna (District Court, Bologna — Italy) — Pebros Servizi Srl v Aston Martin Lagonda Ltd

(Case C-511/14) ([1])

(Reference for a preliminary ruling — Area of freedom, security and justice — Judicial cooperation in civil matters — Regulation (EC) No 805/2004 — European Enforcement Order for uncontested claims — Article 3(1)(b) — Conditions for certification — Judgment in default — Concept of 'uncontested claim — Procedural conduct of a party capable of constituting an 'absence of contestation of the claim')

(2016/C 305/08)

Language of the case: Italian

Referring court

Tribunale di Bologna

Parties to the main proceedings

Applicant: Pebros Servizi Srl

Defendant: Aston Martin Lagonda Ltd

Operative part of the judgment

The conditions according to which, in the case of a judgment by default, a claim is to be regarded as 'uncontested', within the meaning of the second subparagraph of Article 3(1)(b) 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, must be assessed autonomously, solely in accordance with that regulation.

([1]) OJ C 34, 2.2.2015.

Judgment of the Court (Grand Chamber) of 14 June 2016 — Jean-Charles Marchiani v European Parliament

(Case C-566/14 P) ([1])

(Appeal — Member of the European Parliament — Parliamentary assistance allowance — Recovery of undue payments — Recovery — Implementing Measures of the Statute for Members of the Parliament — Respect for the rights of the defence — Principle of impartiality — Limitation — Regulation (EU, Euratom) No 966/2012 — Articles 78 to 81 — Delegated Regulation (EU) No 1268/2012 — Articles 81, 82 and 93 — Principle of protection of legitimate expectations — Reasonable time)

(2016/C 305/09)

Language of the case: French

Parties

Appellant: Jean-Charles Marchiani (represented by: C.S. Marchiani, avocat)

Other party to the proceedings: European Parliament (represented by: G. Corstens and S. Seyr, acting as Agents)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Mr Jean-Charles Marchiani to pay the costs.*

(1) OJ C 34, 2.2.2015.

Judgment of the Court (Second Chamber) of 16 June 2016 (request for a preliminary ruling from the Hoge Raad der Nederlanden (Supreme Court of the Netherlands)) — Universal Music International Holding BV v Michael Tétreault Schilling, Irwin Schwartz, Josef Brož

(Case C-12/15) (1)

(Reference for a preliminary ruling — Judicial cooperation in civil matters — Regulation (EC) No 44/2001 — Special jurisdiction — Article 5(3) — Tort, delict or quasi-delict — Harmful event — Lawyer's negligence in drafting the contract — Place where the harmful event occurred)

(2016/C 305/10)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: Universal Music International Holding BV

Defendants: Michael Tétreault Schilling, Irwin Schwartz, Josef Brož

Operative part of the judgment

1. *Article 5(3) of Regulation 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, in a situation such as that in the main proceedings, the 'place where the harmful event occurred' may not be construed as being, failing any other connecting factors, the place in a Member State where the damage occurred, when that damage consists exclusively of financial damage which materialises directly in the applicant's bank account and is the direct result of an unlawful act committed in another Member State.*

2. *In the context of the determination of jurisdiction under Regulation No 44/2001, the court seised must assess all the evidence available to it, including, where appropriate, the arguments put forward by the defendant.*

(1) OJ C 89, 16.3.2015.

Judgment of the Court (Third Chamber) of 16 June 2016 (request for a preliminary ruling from the Tribunal de grande instance de Nanterre — France) — Saint Louis Sucre, formerly Saint Louis Sucre SA v Directeur général des douanes et droits indirects

(Case C-96/15) ([1])

(Reference for a preliminary ruling — Agriculture — Sugar — Production levies — Right to reimbursement — Sugar held in stock and not exported — Undue enrichment — Freedom to conduct a business — Method of calculation)

(2016/C 305/11)

Language of the case: French

Referring court

Tribunal de grande instance de Nanterre

Parties to the main proceedings

Applicant: Saint Louis Sucre, formerly Saint Louis Sucre SA

Defendant: Directeur général des douanes et droits indirects

Operative part of the judgment

1. *Article 15(2) and (8) of Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector must be interpreted as meaning that it does not confer on a sugar producer the right to be reimbursed for production levies paid on the quantities of sugar under A and B quotas which were still stored on 30 June 2006, as the production levy system was not renewed after that date by Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector.*

2. *No factors have been disclosed capable of affecting the validity of Council Regulation (EU) No 1360/2013 of 2 December 2013 fixing the production levies in the sugar sector for the 2001/2002, 2002/2003, 2003/2004, 2004/2005 and 2005/2006 marketing years, the coefficient required for calculating the additional levy for the 2001/2002 and 2004/2005 marketing years and the amount to be paid by sugar manufacturers to beet sellers in respect of the difference between the maximum levy and the levy to be charged for the 2002/2003, 2003/2004 and 2005/2006 marketing years.*

([1]) OJ C 146, 4.5.2015.

Judgment of the Court (First Chamber) of 16 June 2016 (request for a preliminary ruling from the Verwaltungsgerichtshof — Austria) — Franz Lesar v Beim Vorstand der Telekom Austria AG eingerichtetes Personalamt

(Case C-159/15) ([1])

(Reference for a preliminary ruling — Social policy — Directive 2000/78/EC — Equal treatment in employment and occupation — Article 2(1) and Article 2(2)(a) — Article 6(2) — Age discrimination — Determination of pension rights of former civil servants — Periods of apprenticeship and of work — Failure to take into account such periods completed before the age of 18)

(2016/C 305/12)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Franz Lesar

Defendant: Beim Vorstand der Telekom Austria AG eingerichtetes Personalamt

Operative part of the judgment

Articles 2(1), 2(2)(a) and 6(2) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which excludes the taking into account of periods of apprenticeship and of employment completed by a civil servant before reaching the age of 18 for the purpose of granting a pension entitlement and the calculation of the amount of his retirement pension, in so far as that legislation seeks to guarantee, within a civil service retirement scheme, a uniform age for admission to that scheme and a uniform age for entitlement to the retirement benefits provided under that scheme.

([1]) OJ C 254, 3.8.2015.

Judgment of the Court (Eighth Chamber) of 16 June 2016 (request for a preliminary ruling from the Finanzgericht Münster (Finance Court, Münster — Germany) — Kreissparkasse Wiedenbrück v Finanzamt Wiedenbrück

(Case C-186/15) ([1])

(Reference for a preliminary ruling — Taxation — Value added tax — Directive 2006/112/EC — Deduction of input tax — Article 173(1) — Goods or services used to carry out both taxable transactions and exempt transactions ('mixed use goods and services') — Determining the amount of the value added tax deduction — Deductible proportion — Article 174 — Deductible proportion calculated by applying an allocation key according to turnover — Article 173(2) — Derogation — Article 175 — Rounding-up rule for the deductible proportion — Articles 184 and 185 — Adjustment of deductions)

(2016/C 305/13)

Language of the case: German

Referring court

Finanzgericht Münster

Parties to the main proceedings

Applicant: Kreissparkasse Wiedenbrück

Defendant: Finanzamt Wiedenbrück

Operative part of the judgment

1. *Article 175(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that the Member States are not required to apply the rounding-up rule laid down in that provision where the deductible proportion is calculated in accordance with one of the derogating methods set out in Article 173(2) of that directive.*

2. *Article 184 et seq. of Directive 2006/112 must be interpreted as meaning that the Member States are required to apply the rounding-up rule laid down in Article 175(1) of that directive in the event of adjustment where, under their national legislation, the deductible proportion has been calculated in accordance with one of the methods set out in Article 173(2) of that directive or in the third subparagraph of Article 17(5) of the 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, only where that rule was applied to determine the initial amount of the deduction.*

(1) OJ C 254, 3.8.2015.

Judgment of the Court (Seventh Chamber) of 16 June 2016 — European Commission v Portuguese Republic

(Case C-200/15) (1)

(Failure of a Member State to fulfil obligations — Article 110 TFEU — Internal taxation — Discriminatory taxation — Second-hand motor vehicles imported from other Member States — Determination of their taxable value — Depreciation rate)

(2016/C 305/14)

Language of the case: Portuguese

Parties

Applicant: European Commission (represented by: M. Wasmeier and P. Guerra e Andrade, acting as Agents)

Defendant: Portuguese Republic (represented by: L. Inez Fernandes, A. Cunha, A. Brigas Afonso and N. da Silva Vitorino, Agents)

Operative part of the judgment

The Court:

1. *Declares that, in applying, in order to determine the taxable value of second-hand vehicles imported into Portugal from another Member State, a system for calculating the depreciation on the vehicles which does not take account of the depreciation on the vehicles during their first year of use or of depreciation of more than 52 % in the case of vehicles which have been used for more than five years, the Portuguese Republic has failed to fulfil its obligations under Article 110 TFEU;*

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

(1) OJ C 205, 22.6.2015.

Judgment of the Court (Tenth Chamber) of 16 June 2016 (request for a preliminary ruling from the Naczelny Sąd Administracyjny — Poland) — Minister Finansów v Jan Mateusiak

(Case C-229/15) (1)

(Reference for a preliminary ruling — Taxation — Value added tax — Directive 2006/112/EC — Articles 18(c), 184 and 187 — Taxable transactions — Cessation of the taxable economic activity — Retention of goods on which VAT became deductible — Adjustment of deductions — Adjustment period — Taxation pursuant to Article 18(c) of Directive 2006/112 on expiry of the adjustment period)

(2016/C 305/15)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Applicant: Minister Finansów

Defendant: Jan Mateusiak

Operative part of the judgment

Article 18(c) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2009/162/EU of 22 December 2009, must be interpreted as meaning that, when a taxable person ceases to carry out a taxable economic activity, the retention of goods by that taxable person, where valued added tax on such goods became deductible upon their acquisition, can be treated as a supply of goods for consideration and be subject to value added tax if the adjustment period laid down in Article 187 of Directive 2006/112, as amended by Directive 2009/162, has passed.

([1]) OJ C 294, 7.9.2015.

Judgment of the Court (Sixth Chamber) of 16 June 2016 (request for a preliminary ruling from the Zalaegerszegi közigazgatási és munkaügyi bíróság — Hungary) — EURO 2004. Hungary Kft. v Nemzeti Adó- és Vámhivatal Nyugat-dunántúli Regionális Vám- és Pénzügyőri Főigazgatósága

(Case C-291/15) ([1])

(Reference for a preliminary ruling — Customs union — Common Customs Tariff — Value for customs purposes — Determination of the Customs value — Transaction value — Price actually paid — Doubts based on the veracity of the declared price — Declared price lower than the price paid in respect of other transactions relating to similar goods)

(2016/C 305/16)

Language of the case: Hungarian

Referring court

Zalaegerszegi közigazgatási és munkaügyi bíróság

Parties to the main proceedings

Applicant: EURO 2004. Hungary Kft.

Defendant: Nemzeti Adó- és Vámhivatal Nyugat-dunántúli Regionális Vám- és Pénzügyőri Főigazgatósága

Operative part of the judgment

Article 181a of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code, as amended by Commission Regulation No 3254/94 of 19 December 1994, must be interpreted as not precluding a customs authority practice, such as that at issue in the main proceedings, whereby the customs value of imported goods is determined on the basis of the transaction value of similar goods, the method in Article 30 of Council Regulation No 2913/92 of 12 October 1992 establishing the Community Customs Code, as amended by Regulation (EC) No 82/97 of the European Parliament and of the Council of 19 December 1996, where the declared transaction value is considered to be unreasonably low in comparison with the statistical average of the purchase prices verified in the context of the importation of similar goods and despite the fact that the customs authority does not refute or call into question the authenticity of the invoice or the bank transfer certificate produced in order to establish the price actually paid for the imported goods, without the importer having submitted, in response to a request to that effect from the customs authority, additional evidence to demonstrate the accuracy of the declared transaction value of those goods.

([1]) OJ C 98, 14.3.2016.

Request for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 2 May 2016 — Saale Kareda v Stefan Benkö

(Case C-249/16)

(2016/C 305/17)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Appellant on a point of law: Saale Kareda

Respondent in the appeal on a point of law: Stefan Benkö

Questions referred

1. Must Article 7(1) of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ([1]) ('Regulation No 1215/2012') be interpreted as meaning that, where a debtor under a (joint) credit agreement with a bank has, on his own, made the repayments due under that credit agreement, a reimbursement claim (compensation/recourse claim) brought by that debtor against the other debtor under that credit agreement constitutes a derived (secondary) contractual claim arising from that credit agreement?

2. If Question 1 is answered in the affirmative:

   Is the place of performance of a debtor's reimbursement claim (compensation/recourse claim) against the other debtor arising out of the underlying credit agreement to be determined

   a. in accordance with the second indent of Article 7(1)(b) of Regulation No 1215/2012 ('provision of services') or

   b. in accordance with Article 7(1)(c), in conjunction with Article 7(1)(a), of Regulation No 1215/2012 on the basis of the *lex causae*?

3. If Question 2.a is answered in the affirmative:

   Is the service characterising the credit agreement the granting of the loans by the bank, and is, therefore, the place of performance of that service determined in accordance with the second indent of Article 7(1)(b) of Regulation No 1215/2012 by the registered office of the bank, if the loans were provided exclusively at that place?

4. If Question 2.b is answered in the affirmative:

   For the purpose of determining the place of performance for the non-performed contractual obligation in accordance with Article 7(1)(a) of Regulation No 1215/2012, is the decisive date

   a. the date on which the two debtors took out the loans (March 2007) or

   b. the dates on which the loan debtor entitled to recourse made to the bank the payments from which he derives the recourse claim (June 2012 to June 2014)?

([1]) OJ 2012 L 351, p. 1.

Request for a preliminary ruling from the Corte suprema di cassazione (Italy) lodged on 17 May 2016 — Preqù Italia s.r.l. v Agenzia delle Dogane e dei Monopoli

(Case C-276/16)

(2016/C 305/18)

Language of the case: Italian

Referring court

Corte suprema di cassazione

Parties to the main proceedings

Appellant: Preqù Italia s.r.l.

Respondent: Agenzia delle Dogane e dei Monopoli

Question referred

Is the Italian [tax] legislation [in question] contrary to the general principle of EU law that parties have a right to be heard in administrative procedures in that it does not provide, in favour of a taxpayer who has not been heard prior to the adoption of a tax measure by the customs authorities, for the suspension of that measure as the normal consequence of the lodging of an appeal?

Request for a preliminary ruling from the Juzgado de lo Mercantil No 8 de Barcelona (Spain) lodged on 23 May 2016 — Schweppes, S.A. v Exclusivas Ramírez, S.L. and Others

(Case C-291/16)

(2016/C 305/19)

Language of the case: Spanish

Referring court

Juzgado de lo Mercantil No 8 de Barcelona

Parties to the main proceedings

Applicant: Schweppes, S.A.

Defendants: Exclusivas Ramírez, S.L., Red Paralela, S.L., Carbóniques Montaner, S.L., Orangina Schweppes Holding BV, Schweppes International Limited

Questions referred

1. Is it compatible with Article 36 of the Treaty on the Functioning of the European Union ([1]) and with Article 7(1) of Directive 2008/95/EC ([2]) and Article 15(1) of Directive 2015/2436 ([3]) for the proprietor of a trade mark in one or more Member States to prevent the parallel import or marketing of products coming from another Member State, bearing a trade mark which is identical or practically identical, owned by a third party, when the said proprietor has promoted a global trade mark image associated with the Member State from which the products that it intends to prohibit come?

2. Is it compatible with Article 36 of the Treaty on the Functioning of the European Union and with Article 7(1) of Directive 2008/95/EC and Article 15(1) of Directive 2015/2436 for a product to be sold under a trade mark, which is well known, within the EU, the registered proprietors maintaining a global trade mark image throughout the EEA which gives rise to confusion in the mind of an average consumer concerning the commercial origin of the product?

3. Is it compatible with Article 36 of the Treaty on the Functioning of the European Union and with Article 7(1) of Directive 2008/95/EC and Article 15(1) of Directive 2015/2436 for the proprietor of national trade marks which are identical or similar in various Member States to oppose the import into a Member State where it owns the trade mark of products, identified by a trade mark identical or similar to its own, coming from a Member State in which it is not the proprietor, when at least in another Member State where it is not the proprietor of the trade mark it has expressly or tacitly consented to the import of those same products?

4. Is it compatible with Article 7(1) of Directive 2008/95/EC and Article 15(1) of Directive 2015/2436 and with Article 36 of the Treaty on the Functioning of the European Union for the proprietor A of a trade mark X of a Member State to oppose the import of products identified by the said trade mark if those products come from another Member State where a trade mark identical to X (Y) is recorded as registered by another proprietor B which markets the same and:

   — both proprietors A and B maintain intense commercial and economic relations, although there is no strict dependency regarding the joint exploitation of trade mark X;

   — both proprietors A and B maintain a co-ordinated trade mark strategy deliberately promoting vis-à-vis the relevant public an appearance or image of a single and global trade mark; or

   — both proprietors A and B maintain intense commercial and economic relations, although there is no strict dependency regarding the joint exploitation of the trade mark X and in addition they maintain a co-ordinated trade mark strategy deliberately promoting vis-à-vis the relevant public an appearance or image of a single and global trade mark?

([1]) OJ 2002 C 202.

([2]) Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks (OJ 2008 L 299, p. 25).

([3]) Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade marks (OJ 2015 L 336, p. 1).

Request for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 25 May 2016 — Sharda Europe, B.V.B.A. v Administración del Estado, Syngenta Agro, S.A.

(Case C-293/16)

(2016/C 305/20)

Language of the case: Spanish

Referring court

Tribunal Supremo, Sala de lo Contencioso-Administrativo, Sección Cuarta

Parties to the main proceedings

Appellant: Sharda Europe, B.V.B.A.

Respondents: Administración del Estado, Syngenta Agro, S.A.

Questions referred

1. As there is divergence between the different language versions of Article 3(2) of Commission Directive 2008/69/EC ([1]) of 1 July 2008 and a possible discrepancy with Recital 7 of the preamble to the Directive, the following question is referred to the Court of Justice:

   Is the date 31 December 2008 in Article 3(2) of Commission Directive 2008/69/EC of 1 July 2008, in its Spanish version, to be understood as the expiry of the deadline for the Member States to carry out a re-evaluation, or as the final date for inclusion in the list in Annex I of Directive 91/414/EEC ([2]) of the active substances which must be re-evaluated, or as the final day for submitting the corresponding application for inclusion?

2. Is the expression 'by 31 December 2008 at the latest' in Article 3(2) of Directive 2008/69/EC a fixed deadline on account of the aim pursued by the system established by Council Directive 91/414/EEC of 15 July 1991, and does it preclude the Member States from extending it, with the result that it is calculated according to that directive?

3. If it is understood that the deadline may be extended, may it be extended for objective reasons of force majeure or may the Member States, to which the mandate in Article 3 is addressed, extend it in accordance with the conditions and requirements of their national legislation?

(1) Commission Directive 2008/69/EC of 1 July 2008 amending Council Directive 91/414/EEC to include clofentezine, dicamba, difenoconazole, diflubenzuron, imazaquin, lenacil, oxadiazon, picloram and pyriproxyfen as active substances. OJ 2008 L 172, p. 9.

(2) Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market. OJ 1991 L 230, p. 1.

Request for a preliminary ruling from the Juzgado Contencioso-Administrativo No 4 de Murcia (Spain) lodged on 25 May 2016 — Europamur Alimentación, S.A. v Dirección General de Consumo, Comercio y Artesanía de la Comunidad Autónoma de la Región de Murcia

(Case C-295/16)

(2016/C 305/21)

Language of the case: Spanish

Referring court

Juzgado Contencioso-Administrativo No 4 de Murcia

Parties to the main proceedings

Applicant: Europamur Alimentación, S.A.

Defendant: Dirección General de Consumo, Comercio y Artesanía de la Comunidad Autónoma de la Región de Murcia

Questions referred

1. Must Directive 2005/29/EC (1) on unfair commercial practices be interpreted as precluding a provision of national law, such as Article 14 of Law 7/1996 of 15 January 1996 regulating retail commerce (Ley 7/1996, de 15 de enero, de Ordenación del Comercio Minorista), which is stricter than the directive in question in that it contains an initial prohibition, which also covers wholesalers, on selling at a loss, treating such a practice as an infringement of administrative law and therefore imposing a penalty in respect of it, account being taken of the fact that, in addition to regulating the market, the Spanish legislation is intended to protect the interests of consumers?

2. Must Directive 2005/29/EC be interpreted as precluding Article 14 of Law 7/1996 even though that provision of national law permits selling at a loss to be excluded from the general prohibition where (i) the infringing party shows that the objective of selling at a loss was to match the prices of one or more competitors with the ability materially to affect that party's sales or (ii) the sale involves perishable goods which will shortly be unfit for use?

(1) Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (OJ 2005 L 149, p. 22).

Request for a preliminary ruling from the Juzgado de lo Contencioso-Administrativo No 1 de Santa Cruz de Tenerife (Spain) lodged on 8 June 2016 — Dragados, S.A. v Cabildo Insular de Tenerife

(Case C-324/16)

(2016/C 305/22)

Language of the case: Spanish

Referring court

Juzgado de lo Contencioso-Administrativo No 1 — Santa Cruz de Tenerife

Parties to the main proceedings

Applicant: Dragados, S.A.

Defendant: Cabildo Insular de Tenerife

Questions referred

Regard being had to Articles 4(1), 6 and 7(2) and (3) of Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions: ([1])

1. Must Article 7(2) of the directive be interpreted as meaning that a Member State may not make recovery of the principal debt conditional on the waiver of the right to interest for late payment?

2. Must Article 7(3) of the directive be interpreted as meaning that a Member State may not make recovery of the principal debt conditional on the waiver of the right to compensation for recovery costs?

   Should the answer to those two questions be in the affirmative,

3. Where the debtor is a contracting authority, can it rely on the freedom of contract of the parties in order to avoid its obligation to pay interest for late payment and compensation for recovery costs?

([1]) OJ 2011 L 48, p. 1.

Request for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 9 June 2016 — Industrias Químicas del Vallés, S.A. v Administración General del Estado, Sapec Agro, S.A.

(Case C-325/16)

(2016/C 305/23)

Language of the case: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Appellant: Industrias Químicas del Vallés, S.A.

Respondents: Administración General del Estado, Sapec Agro, S.A.

Questions referred

1. Is the deadline set in Directive 2010/28/EU ([1]) by the use of the phrases 'by 31 December 2010' in Article 3(1) and 'by that date' in the second paragraph of Article 3(1), which also refers to 31 December 2010, in conjunction with the period of six months referred to in Recital 8 of the preamble to Directive 2010/28/EU, a mandatory time-limit by virtue of the purpose sought by the system established by Council Directive 91/414/EEC ([2]) of 15 July 1991, and not susceptible of extension by the Member States, such that it must be calculated exclusively in accordance with the directive?

2. In the event that it is held that the time-limit is capable of extension, is the decision concerning such an extension to be taken without regard to any specific procedural rules concerning applying for and granting the extension or does it fall within the competence of the Member States, which must decide the question in accordance with domestic legislation since they are the addressees of the provisions establishing the procedure under Article 3(1) of the directive?

(1) Commission Directive 2010/28/EU of 23 April 2010 amending Council Directive 91/414/EEC to include metalaxyl as active substance (OJ 2010 L 104, p. 57).
(2) Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ 1991 L 230, p. 1).

Request for a preliminary ruling from the Conseil d'État (France) lodged on 10 June 2016 — Marc Jacob v Ministre des finances et des comptes publics

(Case C-327/16)

(2016/C 305/24)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Appellant: Marc Jacob

Respondent: Ministre des finances et des comptes publics

Questions referred

1. Must Article 8 of Directive [90/434/EEC] of 23 July 1990 (1) be interpreted as meaning that it prohibits, in the event of an exchange of shares falling within the scope of the directive, a mechanism for deferred taxation which provides, by way of derogation from the rule that the chargeable event for capital gains tax purposes occurs during the year in which the gain arises, that the capital gain on the exchange is established and settled on the exchange of the shares, and taxed in the year in which the event putting an end to the deferred taxation occurs, which may, for instance, be the transfer of the shares that were received at the time of the exchange?

2. Must Article 8 of Directive [90/434/EEC] be interpreted as meaning that it prohibits, in the event of an exchange of shares falling within the scope of the directive, the capital gain on the exchange of the shares — supposing it to be taxable — from being taxed by the State in which the taxpayer was resident at the time of the exchange, when the taxpayer, at the time the shares received on that exchange are transferred (at which time the capital gain on the exchange is actually taxed), has moved his residence for tax purposes to another Member State?

(1) Council Directive 90/434/EEC of 23 July 1990 on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States (OJ 1990 L 225, p. 1).

Request for a preliminary ruling from the Audiencia Provincial de Albacete (Spain) lodged on 15 June 2016 — José Luís Núñez Torreiro v Seguros Chartis Europe, S.A.

(Case C-334/16)

(2016/C 305/25)

Language of the case: Spanish

Referring court

Audiencia Provincial de Albacete

Parties to the main proceedings

Appellant: José Luís Núñez Torreiro

Respondent: Seguros Chartis Europe, S.A.

Questions referred

1. May the concept 'use of vehicles', as an insurance risk for civil liability in respect of the use of motor vehicles, to which the Community legislation *(inter alia*, Article 3 of Directive 2009/103/EC ([1]) of the European Parliament and of the Council of 16 September 2009) refers, be determined by the national legislation of a Member State differently from how it is determined by the Community legislation?

2. If so, may that concept exclude (in addition to specific persons, plates or types of vehicles, as recognised by Article 5(1) and (2) of that Directive) circumstances which depend on the place in which the vehicle is used, such as roads, or terrain 'unsuitable' for motor vehicles?

3. Similarly, is it possible to exclude as 'use of a vehicle' certain activities of the vehicle relating to its purpose (such as its sporting, industrial or agricultural use) or relating to the driver's intention (for example, the commission of an intentional offence with the vehicle)?

([1]) Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability. OJ 2009 L 263, p. 11.

Request for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 16 June 2016 — Landeskrankenanstalten-Betriebsgesellschaft-KABEG v Mutuelles du Mans assurances IARD SA (MMA IARD)

(Case C-340/16)

(2016/C 305/26)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Appellant on a point of law: Landeskrankenanstalten-Betriebsgesellschaft-KABEG

Respondent in the appeal on a point of law: Mutuelles du Mans assurances IARD SA (MMA IARD)

Questions referred

1. Is the action brought by an employer established in Austria seeking compensation for the damage passed on to that employer as a result of the continued payment of remuneration to its employee domiciled in Austria a 'matter relating to insurance' within the meaning of Article 8 of Regulation (EC) No 44/2001, ([1]) in the case where

   (a) the employee was injured in a road traffic accident in a Member State (Italy),

   (b) the action is brought against the civil-liability insurer, domiciled in another Member State (France), of the vehicle at fault, and

   (c) the employer is established as a public-law institution with legal personality?

2. If Question 1 is answered in the affirmative:

Should Article 9(1)(b), in conjunction with Article 11(2), of Regulation (EC) No 44/2001 be interpreted as meaning that the employer which has continued to pay remuneration can, as an 'injured party', sue the civil-liability insurer of the vehicle at fault in the courts for the place where the employer is domiciled, in so far as such a direct action is permitted?

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

Action brought on 30 June 2016 — European Commission v Hellenic Republic

(Case C-363/16)

(2016/C 305/27)

Language of the case: Greek

Parties

Applicant: European Commission (represented by: A. Bouchagiar and B. Stromsky, acting as Agents)

Defendant: Hellenic Republic

Form of order sought

The applicant claims that the Court should:

— Declare that the Hellenic Republic, by failing to take within the prescribed time-limits all the measures required for the implementation of Commission Decision of 22 February 2012 in case SA.26534 (C 27/2010 ex NN 6/2009) on the State aid granted by Greece to United Textiles or, in any event, by failing adequately to inform the Commission of the measures taken in accordance with Article 4 of the decision, failed to fulfil its obligations under Articles 2, 3 and 4 of that decision and under the Treaty on the Functioning of the European Union;

— order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

1. Pursuant to the European Commission Decision of 22 February 2012 in case SA.26534, the Hellenic Republic is required to recover within four months the aid incompatible with the internal market which it granted to United Textiles, that is the State guarantee in 2007 and the rescheduling of overdue debts for social insurance contributions in 2009, and is also required adequately to inform the European Commission of the measures taken to that end.

2. However, the Hellenic Republic did not recover the aid at issue within four months, as it was required to do. In addition, the Hellenic Republic continues to be in breach of its obligation to take the required measures to implement the decision. By Decree-Law of 30 December 2015 the Greek authorities extended by six months the public auction procedure for the sale of assets of United Textiles with a view to investigating the possible resumption of its operations, without the aid incompatible with the internal market having been recovered. In any event, the Hellenic Republic has failed adequately to inform the European Commission of the relevant measures for the implementation of the decision.

Appeal brought on 6 July 2016 by Aughinish Alumina Ltd against the judgment of the General Court (First Chamber, Extended Composition) delivered on 22 April 2016 in Joined Cases T-50/06 RENV II and T-69/06 RENV II: Ireland and Aughinish Alumina Ltd v European Commission

(Case C-373/16 P)

(2016/C 305/28)

Language of the case: English

Parties

Appellant: Aughinish Alumina Ltd ('AAL') (represented by: C. Little, C. Waterson, solicitors)

Other parties to the proceedings: Ireland, European Commission

Form of order sought

The appellant claims that the Court should:

— quash the judgment of the General Court dated 22 April 2016 in Case T-69/06 RENV II.

— order the Commission to pay all of the costs incurred by AAL in these proceedings.

Pleas in law and main arguments

AAL submits two grounds of appeal against the Judgment.

First plea: Error in law in assessment of exceptional circumstances; infringement of the principle of legitimate expectations; failure to state reasons.

AAL submits that the General Court erred in law in its assessment of AAL's legitimate expectations, in particular, in assessing the existence of 'exceptional circumstances'. This plea is split into four parts:

First part: The General Court erred considering the scope and effect of the Judgment of the Court in Case C-272/12 P.

Second part: The General Court erred in finding that AAL's situation should be distinguished from that in Case 223/85 RSV.

Third part: The General Court erred in interpreting the Demesa case law (Case C-183/02 P and C-187/02 P) as bringing an end to AAL's legitimate expectations of non-recovery.

Fourth part: The General Court erred in failing to conduct the requisite balancing exercise between public and private interests. In doing so the General Court infringed the principle of the protection of legitimate expectations and compounded its error by a failure to state reasons.

Second plea: Error in law regarding the interpretation of Article 1 (b)(i) of Council Regulation (EC) No. 659/1999 ([1]).

AAL submits that the General Court erred in law in stating and applying the conditions under which aid will be classified as existing aid. In particular, AAL submits that the General Court erred in its interpretation of Article 1 (b)(i) of Council Regulation (EC) No. 659/1999.

([1]) Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty
OJ L 83, p. 1

Appeal brought on 7 July 2016 by European Dynamics Luxembourg SA, European Dynamics Belgium SA, Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE against the judgment of the General Court (Fourth Chamber) delivered on 27 April 2016 in Case T-556/11: European Dynamics Luxembourg SA, European Dynamics Belgium SA, Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE v European Union Intellectual Property Office

(Case C-379/16 P)

(2016/C 305/29)

Language of the case: English

Parties

Appellants: European Dynamics Luxembourg SA, European Dynamics Belgium SA, Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (represented by: C.-N. Dede, D. Papadopoulou, Δικηγόροι)

Other party to the proceedings: European Union Intellectual Property Office

Form of order sought

The appellants claim that the Court should:

— Set aside the judgment of the General Court under Appeal as per the rejection of the new plea in law related to the acceptance of an offer including a discount.

— Annul the award decision of EUIPO in so far as it accepted IECI's tender, which included a discount contrary to the requirements of the tender specifications.

— Order EUIPO to pay the Appellants' legal and other costs and expenses incurred in connection with the initial procedure and the current Appeal.

Pleas in law and main arguments

The appellants base their appeal on the fact that the General Court misinterpreted the Defendant's arguments and distorted the evidence provided by EUIPO, following the Order of the General Court of measures of inquiry, which was also confirmed during the hearing by EUIPO. Such evidence demonstrated that the winning tenderer's offer included a discount (which was offered irregularly) and that such discount was considered in the course of the evaluation. By offering a discount, the first winning tenderer included in its tender a variant in relation to the proposed price, contrary to the tender specifications (as complemented by the provision of answers by the Contracting authority to the questions of the tenderers). The General Court, specifically, erred in law in considering that EUIPO allegedly did not take into account the discount provided by the winning tender for the purposes of the financial assessment and, therefore, that because such discount was allegedly not taken into account, that EUIPO did not infringe the tender specifications.

GENERAL COURT

Judgment of the General Court of 30 June 2016 — CB v Commission

(Case T-491/07 RENV) ([1])

(Competition — Decision by an association of undertakings — Market for the issue of payment cards in France — Decision finding an infringement of Article 81 EC — Pricing measures applicable to 'new entrants' — Membership fee, mechanism for 'regulating the acquiring function', and 'dormant member "wake-up" mechanism' — Relevant market — Restriction of competition by effect — Article 81(3) EC — Manifest errors of assessment — Principle of sound administration — Proportionality — Legal certainty)

(2016/C 305/30)

Language of the case: French

Parties

Applicant: Groupement des cartes bancaires (CB) (Paris, France) (represented by: F. Pradelles and J. Ruiz Calzado, lawyers)

Defendant: European Commission (represented by: V. Bottka and B. Mongin, Agents)

Interveners in support of the applicant: BNP Paribas (Paris) (represented by: O. de Juvigny and J. Caminati, lawyers); BPCE, formerly Caisse Nationale des Caisses d'Epargne et de Prévoyance (CNCEP) (Paris) (represented by: A. Choffel and S. Hautbourg, lawyers); and Société générale (Paris) (represented by: P. Guibert and P. Patat, lawyers)

Subject matter

Application under Article 263 TFEU seeking the annulment of Commission Decision C(2007) 5060 final of 17 October 2007 relating to a proceeding under Article 81 [EC] (COMP/D1/38606 — Groupement des cartes bancaires 'CB').

Operative part of the judgment

The Court hereby:

1. *Annuls Commission Decision C(2007) 5060 final of 17 October 2007 relating to a proceeding under Article 81 [EC] (COMP/D1/38606 — Groupement des cartes bancaires 'CB') in so far as the European Commission ordered the Groupement, in Article 2, 'in future to refrain from any act or any conduct having an identical or similar object';*

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

3. *Orders Groupement des cartes bancaires (CB) and the Commission to bear their own respective costs, including those incurred in the proceedings before the Court of Justice;*

4. *Orders BNP Paribas, BPCE and Société générale to bear their own respective costs, including those incurred in the proceedings before the Court of Justice.*

([1]) OJ C 64, 8.3.2008.

Judgment of the General Court of 12 July 2016 — Commission v Thales développement et coopération

(Case T-326/13) ([1])

(Arbitration clause — Fourth and fifth framework programme for research, technological development and demonstration activities — Contracts concerning projects on the design and development of direct methanol fuel cells — Nullity of contracts on grounds of fraud — Repayment of financial contributions from the European Union — Regulation (EU, Euratom) No 2988/95 — Limitation period — Application of French and Belgian law — Rights of defence — Interest)

(2016/C 305/31)

Language of the case: French

Parties

Applicant: European Commission (represented by: R. Lyal and B. Conte, acting as Agents, and by N. Coutrelis, lawyer)

Defendant: Thales développement et coopération SAS (Vélizy-Villacoublay, France) (represented by: N. Huc-Morel, P. Vanderveeren, L. Defalque, A. Guillerme and J. Fréal-Saison, lawyers)

Re:

Action based on Article 272 TFEU and seeking an order from the Court that the defendant repay all of the financial contributions paid by the Commission to its legal predecessor, together with interest, in the context of Contract JOE3-CT-97-0063 under the fourth framework programme of European Community activities in the field of research and technological development and demonstration (1994-1998), established by Decision No 1110/94/EC of the European Parliament and of the Council of 26 April 1994 (OJ 1994, L 126, p. 1), and in the context of Contract ENK6-CT-2000-00315 under the fifth framework programme of the European Community for research, technological development and demonstration activities (1998-2002), established by Decision No 182/1999/EC of the European Parliament and of the Council of 22 December 1998 (OJ 1999, L 26, p. 1).

Operative part of the judgment

The Court:

1. *Orders Thales développement et coopération SAS to repay to the European Commission the amounts paid to its legal predecessor in performance of Contract JOE3-CT-97-0063, under the fourth framework programme of European Community activities in the field of research and technological development and demonstration (1994-1998), established by Decision No 1110/94/EC of the European Parliament and of the Council of 26 April 1994, set out below:*

   — *The amount of EUR 162 195,79, together with interest at the statutory rate laid down by French law, running from the date of payment of that amount until complete repayment thereof;*

   — *The amount of EUR 179 201, together with interest at the statutory rate laid down by French law, running from the date of payment of that amount until complete repayment thereof;*

   — *The amount of EUR 167 612,49, together with interest at the statutory rate laid down by French law, running from the date of payment of that amount until complete repayment thereof;*

   — *The amount of EUR 136 892,29, together with interest at the statutory rate laid down by French law, running from the date of payment of that amount until complete repayment thereof;*

   — *The amount of EUR 54 434,09, together with interest at the statutory rate laid down by French law, running from the date of payment of that amount until complete repayment thereof.*

2. *Orders Thales développement et coopération to repay to the European Commission the amounts paid to its legal predecessor in performance of Contract ENK6-CT-2000-00315, under the fifth framework programme of the European Community for research, technological development and demonstration activities (1998-2002), established by Decision No 182/1999/EC of the European Parliament and of the Council of 22 December 1998, set out below:*

   — *The amount of EUR 232 389,04, together with interest at the statutory rate laid down by Belgian law, running from the date of payment of that amount until complete repayment thereof;*

   — *The amount of EUR 218 734,67, together with interest at the statutory rate laid down by Belgian law, running from the date of payment of that amount until complete repayment thereof;*

   — *The amount of EUR 237 504,86, together with interest at the statutory rate laid down by Belgian law, running from the date of payment of that amount until complete repayment thereof;*

   — *The amount of EUR 124 192,86, together with interest at the statutory rate laid down by Belgian law, running from the date of payment of that amount until complete repayment thereof.*

3. *Orders the Commission to pay half of the costs incurred by Thales développement et coopération.*

4. *Orders Thales développement et coopération to pay the costs incurred by the Commission and half of its own costs.*

([1]) OJ C 298, 12.10.2013.

Judgment of the General Court of 4 July 2016 — Orange Business Belgium v Commission

(Case T-349/13) ([1])

(Public service contracts — Tender procedure — Provision of 'Trans-European Services for Telematics between Administrations — new generation (TESTA-ng)' — Rejection of a tenderer's bid — Award of the contract — Transparency — Equal treatment — Non-discrimination — Obligation to state reasons)

(2016/C 305/32)

Language of the case: English

Parties

Applicant: Orange Business Belgium SA (Brussels, Belgium) (represented by: B. Schutyser and T. Villé, lawyers)

Defendant: European Commission (represented by: S. Delaude, S. Lejeune and F. Moro, acting as Agents, and by P. Wytinck and B. Hoorelbeke, lawyers)

Re:

Application for annulment of the Commission's decision of 19 April 2013 rejecting the tender submitted by the applicant in the restricted call for tenders DIGIT/R2/PR/2011/039 'Trans-European Services for Telematics between Administrations — new generation (TESTA-ng)', and awarding the contract to another tenderer.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Orange Business Belgium SA to pay the costs.*

([1]) OJ C 252, 31.8.2013.

Judgment of the General Court of 30 June 2016 — Jinan Meide Casting v Council

(Case T-424/13) ([1])

(Dumping — Importations of threaded tube or pipe cast fittings, of malleable cast iron, originating in China — Definitive anti-dumping duty — Confidential treatment of the normal value calculations — Information provided in good time — Time limit for adopting a decision on market economy treatment — Rights of the defence — Equal treatment — Principle of non-retroactivity — Article 2(7) to (11), Article 3 (1) to (3), Article 6(7), Article 19(1) and (5), and Article 20(2) and (4), of Regulation (EC) No 1225/2009)

(2016/C 305/33)

Language of the case: English

Parties

Applicant: Jinan Meide Casting Co. Ltd (Jinan, China) (represented by: R. Antonini and E. Monard, lawyers)

Defendant: Council of the European Union (represented by: S. Boelaert and B. Driessen, acting as Agents, and by S. Gubel, lawyer, and B. O'Connor, Solicitor)

Intervener in support of the defendant: European Commission (represented by: J.-F. Brakeland and M. França, acting as Agents)

Re:

Action for the annulment of Council Implementing Regulation (EU) No 430/2013 of 13 May 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of threaded tube or pipe cast fittings, of malleable cast iron, originating in the People's Republic of China and Thailand and terminating the proceeding with regard to Indonesia (OJ 2013 L 129, p. 1), to the extent that it applies to the applicant.

Operative part of the judgment

The Court:

1. *Annuls Council Implementing Regulation (EU) No 430/2013 of 13 May 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of threaded tube or pipe cast fittings, of malleable cast iron, originating in the People's Republic of China and Thailand and terminating the proceeding with regard to Indonesia, to the extent that it applies to Jinan Meide Casting Co. Ltd;*

2. *Orders the Council of the European Union to pay, in addition to its own costs, those incurred by Jinan Meide Casting Co. Ltd;*

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

([1]) OJ C 325, 9.11.2013.

Judgment of the General Court of 30 June 2016 — CW v Council

(Case T-516/13) ([1])

(Common Foreign and Security Policy — Restrictive measures directed against certain persons and entities in view of the situation in Tunisia — Freezing of funds — Inclusion of the applicant's name on the basis of new grounds following the annulment of the previous measures freezing funds — Right to property — Proportionality — Factual error — Misuse of powers — Non-contractual liability — Causal link)

(2016/C 305/34)

Language of the case: French

Parties

Applicant: CW (represented by: A. Tekari, lawyer)

Defendant: Council of the European Union (represented by: G. Étienne and M. Bishop, Agents)

Re:

First, application based on Article 264 TFEU and seeking the annulment of Council Implementing Decision 2013/409/CFSP of 30 July 2013 implementing Decision 2011/72/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia (OJ 2013, L 204, p. 52), in so far as that decision concerns the applicant and, secondly, an application based on Article 268 TFEU and seeking compensation in respect of the harm allegedly suffered by the applicant.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Declares that CW shall bear his own costs and orders him to pay those incurred by the Council of the European Union.*

(1) OJ C 351, 6.10.2014.

Judgment of the General Court of 5 July 2016 — Future Enterprises v EUIPO — McDonald's International Property (MACCOFFEE)

(Case T-518/13) (1)

(European Union trade mark — Invalidity proceedings — European Union word mark MACCOFFEE — Earlier European Union word mark McDONALD'S — Article 53(1)(a) and Article 8(5) of Regulation (EC) No 207/2009 — Family of marks — Taking unfair advantage of the distinctive character or repute of the earlier mark — Declaration of invalidity)

(2016/C 305/35)

Language of the case: English

Parties

Applicant: Future Enterprises Pte Ltd (Singapore, Singapore) (represented initially by B. Hitchens, J. Olsen, R. Sharma, M. Henshall, Solicitors, and R. Tritton, Barrister, and subsequently by B. Hitchens, J. Olsen, R. Tritton and E. Hughes-Jones, Solicitors)

Defendant: European Union Intellectual Property Office (represented by: L. Rampini, Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervening before the General Court: McDonald's International Property Co. Ltd (Wilmington, Delaware, United States) (represented by: C. Eckhartt, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 13 June 2013 (Case R 1178/2012-1) relating to cancellation proceedings between McDonald's International Property Co. and Future Enterprises.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Future Enterprises Pte Ltd to pay the costs.*

(1) OJ C 352, 30.11.2013.

Judgment of the General Court of 30 June 2016 — Al Matri v Council

(Case T-545/13) ([1])

(Common foreign and security policy — Restrictive measures directed against certain persons and entities in view of the situation in Tunisia — Measures taken against persons responsible for misappropriation of public funds and associated persons and entities — Freezing of funds — List of persons, entities and bodies subject to the freezing of funds and economic resources — Inclusion of the applicant's name — Inadequate factual basis — Error of fact — Error of law — Right to property — Freedom to conduct a business — Proportionality — Rights of defence — Right to effective judicial protection — Obligation to state reasons)

(2016/C 305/36)

Language of the case: English

Parties

Applicant: Fahed Mohamed Sakher Al Matri (Doha, Qatar) (represented by: M. Lester and B. Kennelly, Barristers, and G. Martin, Solicitor,)

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

Re:

Application for annulment, first, of Council Decision 2011/72/CFSP of 31 January 2011 concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia (OJ 2011 L 28, p. 62), implemented by Council Implementing Decision 2013/409/CFSP of 30 July 2013 (OJ 2013 L 204, p. 52), by Council Decision 2014/49/CFSP of 30 January 2014 (OJ 2014 L 28, p. 38) and by Council Decision (CFSP) 2015/157 of 30 January 2015 (OJ 2015 L 26, p. 29), and, secondly, of Council Regulation (EU) No 101/2011 of 4 February 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Tunisia (OJ 2011 L 31, p. 1), implemented by Council Implementing Regulation (EU) No 735/2013 of 30 July 2013 (OJ 2013 L 204, p. 23), by Council Implementing Regulation (EU) No 81/2014 of 30 January 2014 (OJ 2014 L 28, p. 2) and by Council Implementing Regulation (EU) No 147/2015 of 30 January 2015 (OJ 2015 L 26, p. 3), in so far as those acts apply to the applicant.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Fahed Mohamed Sakher Al Matri to bear his own costs and to pay those incurred by the Council of the European Union.*

([1]) OJ C 359, 7.12.2013.

Judgment of the General Court of 7 July 2016 — Copernicus-Trademarks v EUIPO — Maquet (LUCEO)

(Case T-82/14) ([1])

(European Union trade mark — Proceedings for a declaration of invalidity — European Union word mark LUCEO — Absolute ground for refusal — Bad faith during the filing of the application for registration — Article 52(1)(b) of Regulation (EC) No 207/2009)

(2016/C 305/37)

Language of the case: German

Parties

Applicant: Copernicus-Trademarks Ltd (Borehamwood, United Kingdom) (represented by: F. Henkel, lawyer)

Defendant: European Union Intellectual Property Office (represented by: A. Schifko, Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervening before the Genelral Court: Maquet GmbH (Rastatt, Germany) (represented by: N. Hebeis, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 25 November 2013 (Case R 2292/2012-4) relating to invalidity proceedings between Copernicus-Trademarks and Maquet.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Copernicus-Trademarks Ltd to bear its own costs and those of the European Union Intellectual Property Office (EUIPO) and Maquet GmbH.*

([1]) OJ C 112, 14.4.2014.

Judgment of the General Court of 30 June 2016 — CW v Council

(Case T-224/14) ([1])

(Common Foreign and Security Policy — Restrictive measures directed against certain persons and entities in view of the situation in Tunisia — Freezing of funds — Extension — Right to property — Proportionality — Error of fact — Misuse of powers — Non-contractual liability)

(2016/C 305/38)

Language of the case: French

Parties

Applicant: CW (represented by: A. Tekari, lawyer)

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

Re:

First, application based on Article 263 TFEU and seeking the annulment of Council Decision 2014/49/CFSP of 30 January 2014, amending Decision 2011/72/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia (OJ 2014 L 28, p. 38), in so far as it concerns the applicant and, secondly, application based on Article 268 TFEU and seeking compensation for the damage suffered by the applicant.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders CW to bear its own costs and those incurred by the Council of the European Union.*

([1]) OJ C 351, 6.10.2014.

Order of the General Court of 29 June 2016 — Group v EUIPO — ILIEV (GROUP Company TOURISM & TRAVEL)

(Case T-567/14) ([1])

(European Union trade mark — Opposition proceedings — Application for European Union figurative mark GROUP Company TOURISM & TRAVEL — Earlier, non-registered national figurative marks GROUP Company TOURISM & TRAVEL — Relative ground for refusal — Application of national law — Article 8(4) of Regulation (EC) No 207/2009 — Evidence establishing the content of the national right — Rule 19(2)(d) of Regulation (EC) No 2868/95 — Failure to take account of evidence adduced before the Board of Appeal — Discretion of the Board of Appeal — Article 76(2) of Regulation No 207/2009)

(2016/C 305/39)

Language of the case: Bulgarian

Parties

Applicant: Group OOD (Sofia, Bulgaria) (represented by: D. Dragiev and A. Andreev, lawyers)

Defendant: European Union Intellectual Property Office (represented by: A. Folliard-Monguiral, P. Ivanov and D. Botis, Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervening before the General Court: Kosta Iliev (Sofia) (represented by: S. Ganeva, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 2 June 2014 (Case R 1587/2013-4) relating to opposition proceedings between Group OOD and Mr Iliev.

Operative part of the order

1. *Annuls the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 2 June 2014 (Case R 1587/2013-4).*

2. *Orders EUIPO and Mr Kosta Iliev to bear their own costs and to pay those incurred by Group OOD.*

([1]) OJ C 372, 20.10.2014.

Judgment of the General Court of 14 July 2016 — Latvia v Commission

(Case T-661/14) ([1])

(EAGGF, EAGF and EAFRD — Expenditure excluded from financing — Flat-rate financial correction — Conditionality — Minimum requirements for good agricultural and environmental conditions — Norms — Article 5(1) and Annex IV to Regulation (EC) No 1782/2003 — Article 6(1) and Annex III to Regulation (EC) No 73/2009)

(2016/C 305/40)

Language of the case: Latvian

Parties

Applicant: Republic of Latvia (represented by: I. Kalniņš and D. Pelše, acting as Agents)

Defendant: European Commission (represented by: A. Sauka and D. Triantafyllou, acting as Agents)

Re:

Application based on Article 263 TFEU and seeking annulment of Commission Implementing Decision 2014/458/EU of 9 July 2014 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2014 L 205, p. 62), in so far as that decision excludes from EU financing certain expenditure of the Republic of Latvia, amounting to EUR 739 393,95, due to the fact that it is incompatible with EU rules.

Operative part of the judgment

The Court:

1. *Annuls Commission Implementing Decision 2014/458/EU of 9 July 2014 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD), in so far as that decision excludes from EU financing certain expenditure of the Republic of Latvia, amounting to EUR 739 393,95, due to the fact that it is incompatible with EU rules;*

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

([1]) OJ C 395, 10.11.2014.

Judgment of the General Court of 6 July 2016 — Mozzett v EUIPO — di Lelio (Alfredo alla Scrofa)

(Case T-96/15) ([1])

(EU trade mark — Proceedings for a declaration of invalidity — Figurative EU trade mark Alfredo alla Scrofa — Earlier national word mark L'ORIGINALE ALFREDO — Request for proof of genuine use — Article 57(2) of Regulation (EC) No 207/2009 — Relative ground for refusal — Article 8(1)(b) of Regulation No 207/2009)

(2016/C 305/41)

Language of the case: Italian

Parties

Applicant: Mario Mozzetti (Rome, Italy) (represented by: E. Montelione, lawyer)

Defendant: European Union Intellectual Property Office (represented by: L. Rampini, agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Ines di Lelio (Rome) (represented by: D. De Simone, G. Orsoni and R. Fecchio, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 2 December 2014 (Case R 655/2014-1), relating to proceedings for a declaration of invalidity between Ms di Lelio and Mr Mozzetti.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mario Mozzetti to pay the costs.*

([1]) OJ C 127, 20.4.2015.

Judgment of the General Court of 6 July 2016 — Mozzetti v EUIPO — di Lelio (ALFREDO'S GALLERY alla Scrofa Roma)

(Case T-97/15) ([1])

(EU trade mark — Proceedings for a declaration of invalidity — Figurative EU trade mark ALFREDO'S GALLERY alla Scrofa Roma — Earlier national word mark L'ORIGINALE ALFREDO — Request for proof of genuine use — Article 57(2) of Regulation (EC) No 207/2009 — Relative ground for refusal — Article 8(1)(b) of Regulation No 207/2009)

(2016/C 305/42)

Language of the case: Italian

Parties

Applicant: Mario Mozzetti (Rome, Italy) (represented by: E. Montelione, lawyer)

Defendant: European Union Intellectual Property Office (represented by: L. Rampini, agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Ines di Lelio (Rome) (represented by: D. De Simone, G. Orsoni and R. Fecchio, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 2 December 2014 (Case R 656/2014-1), relating to proceedings for a declaration of invalidity between Ms di Lelio and Mr Mozzetti.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mario Mozzetti to pay the costs.*

([1]) OJ C 127, 20.4.2015.

Judgment of the General Court of 5 July 2016 — Bundesverband Souvenir — Geschenke — Ehrenpreise v EUIPO — Freistaat Bayern (NEUSCHWANSTEIN)

(Case T-167/15) ([1])

(EU trade mark — Proceedings for a declaration of invalidity — EU word mark NEUSCHWANSTEIN — Absolute grounds for refusal — Article 7(1)(b) and (c) of Regulation (EC) No 207/2009 — No distinctive character — Distinctive character — Article 52(1)(b) of Regulation No 207/2009 — No bad faith)

(2016/C 305/43)

Language of the case: German

Parties

Applicant: Bundesverband Souvenir — Geschenke — Ehrenpreise eV (Veitsbronn, Germany) (represented by: B. Bittner, lawyer)

Defendant: European Union Intellectual Property Office (represented by: A. Schifko, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Freistaat Bayern (Germany) (represented by: M. Müller, lawyer)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 22 January 2015 (Case R 28/2014-5), relating to proceedings for a declaration of invalidity between Bundesverband Souvenir — Geschenke — Ehrenpreise and Freistaat Bayern.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Bundesverband Souvenir — Geschenke — Ehrenpreise eV to pay the costs.*

(1) OJ C 178, 1.6.2015.

Judgment of the General Court of 14 July 2016 — Thun 1794 v EUIPO — Adekor (Decorative graphical symbols)

(Case T-420/15) (1)

(Community design — Proceedings for a declaration of invalidity — Registered Community design representing decorative graphical symbols — Earlier design — Ground for invalidity — Disclosure of earlier design — Lack of novelty — Articles 5, 7 and Article 25(1)(b) of Regulation (EC) No 6/2002)

(2016/C 305/44)

Language of the case: Czech

Parties

Applicant: Thun 1794 a.s. (Nová Role, Czech Republic) (represented by: F. Steidl, lawyer)

Defendant: European Union Intellectual Property Office (represented by: D. Gája, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervening before the General Court: Adekor s.r.o. (Loket, Czech Republic) (represented by: V. Dohnalová, lawyer)

Re:

Action brought against the decision of the Third Board of Appeal of EUIPO of 29 April 2015 (Case R 1465/2014-3) relating to proceedings for a declaration of invalidity between Thun 1794 and Adekor.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Thun 1794 a.s. to pay the costs.*

(1) OJ C 337, 12.10.2015.

Judgment of the General Court of 7 July 2016 — Fruit of the Loom v EUIPO — Takko (FRUIT)

(Case T-431/15) ([1])

(EU trade mark — Revocation proceedings — EU word mark FRUIT — Genuine use of a mark — Article 15 and Article 51(1)(a) of Regulation (EC) No 207/2009 — External use of the mark)

(2016/C 305/45)

Language of the case: English

Parties

Applicant: Fruit of the Loom, Inc. (Bowling Green, Kentucky, United States) (represented by: S. Malynicz QC, and V. Marsland, Solicitor)

Defendant: European Union Intellectual Property Office (represented by: D. Gája, Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervening before the General Court: Takko Holding GmbH (Telgte, Germany)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 12 May 2015 (case R 1641/2014-2) relating to revocation proceedings between Takko Holding and Fruit of the Loom

Operative part of the judgment

The Court:

1. *Annuls the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 12 May 2015 (Case R 1641/2014-2);*

2. *Orders EUIPO to bear its own costs and to pay those of Fruit of the Loom, Inc.*

([1]) OJ C 320, 28.9.2015.

Judgment of the General Court of 6 July 2016 — LM v Commission

(Case T-560/15 P) ([1])

(Appeal — Civil service — Officials — Survivor's pension — Articles 18 and 27 of Annex VIII to the Staff Regulations — Article 25 of the Charter of Fundamental Rights — Right of the divorced spouse of the deceased official — Maintenance paid by the deceased official)

(2016/C 305/46)

Language of the case: Italian

Parties

Appellant: LM (Ispra, Italy) (represented by: L. Ribolzi, lawyer)

Other party to the proceedings: European Commission (represented by: G. Gattinara and F. Simonetti, acting as Agents, and by A. Dal Ferro, lawyer)

Re:

Appeal brought against the order of the European Union Civil Service Tribunal [*confidential*], and asking for annulment of that order.

Operative part of the judgment

The Court:

1) *Dismisses the appeal;*

2) *Orders LM to pay the costs.*

([1]) OJ C 414, 14.12.2015.

Order of the General Court of 10 June 2016 — Klymenko v Council

(Case T-494/14) ([1])

(Action for annulment — Common foreign and security policy — Restrictive measures adopted in view of the situation in Ukraine — Freezing of funds — List of persons, entities and bodies covered by the freezing of funds and economic resources — Inclusion of the applicant's name — Period allowed for commencing proceedings — Admissibility — Proof that inclusion on the list is justified — Manifestly well-founded action)

(2016/C 305/47)

Language of the case: English

Parties

Applicant: Oleksandr Klymenko (Kyiv, Ukraine) (represented by: M. Shaw QC, and I. Quirk, Barrister)

Defendant: Council of the European Union (represented by: A. Vitro and J.-P. Hix, Agents)

Re:

Application for annulment of Council Implementing Decision 2014/216/CFSP of 14 April 2014 implementing Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2014 L 111, p. 91) and of Council Implementing Regulation (EU) No 381/2014 of 14 April 2014 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2014 L 111, p. 33), in so far as they relate to the applicant.

Operative part of the order

1. *Council Implementing Decision 2014/216/CFSP of 14 April 2014 implementing Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine, and Council Implementing Regulation (EU) No 381/2014 of 14 April 2014 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine are annulled in so far as they relate to Mr Oleksandr Klymenko.*

2. *The Council of the European Union shall bear its own costs and pay those incurred by Mr Klymenko.*

([1]) OJ C 292, 1.9.2014.

Order of the General Court of 22 June 2016 — European Dynamics Luxembourg and Others v EMA

(Case T-440/15) ([1])

(Action for annulment — Public service contracts — Processing of online transactions — External service provision for software applications — Multiple framework cascade contract EMA/2012/10/ICT — Request for services sent to the applicants — Insertion of new criteria — Subject matter of the action ceasing to exist — No need to adjudicate)

(2016/C 305/48)

Language of the case: Greek

Parties

Applicants: European Dynamics Luxembourg SA (Luxembourg, Luxembourg), Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece), and European Dynamics Belgium SA (Brussels, Belgium) (represented by: I. Ampazis, M. Sfyri, C.-N. Dede and D. Papadopoulou, and subsequently M. Sfyri, C.-N. Dede and D. Papadopoulou, lawyers)

Defendant: European Medicines Agency (represented by: T. Jablonski, N. Rampal Olmedo, G. Gavriilidou and P.A. Eyckmans, Agents)

Subject matter

Application based on Article 272 TFEU and seeking a declaration concerning the insertion, in EMA's request S C 002 of 22 May 2015 to provide services, of new criteria which did not feature in the technical specifications for tender EMA/20l1/l7/ICT, Annex I to framework contract EMA/2012/l0/ICT.

Operative part of the order

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

2. *European Dynamics Luxembourg SA, Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE and European Dynamics Belgium SA shall bear their own costs and pay those incurred by the European Medicines Agency (EMA).*

([1]) OJ C 337, 12.10.2015.

Order of the General Court of 13 June 2016 — GABO:mi v Commission

(Case T-588/15) ([1])

(Seventh framework programme for research, technological development and demonstration activities (2007-2013) — Grant agreements — Suspension of payments — Lifting of the suspension — No need to adjudicate)

(2016/C 305/49)

Language of the case: English

Parties

Applicant: GABO:mi Gesellschaft für Ablauforganisation:milliarium mbH & Co. KG (Munich (Germany)) (represented by: M. Ahlhaus and C. Mayer, lawyers)

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

Re:

Action on the basis of Article 263 TFEU for annulment, first, of Commission Decisions of 29 July and 19 August 2015 to suspend all payments that might be made to the applicant by Directorates E 'Health' and F 'Bio-economy' of its Directorate-General (DG) for Research and Innovation, secondly, Commission Decision of 25 August 2015 instructing the coordinator of project Biofector not to transfer any amount to the applicant in the context of that project, thirdly, Commission Decision of 28 August 2015 maintaining the suspension of payments by Directorate E of its DG for Research and Innovation, fourthly, Commission Decision of 15 September 2015 instructing the coordinators of projects 'The hip trial' and EU-CERT-ICD not to transfer any amount to the applicant in the context of those projects, fifthly, Commission Decision of 5 October 2015, addressed to the coordinator of project NEMO, to consider the applicant's costs ineligible and to adjust as a result the payments due to the applicant, sixthly, Commission Decision of 14 October 2015, addressed to the coordinator of project Procardio, to suspend payments to the applicant by Directorate G 'Energy' of its DG for Research and Innovation, seventhly, Commission Decisions of 23 October and 6 November 2015 taken in execution of that decision of 28 August 2015 and addressed to the coordinators of projects LENA and Re-liver and, eighthly, Commission Decision of 11 November 2015, addressed to the coordinator of project ENS@T-Cancer, to consider the applicant's costs ineligible and to adjust as a result the payments due to it.

Operative part of the order

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

2. *GABO:mi Gesellschaft für Ablauforganisation:milliarium mbH & Co. KG and the European Commission shall bear their own costs.*

([1]) OJ C 27, 25.1.2016.

Order of the General Court of 24 June 2016 — Onix Asigurări v EIOPA

(Case T-590/15) ([1])

(Action for failure to act, for annulment and for damages — Application for an inquiry to be opened into the alleged infringement of EU law — Decision of the Chair of EIOPA not to open an inquiry — Decision of the Appeals Committee to dismiss as inadmissible the complaint — Time-limits for bringing proceedings — Act not open to challenge — Infringement of essential procedural requirements — Action in part manifestly inadmissible and in part manifestly lacking any legal basis)

(2016/C 305/50)

Language of the case: Romanian

Parties

Applicant: Onix Asigurări SA (Bucarest, Romania) (represented by: M. Vladu, lawyer)

Defendant: European Insurance and Occupational Pensions Authority (represented by: C. Coucke and S. Dispiter, Agents, and H.-G. Kamman, lawyer)

Re:

First, primarily, an application based on Article 265 TFEU seeking a declaration that EIOPA illegally failed to take a decision against the incorrect application, by the Istituto per la Vigilanza sulle Assicurazioni (IVASS, the Italian supervisory authority for the insurance sector), of Article 40(6) of Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive) (OJ 1992 L 228, p. 1) and, in the alternative, an application based on Article 263 TFEU and seeking annulment of the decision EIOPA-14-267 of the Chair of EIOPA dated 6 June 2014 on the opening of an inquiry under Article 17 of Regulation (EU) No 1094/2010 of the European Parliament and of the

Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ 2010 L 331, p. 48), and of Decision BOA 2015 001 of the Appeals Committee dated 3 August 2015, rejecting as inadmissible an appeal brought by Onix Asigurări under Article 60 of Regulation No 1094/2010 and, secondly, an application based on Article 268 TFEU and seeking compensation in respect of the harm allegedly suffered by the applicant on account of the abovementioned omission and the adoption of those decisions.

Operative part of the order

1. *The action is dismissed.*

2. *Onix Asigurări SA shall bear its own costs and pay those incurred by the European Insurance and Occupational Pensions Authority (EIOPA).*

([1]) OJ C 414, 14.12.2015.

Order of the General Court of 17 June 2016 — Hako v EUIPO (SCRUBMASTER)

(Case T-629/15) ([1])

(EU trade mark — Application for EU word mark SCRUBMASTER — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 207/2009 — Action manifestly lacking any foundation in law)

(2016/C 305/51)

Language of the case: German

Parties

Applicant: Hako GmbH (Bad Oldesloe, Germany) (represented by: A. Marx, lawyer)

Defendant: European Union Intellectual Property Office (represented by: D. Hanf, acting as Agent)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 1 September 2015 (Case R 2197/2014-4), concerning an application for registration of the word sign SCRUBMASTER as an EU trade mark.

Operative part of the order

1. *The action is dismissed.*

2. *Hako GmbH shall pay the costs.*

([1]) OJ C 16, 18.1.2016.

Order of the General Court of 2 June 2016 — Rabbit v EUIPO — DMG Media (rabbit)

(Case T-4/16) ([1])

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

(2016/C 305/52)

Language of the case: English

Parties

Applicant: Rabbit, Inc. (Redwood City, California, United States) (represented by: M. Engelman, Barrister, and J. Stephenson, Solicitor)

Defendant: European Union Intellectual Property Office (represented by: H. O'Neill, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO: DMG Media Ltd (London, United Kingdom)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 26 October 2015 (Case R 2133/2014-2), relating to opposition proceedings between DMG Media Ltd and Rabbit, Inc.

Operative part of the order

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

2. *Rabbit, Inc. is ordered to bear its own costs and to pay those incurred by the European Union Intellectual Property Office (EUIPO).*

([1]) OJ C 156, 2.5.2016.

Action brought on 24 May 2016 — Kingdom of Sweden v European Commission

(Case T-260/16)

(2016/C 305/53)

Language of the case: Swedish

Parties

Applicant: Kingdom of Sweden (represented by: A. Falk, N. Otte Widgren, C. Meyer-Seitz, U. Persson and L. Swedenborg)

Defendant: European Commission

Form of order sought

— First, declare Commission Implementing Decision (EU) 2016/417 of 17 March 2016 (the contested decision) invalid in so far as it provides that financial corrections are to be made at a flat rate of 2 percent equivalent to EUR 8 811 286,44 in decoupled direct aid paid out to Sweden for the 2013 claim year under Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003, and

— In the alternative, set aside and vary the contested decision so as to reduce the above amount to EUR 1 022 259,46;

— Order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant submits that the Commission has disregarded Article 52 of Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 and Article 11(1) of Commission Regulation (EC) No 885/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the accreditation of paying agencies and other bodies and the clearance of the accounts of the EAGF and of the EAFRD, in that, in the communication which has to be sent to the Member State under those provisions, it neither specifies the alleged infringement for which the applicant is responsible in this connection nor states what corrective measures are to be taken to ensure that the appropriate EU rules are followed in the future. The communication cannot, therefore, be relied on to justify the imposition of the contested flat rate financial corrections on Sweden.

The applicant submits that the Commission based the contested decision on erroneous conclusions regarding the differences between the number of errors found in the use of checks by means of remote sensing and the number of errors found in the use of checks by means of classic on-site inspections. According to the applicant the Commission has been unable to demonstrate either what the alleged infringements consist in or how they could have led to a risk of losses for the EAGF. The applicant argues that Sweden selected the checks and in essence the risk analysis provided for by Article 31 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 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 and, therefore, Sweden did not expose the EAGF to the risks the Commission alleges. The Commission's decision on a flat rate correction of 2 percent is thus, according to the applicant, contrary to Article 31 of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy and Article 52 of Regulation No 130/2013.

In the event that the Court concludes that the risk analysis was not effective under Article 31(2) of Regulation No 1122/2009, the applicant argues in the alternative that there were no grounds for the Commission to apply a flat rate correction of 2 percent. Neither the magnitude of the alleged infringement, in the light of its nature and extent, nor the financial loss which the infringement could have caused for the EU can justify the amount of EUR 8 811 286,44 which was deducted from EU financing by the contested decision. The applicant argues that, with due diligence, it is possible to establish the amount equivalent to the risk which the infringement could have created. Using the flat rate correction at issue is thus contrary to Article 5(2) of Regulation No 1306/2013 and to the Commission's Guidelines for the calculation of financial consequences when preparing the decision regarding the clearance of the accounts of EAGGF Guarantee (Document No VI/5330/97) and the principle of proportionality. According to the applicant, the amount resulting from the flat rate correction should be reduced.

Action brought on 17 June 2016 — CEE Bankwatch Network v Commission

(Case T-307/16)

(2016/C 305/54)

Language of the case: English

Parties

Applicant: CEE Bankwatch Network (Prague, Czech Republic) (represented by: C. Kiss, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare the contested Commission Decision of 15 April 2016, reference number Ref. GestDem No 2015/5866 null and void; and

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

Pleas in law and main arguments

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

1. First plea in law, alleging that Regulation (EC) No 1367/2006 ([1]) is applicable to Euratom documents:

   — the word 'Treaty' should not be understood in different contexts regarding each piece of EU legislation, but that it should have a uniform meaning.

2. Second plea in law, alleging that the contested decision is unlawful:

   — access to the required documents does not endanger the interest of nuclear safety because the request for information did not affect nuclear safety issues;

   — the defendant seriously breached its obligation stemming from Regulation (EC) No 1049/2001 ([2]) and applicable case law of the EU Court to give specific reasons for non-disclosure.

3. Third plea in law, alleging that the reference by the defendant to the protection of commercial interest is flawed and fails to specify the general considerations on which it bases the presumption that disclosure of the required documents would undermine commercial interest:

   — the information withheld by the defendant as affecting commercial interest does not satisfy the criteria of commercial information and its age is not taken into account when deciding by the defendant upon the confirmatory application;

   — there is an overriding public interest in the disclosure of the requested data given that public interest is in the disclosure of nuclear information.

([1]) Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ L 264, 25.9.2006, p. 13)

([2]) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43)

Action brought on 20 June 2016 — Foshan Lihua Ceramic v Commission

(Case T-310/16)

(2016/C 305/55)

Language of the case: English

Parties

Applicant: Foshan Lihua Ceramic Co. Ltd (Foshan City, China) (represented by: B. Spinoit and D. Philippe, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Implementing Decision C(2016)2136 final of 15 April 2016 rejecting a request for a new exporting producer treatment with regard to the definitive anti-dumping measures imposed on imports of ceramic tiles originating in the People's Republic of China by Council Implementing Regulation (EU) No 917/2011;

— order the Commission to pay the costs incurred by the Applicant.

Pleas in law and main arguments

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

1. First plea in law, alleging that the sample exception applied by the Commission infringes Articles 11(5) and 11(4) of the Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community as well as Article 9.5 of the WTO-Agreement

2. Second plea in law, alleging a breach of the principle of equal treatment, as the Commission recently applied the new exporter review provisions of Article 11(4) of the Council Regulation (EC) No 1225/2009 with regards to a case involving a Korean exporter.

3. Third plea in law, alleging a manifest error of factual assessment.

4. Fourth plea in law, alleging a violation of the applicant's fundamental right of defence. The Applicant puts forward that the Commission refers to and bases its decision on (i) the existence of a company which cannot and has not exported during the original investigation period and which cannot and is not a legal, corporate linkage to other exporters; (ii) information to which the Applicant had never access and could never comment, and (iii) alleged events in a hearing for which no record or minutes exist.

5. Fifth plea in law, alleging a misuse of power, as the Commission based its decision on an alleged discrepancy of, on the one hand, the audited production figures after the original investigation period given by the Applicant, and, on the other hand, commercially influenced website data.

6. Sixth plea in law, alleging a manifest error of legal assessment as the Commission based its decision on legal concepts which do exist neither in law nor in practice.

7. Seventh plea in law, alleging a motivation based not on facts but on assumptions and a violation of the right to be heard. First, the Applicant puts forward that points 17 to 22 of the contested decision contain manifest errors of assessment based on pure unfounded assumptions. Second, according to the Applicant, the fact that important and substantial facts and arguments submitted by the Applicant are totally ignored and disregarded is a violation of the Applicant's right to an 'effective' hearing by the Commission.

Action brought on 21 June 2016 — Siemens Industry Software v Commission

(Case T-311/16)

(2016/C 305/56)

Language of the case: English

Parties

Applicant: Siemens Industry Software (Leuven, Belgium) (represented by: H. Gilliams and J. Bocken, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission decision of 11 January 2016 on the excess profit exemption state aid scheme SA.37667 (2015/C) (ex 2015/NN) implemented by the Kingdom of Belgium;

— in the alternative, annul Articles 2-4 of the Decision;

— in any event, annul Articles 2-4 of that Decision in so far as these Articles (a) require recovery from entities other than the entities that have been issued an 'excess profit ruling' as defined in the Decision and (b) require the recovery of an amount equal to the beneficiary's tax savings, without allowing Belgium to take into account an actual upwards adjustment by another tax administration;

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

Pleas in law and main arguments

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

1. First plea in law, alleging a manifest error of assessment, excess of power and failure to provide adequate reasons in so far as the Commission decision of 11 January 2016 on the excess profit exemption state aid scheme SA.37667 (2015/C) (ex 2015/NN) implemented by the Kingdom of Belgium alleges the existence of an aid scheme.

2. Second plea in law, alleging a violation of Article 107 TFUE and of the duty to state reasons and manifest error of assessment in so far as the contested decision qualifies the purported scheme as a selective measure.

3. Third plea in law, alleging a violation of Article 107 TFUE and manifest error of assessment in so far as the contested decision asserts that the purported scheme gives rise to an advantage.

4. Fourth plea in law, alleging a violation of Article 107 TFUE, infringement of legitimate expectations, manifest error of assessment, excess of power and failure to provide adequate reasons in so far as the contested decision order Belgium to recover aid.

Action brought on 20 June 2016 — Walfood v EUIPO — Romanov Holding (CHATKA)

(Case T-312/16)

(2016/C 305/57)

Language in which the application was lodged: English

Parties

Applicant: Walfood SA (Luxembourg, Luxembourg) (represented by: E. Cornu, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Romanov Holding, SL (La Moraleja, Spain)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: International registration designating the European Union in respect of the mark 'CHATKA' — International registration designating the European Union No 876 349

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 21 March 2016 in Case R 2870/2014-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

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

Action brought on 24 June 2016 — BASF Antwerpen v Commission

(Case T-319/16)

(2016/C 305/58)

Language of the case: English

Parties

Applicant: BASF Antwerpen NV (Antwerpen, Belgium) (represented by: H. Gilliams and J. Bocken, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission decision of 11 January 2016 on the excess profit exemption state aid scheme SA.37667 (2015/C) (ex 2015/NN) implemented by the Kingdom of Belgium;

— in the alternative, annul Articles 2-4 of the Decision;

— in any event, annul Articles 2-4 of that Decision in so far as these Articles (a) require recovery from entities other than the entities that have been issued an 'excess profit ruling' as defined in the Decision and (b) require the recovery of an amount equal to the beneficiary's tax savings, without allowing Belgium to take into account an actual upwards adjustment by another tax administration;

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

Pleas in law and main arguments

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

1. First plea in law, alleging a manifest error of assessment, excess of power and failure to provide adequate reasons in so far as the Commission decision of 11 January 2016 on the excess profit exemption state aid scheme SA.37667 (2015/C) (ex 2015/NN) implemented by the Kingdom of Belgium alleges the existence of an aid scheme.

2. Second plea in law, alleging a violation of Article 107 TFUE and of the duty to state reasons and manifest error of assessment in so far as the contested decision qualifies the purported scheme as a selective measure.

3. Third plea in law, alleging a violation of Article 107 TFUE and manifest error of assessment in so far as the contested decision asserts that the purported scheme gives rise to an advantage.

4. Fourth plea in law, alleging a violation of Article 107 TFUE, infringement of legitimate expectations, manifest error of assessment, excess of power and failure to provide adequate reasons in so far as the contested decision order Belgium to recover aid.

Action brought on 21 June 2016 — VF Europe v Commission

(Case T-324/16)

(2016/C 305/59)

Language of the case: English

Parties

Applicant: VF Europe BVBA (Bornem, Belgium) (represented by: H. Vanhulle, B. van de Walle de Ghelcke, C. Borgers and N. Baeten, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission decision of 11 January 2016 on the excess profit exemption state aid scheme SA.37667 (2015/C) (ex 2015/NN) implemented by the Kingdom of Belgium;

— in the alternative, annul Articles 2-4 of the Decision;

— in any event, order the European Commission to pay the costs of the proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission has committed an error of law and a manifest error of assessment in the identification of the alleged aid measure and in its qualification as an aid scheme within the meaning of Article 1(d) of Council Regulation No 2015/1589 ([1]) and Article 107 TFUE.

2. Second plea in law, alleging that the Commission infringed Article 107 TFUE, failed to state reasons and committed a manifest error of assessment in considering that the Belgian excess profit ruling system constitutes a State aid measure.

3. Third plea in law, alleging that the Commission infringed Article 16(1) of Council Regulation No 2015/1589 and the general principles of legal certainty and legitimate expectations in ordering the recovery of the alleged aid.

4. Fourth plea in law, alleging that the Commission infringed Article 2(6) TFUE and the principle of equal treatment, and misuses its powers, by using State aid rules to prohibit the Belgian excess profit ruling system.

([1]) Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ 2015, L 248, p. 9).

Action brought on 23 June 2016 — Paice v EUIPO — Blackmore (DEEP PURPLE)

(Case T-328/16)

(2016/C 305/60)

Language in which the application was lodged: English

Parties

Applicant: Ian Paice (London, United Kingdom) (represented by: M. Engelman, Barrister and J. Stephenson, Solicitor)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Richard Hugh Blackmore (New York, New York, United States)

Details of the proceedings before EUIPO

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

Trade mark at issue: EU word mark 'DEEP PURPLE' — Application for registration No 11 772 721

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 21 March 2016 in Case R 736/2015-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision in any way it sees fit, namely that the trade mark be rejected in its entirety for all of the goods and services for which it was filed;

— order EUIPO to pay the applicant's costs of this appeal.

Plea in law

— Infringement of Article 8(4) of Regulation No 207/2009.

Appeal brought on 20 June 2016 by FN, FP, and FQ against the judgment of the Civil Service Tribunal of 11 April 2016 in Case F-41/15 DISS II FN and Others v CEPOL

(Case T-334/16 P)

(2016/C 305/61)

Language of the case: English

Parties

Appellants: FN (Budapest, Hungary), FP (Bratislava, Slovakia), FQ (Les Fonts Benitachell, Spain) (represented by: L. Levi and A. Blot, lawyers)

Other party to the proceedings: European Police College (CEPOL)

Form of order sought by the appellant

The appellants claim that the Court should:

— annul the judgment of the Civil Service Tribunal of 11 April [2016] in Case F-41/15 DISS II, FN e.a. v CEPOL, and as a consequence,

— annul the CEPOL decision n° 17/2014/DIR dated 23 May 2014, providing for the relocation of CEPOL in Budapest, Hungary, as from 1st October 2014 and informing the appellants that 'Non compliance with this instruction will be considered as resignation with the effect of 30 September 2014',

— annul the CEPOL decisions dated 28 November 2014, rejecting the appellants' complaints lodged between 8 and 21 August 2014, against the decision of 23 May 2014,

— order CEPOL to compensate the material and moral prejudices suffered by the appellants,

— order CEPOL to bear the costs of the appellants related to the present appeal and in case F-41/15 DISS II.

Pleas in law and main arguments

In support of the appeal, the appellants rely on three pleas in law.

1. First plea in law, alleging an error in law in the application of article 47 of the Conditions of Employment of Other Servants of the European Union ('CEOS').

2. Second plea in law, alleging an error in law in the interpretation of the contractual provisions binding the appellants and CEPOL and of the appellants' acquired rights, a distortion of the facts, a violation of the duty duty to state reasons, a violation of the principle of equal treatment, and an error in law in the application of the principle of good administration and due care.

3. Third plea in law, alleging an error in law in the appreciation of the appellants' claims for damages.

Appeal brought on 22 June 2016 by Richard Zink against the judgment of the Civil Service Tribunal of 11 April 2016 in Case F-77/15, Zink v Commission

(Case T-338/16 P)

(2016/C 305/62)

Language of the case: French

Parties

Appellant: Richard Zink (Bamako, Mali) (represented by N. de Montigny and J.-N. Louis, lawyers)

Other party to the proceedings: European Commission

Form of order sought by the appellant

The appellant claims that the Court should:

— annul the judgment of the Civil Service Tribunal of the European Union (Second Chamber) of 11 April 2016 in Case F-77/15 (Zink v Commission);

— annul the decision of the Office for Administration and Payment of Individual Entitlements (PMO) to limit the payment of the expatriation allowance, which had been wrongly omitted since 1 September 2007, to a period of five years;

— order the Commission to pay to the applicant the expatriation allowances that he has been entitled to since 1 September 2007 plus default interest calculated at the rate laid down by the European Central Bank for its main refinancing operations, increased by two percentage points on the sums already paid to the applicant by way of arrears of remuneration (expatriation allowance) and on those sums still due, from their respective due date until full payment, subject to the deduction of the sums already paid;

— order the European Commission to pay the costs of the two instances.

Pleas in law and main arguments

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

1. First plea in law, alleging an infringement of Article 62 of the Statute.

2. Second plea in law, alleging an infringement of the principle of the legality of acts of the Commission.

3. Third plea in law, alleging a breach of the limitation to five years of the arrears.

4. Fourth plea in law, alleging an infringement of the obligation to state reasons.

Action brought on 28 June 2016 — Flatworld Solutions/EUIPO — Outsource2India (Outsource 2 India)

(Case T-340/16)

(2016/C 305/63)

Language in which the application was lodged: English

Parties

Applicant: Flatworld Solutions Pvt. Ltd (Bangalore, India) (represented by: S. Gillert, K. Vanden Bossche, B. Köhn-Gerdes, J. Schumacher, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Outsource2India Ltd (Friedrichshafen, Germany)

Details of the proceedings before EUIPO

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

Trade mark at issue: EU figurative mark containing the word elements 'Outsource 2 India' — EU trade mark No 6 035 547

Procedure before EUIPO: Proceedings for a declaration of invalidity

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 15 April 2016 in Case R 611/2015-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision in its entirety;

— confirm the decision of the Cancellation Division of 3 February 2015;

— order EUIPO to pay the costs including the costs incurred by the Applicant.

Plea in law

— Infringement of Article 52(1)(b) of Regulation No 207/2009.

Action brought on 28 June 2016 — CSL Behring v EUIPO — Vivatrex (Vivatrex)

(Case T-346/16)

(2016/C 305/64)

Language in which the application was lodged: English

Parties

Applicant: CSL Behring AG (Bern, Switzerland) (represented by: M. Best, U. Pfleghar and S. Schäffner, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Vivatrex GmbH (Aachen, Germany)

Details of the proceedings before EUIPO

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

Trade mark at issue: EU figurative mark containing the word element 'VIVATREX' — Application for registration No 11 677 788

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 27 April 2016 in joined Cases R 1263/2015-4 and R 1221/2015-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision in its entirety and annul the decision of the Opposition Division of 30 April 2015 given in opposition proceeding No B 2 241 613 insofar as it rejected the opposition;

— uphold opposition No B 2 241 613 in its entirety;

— order EUIPO and the other party to pay the costs.

Plea in law

— Infringement of Article 8(2) of Regulation No 207/2009.

Action brought on 30 June 2016 — Bank Saderat Iran v Council

(Case T-349/16)

(2016/C 305/65)

Language of the case: English

Parties

Applicant: Bank Saderat Iran (Tehran, Iran) (represented by: T. de la Mare, QC, R. Blakeley, Barrister and S. Jeffrey, S. Ashley and A. Irvine, Solicitors)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Implementing Regulation (EU) 2016/603 of 18 April 2016 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2016 L 104, p. 8), and Council Decision (CFSP) 2016/609 of 18 April 2016, amending Decision 2010/413/CFSP, concerning restrictive measures against Iran (OJ 2016 L 104, p. 19), insofar as they apply to the applicant, and

— order the Council pay the applicant's costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that applicant's re-designation in April 2016 is (i) an abuse of process and as such a misuse of powers, (ii) contrary to the Applicant's rights to good administration and (iii) contrary to the principles of res judicata, legal certainty and finality.

2. Second plea in law, alleging that the applicant's re-designation in April 2016 is in violation of Article 266 Treaty on the Functioning of the EU.

3. Third plea in law, alleging that the applicant's re-designation in April 2016 is vitiated by a manifest error of assessment.

4. Fourth plea in law, alleging that applicant's re-designation in April 2016 violates the applicant's fundamental rights to respect for its reputation and peaceful enjoyment of its property and the principles of proportionality and non-discrimination.

5. Fifth plea in law, alleging that the applicant's re-designation in April 2016 is not required by and is contrary to the Joint Comprehensive Plan of Action.

Action brought on 1 July 2016 — Belgacom International Carrier Services/Commission

(Case T-351/16)

(2016/C 305/66)

Language of the case: English

Parties

Applicant: Belgacom International Carrier Services (Brussels, Belgium) (represented by: H. Vanhulle, B. van de Walle de Ghelcke, C. Borgers and N. Baeten, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission decision of 11 January 2016 on the excess profit exemption state aid scheme SA.37667 (2015/C) (ex 2015/NN) implemented by the Kingdom of Belgium;

— in the alternative, annul Articles 2-4 of the Decision;

— in any event, order the European Commission to pay the costs of the proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission has committed an error of law and a manifest error of assessment in the identification of the alleged aid measure and in its qualification as an aid scheme within the meaning of Article 1(d) of Council Regulation No 2015/1589 ([1]) and Article 107 TFUE.

2. Second plea in law, alleging that the Commission infringed Article 107 TFUE, failed to state reasons and committed a manifest error of assessment in considering that the Belgian excess profit ruling system constitutes a State aid measure.

3. Third plea in law, alleging that the Commission infringed Article 16(1) of Council Regulation No 2015/1589 and the general principles of legal certainty and legitimate expectations in ordering the recovery of the alleged aid.

4. Fourth plea in law, alleging that the Commission infringed Article 2(6) TFUE and the principle of equal treatment, and misuses its powers, by using State aid rules to prohibit the Belgian excess profit ruling system.

(1) Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ 2015, L 248, p. 9).

Action brought on 4 July 2016 — Brita v EUIPO — Aquis Wasser-Luft-Systeme (maxima)

(Case T-356/16)

(2016/C 305/67)

Language in which the application was lodged: German

Parties

Applicant: Brita GmbH (Taunusstein, Germany) (represented by: S. Maaßen, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Aquis Wasser-Luft-Systeme GmbH (Rebstein, Switzerland)

Details of the proceedings before EUIPO

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

Trade mark at issue: International registration No 1 128 639 designating the European Union

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 3 May 2016 in Case R 99/2015-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and the decision of the Opposition Division of 11 November 2014 and alter them to the effect that the opposition is granted and the extension of international registration IR 1128639 'MAXIMA' to the field of EU trade marks is denied;

— order the defendant to pay the costs of the action and the appeal proceedings.

Pleas in law

— Infringement of Article 8(1)(b) and Article 43(2) and (3) of Regulation No 207/2009;

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

Action brought on 7 July 2016 — Zoetis Belgium v Commission

(Case T-363/16)

(2016/C 305/68)

Language of the case: English

Parties

Applicant: Zoetis Belgium (Ottignies-Louvain-la-Neuve, Belgium) (represented by: H. Vanhulle, B. van de Walle de Ghelcke, C. Borgers and N. Baeten, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission decision of 11 January 2016 on the excess profit exemption state aid scheme SA.37667 (2015/C) (ex 2015/NN) implemented by the Kingdom of Belgium;

— in the alternative, annul Articles 2-4 of the Decision;

— in any event, order the European Commission to pay the costs of the proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission has committed an error of law and a manifest error of assessment in the identification of the alleged aid measure and in its qualification as an aid scheme within the meaning of Article 1(d) of Council Regulation No 2015/1589 ([1]) and Article 107 TFUE.

2. Second plea in law, alleging that the Commission infringed Article 107 TFUE, failed to state reasons and committed a manifest error of assessment in considering that the Belgian excess profit ruling system constitutes a State aid measure.

3. Third plea in law, alleging that the Commission infringed Article 16(1) of Council Regulation No 2015/1589 and the general principles of legal certainty and legitimate expectations in ordering the recovery of the alleged aid.

4. Fourth plea in law, alleging that the Commission infringed Article 2(6) TFUE and the principle of equal treatment, and misuses its powers, by using State aid rules to prohibit the Belgian excess profit ruling system.

([1]) Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ 2015, L 248, p. 9).

Action brought on 7 July 2016 — ArcelorMittal Tubular Products Ostrava and others/Commission

(Case T-364/16)

(2016/C 305/69)

Language of the case: English

Parties

Applicants: ArcelorMittal Tubular Products Ostrava a.s. (Ostrava-Kunčice, Czech Republic) and 12 other applicants (represented by: G. Berrisch, lawyer, and B. Byrne, Solicitor)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul the decision of the European Commission adopted on or before 6 June 2016 to remove Hubei Xinyegang Steel Co. Ltd from the list of companies listed under TARIC Additional Code A950 and instead list it under a new TARIC Additional Code C129 for all the TARIC Codes mentioned in Article 1(1) of Commission Implementing Regulation (EU) 2015/2272 of 7 December 2015 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes of iron or steel originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 (OJ 2015 L 322, p. 21) and thereby reducing the rate of anti-dumping duty applicable to imports of SPT produced by Hubei to 0 %,

— order the European Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicants rely on a single plea arguing that the challenged decision lacked a legal basis and therefore violates Article 1(2) and the Annex to Commission Implementing Regulation (EU) 2015/2272.

The European Commission based the challenged decision on the judgment of the Court of Justice in *ArcelorMittal Tubular Products Ostrava a.s. and Others* v *Hubei Xinyegang Steel Co. Ltd* and *Council of the European Union* v *Hubei Xinyegang Steel Co. Ltd* (Joined Cases C-186/14 P and C-193/14 P, EU:C:2016:209), by which the Court confirmed the judgment of the General Court in *Hubei Xinyegang Steel Co. Ltd* v *Council of the European Union* (T-528/09, EU:T:2014:35), by which the General Court had annulled Council Regulation (EC) No 926/2009 imposing an anti-dumping duty on certain seamless pipes and tubes ('SPT') originating in the People's Republic of China in so far as it imposed an anti-dumping duty on products produced by Hubei Xinyegang Steel Co. Ltd. According to the applicants, the European Commission wrongly extended the annulment of Council Regulation (EC) No 926/2009 to Commission Implementing Regulation (EU) 2015/2272 because the latter regulation was not the subject matter of the dispute in the previous court cases. Therefore, the European Commission could have adopted the challenged decision only after it had repealed Regulation (EU) 2015/2272.

Action brought on 11 July 2016 — Brunner v EUIPO — CBM (H HOLY HAFERL HAFERL SHOE COUTURE)

(Case T-367/16)

(2016/C 305/70)

Language in which the application was lodged: German

Parties

Applicant: Gerd Brunner (Moosthenning, Germany) (represented by: N. Maenz, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: CBM Creative Brands Marken GmbH (Zurich, Switzerland)

Details of the proceedings before EUIPO

Applicant: Applicant

Trade mark at issue: European Union figurative mark containing the word elements 'H HOLY HAFERL HAFERL SHOE COUTURE' — Application for registration No 11 988 144

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 10 May 2016 in Case R 2943/2014-5

Form of order sought

The applicant claims that the Court should:

— annul the Opposition Decision of the Fifth Board of Appeal of the European Union Intellectual Property Office of 10 May 2016 (Case R 2943/2014-5);

— dismiss the intervener's opposition of 12 November 2013 regarding EU trade mark No 11 306 545 and German trade mark No 302 010 023 903 (Case B002269325);

— order EUIPO to pay the costs.

Plea in law

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

Order of the General Court of 10 June 2016 — Lithuania v Commission

(Case T-533/13) ([1])

(2016/C 305/71)

Language of the case: Lithuanian

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

([1]) OJ C 359, 7.12.2013.

Order of the General Court of 22 June 2016 — Gain Capital UK v EUIPO — Citigroup (CITY INDEX)

(Case T-269/14) ([1])

(2016/C 305/72)

Language of the case: English

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

([1]) OJ C 253, 4.8.2014.

Order of the General Court of 16 June 2016 — Swatch v EUIPO — L'atelier Wysiwyg (wysiwatch WhatYouSeeIsTheWatchYouGet)

(Case T-83/15) ([1])

(2016/C 305/73)

Language of the case: English

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

([1]) OJ C 127, 20.4.2015.

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