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(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 392/01)

Last publication

OJ C 383, 17.10.2016

Past publications

OJ C 371, 10.10.2016

OJ C 364, 3.10.2016

OJ C 350, 26.9.2016

OJ C 343, 19.9.2016

OJ C 335, 12.9.2016

OJ C 326, 5.9.2016

These texts are available on:

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

GENERAL COURT

Election of the President of the General Court

(2016/C 392/02)

Meeting on 20 September 2016, the Judges of the General Court, in accordance with Article 9(1) of the Rules of Procedure, elected Mr Marc Jaeger President of the General Court for the period from 20 September 2016 to 31 August 2019.

Election of the Vice-President of the General Court

(2016/C 392/03)

Meeting on 20 September 2016, the Judges of the General Court, in accordance with Article 9(4) of the Rules of Procedure, elected Mr Marc van der Woude Vice-President of the General Court for the period from 20 September 2016 to 31 August 2019.

Elections of Presidents of Chambers

(2016/C 392/04)

On 21 September 2016, the General Court, in accordance with Article 18 of the Rules of Procedure, elected Ms Pelikánová, Mr Prek, Mr Frimodt Nielsen, Mr Kanninen, Mr Gratsias, Mr Berardis, Ms Tomljenović, Mr Collins and Mr Gervasoni as Presidents of the Chambers sitting with three and with five Judges for the period from 21 September 2016 to 31 August 2019.

Formation of Chambers and assignment of Judges to Chambers

(2016/C 392/05)

On 21 September 2016, the General Court, composed of 44 Judges, decided to form six Chambers composed of five Judges, sitting with five and with three Judges assigned to two sub-formations and three Chambers composed of four Judges, sitting with five and with three Judges assigned to three sub-formations for the period from 21 September 2016 to 31 August 2019, and, on 26 September 2016, accordingly to assign the Judges to Chambers for the period from 26 September 2016 to 31 August 2019 as follows:

First Chamber (Extended Composition), sitting with five Judges:

Ms Pelikánová, President of the Chamber, Mr Valančius, Mr Nihoul, Mr Svenningsen and Mr Öberg, Judges.

First Chamber, sitting with three Judges:

Ms Pelikánová, President of the Chamber;

(a) Mr Nihoul and Mr Svenningsen, Judges;

(b) Mr Valančius and Mr Öberg, Judges.

Second Chamber (Extended Composition), sitting with five Judges:

Mr Prek, President of the Chamber, Mr Buttigieg, Mr Schalin, Mr Berke and Ms Costeira, Judges.

Second Chamber, sitting with three Judges:

Mr Prek, President of the Chamber

(a) Mr Schalin and Ms Costeira, Judges;

(b) Mr Buttigieg and Mr Berke, Judges.

Third Chamber (Extended Composition), sitting with five Judges:

Mr Frimodt Nielsen, President of the Chamber, Mr Kreuschitz, Mr Forrester, Ms Półtorak and Mr Perillo, Judges.

Third Chamber, sitting with three Judges:

Mr Frimodt Nielsen, President of the Chamber

(a) Mr Forrester and Mr Perillo, Judges;

(b) Mr Kreuschitz and Ms Półtorak, Judges.

Fourth Chamber (Extended Composition), sitting with five Judges:

Mr Kanninen, President of the Chamber, Mr Schwarcz, Mr Iliopoulos, Mr Calvo-Sotelo Ibáñez-Martín and Ms Reine, Judges.

Fourth Chamber, sitting with three Judges:

Mr Kanninen, President of the Chamber

(a) Ms Schwarcz and Mr Iliopoulos, Judges;

(b) Ms Calvo-Sotelo Ibáñez-Martín and Ms Reine, Judges.

Fifth Chamber (Extended Composition), sitting with five Judges:

Mr Gratsias, President of the Chamber, Ms Labucka, Mr Dittrich, Mr Ulloa Rubio and Mr Xuereb, Judges.

Fifth Chamber, sitting with three Judges:

Mr Gratsias, President of the Chamber

(a) Mr Dittrich and Mr Xuereb, Judges;

(b) Ms Labucka and Mr Ulloa Rubio, Judges.

Sixth Chamber (Extended Composition), sitting with five Judges:

Mr Berardis, President of the Chamber, Mr Papasavvas, Mr Spielmann, Mr Csehi and Ms Spineau-Matei, Judges.

Sixth Chamber, sitting with three Judges:

Mr Berardis, President of the Chamber

(a) Mr Papasavvas and Ms Spineau-Matei, Judges;

(b) Mr Spielmann and Mr Csehi, Judges.

Seventh Chamber (Extended Composition), sitting with five Judges:

Ms Tomljenović, President of the Chamber, Ms Kancheva, Mr Bieliūnas, Ms Marcoulli and Mr Kornezov, Judges.

Seventh Chamber, sitting with three Judges:

Ms Tomljenović, President of the Chamber

(a) Mr Bieliūnas and Mr Kornezov, Judges;

(b) Mr Bieliūnas and Ms Marcoulli, Judges;

(c) Ms Marcoulli and Mr Kornezov, Judges.

Eighth Chamber (Extended Composition), sitting with five Judges:

Mr Collins, President of the Chamber, Ms Kancheva, Mr Madise, Mr Barents and Mr Passer, Judges.

Eighth Chamber, sitting with three Judges:

Mr Collins, President of the Chamber

(a) Mr Barents and Mr Passer, Judges;

(b) Ms Kancheva and Mr Barents, Judges;

(c) Ms Kancheva and Mr Passer, Judges.

Ninth Chamber (Extended Composition), sitting with five Judges:

Mr Gervasoni, President of the Chamber, Mr Bieliūnas, Mr Madise, Mr da Silva Passos and Ms Kowalik-Bańczyk, Judges.

Ninth Chamber, sitting with three Judges:

Mr Gervasoni, President of the Chamber

(a) Mr Madise and Mr da Silva Passos, Judges;

(b) Mr Madise and Ms Kowalik-Bańczyk, Judges;

(c) Mr da Silva Passos and Ms Kowalik-Bańczyk, Judges.

The three Chambers composed of four Judges shall sit with a fifth Judge, by the inclusion of a Judge from one of the other two Chambers composed of four Judges, excluding the President of the Chamber, designated for a year in accordance with the order laid down in Article 8 of the Rules of Procedure. The Seventh Chamber shall therefore be enlarged by the addition of one Judge from the Eighth Chamber, the Eighth Chamber by the addition of a Judge from the Ninth Chamber and the Ninth Chamber by the addition of a Judge from the Seventh Chamber.

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Request for a preliminary ruling from the Bundesfinanzhof, Germany lodged on 7 July 2016 — RGEX GmbH, in liquidation, represented by Rochus Geissel, liquidator v Finanzamt Neuss

(Case C-374/16)

(2016/C 392/06)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: RGEX GmbH, in liquidation, represented by Rochus Geissel, liquidator

Defendant: Finanzamt Neuss

Questions referred

1. Does an invoice required by Article 168(a) in conjunction with Article 178(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ([1]) in order to exercise a right of deduction contain a 'full address' within the meaning of Article 226(5) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax if, in the invoice he issues in relation to the supply, the taxable person making the supply gives an address by which he may be reached by post but where he does not carry out any economic activity?

2. Having regard to the principle of effectiveness, does Article 168(a) in conjunction with Article 178(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax preclude a national practice which takes into account good faith on the part of the recipient of a supply in the satisfaction of the requirements for the right to deduct input tax only outside the tax assessment procedure, within the framework of a special equitable procedure? In that regard may Article 178(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax be relied upon?

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

Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 7 July 2016 — Finanzamt Bergisch Gladbach v Igor Butin

(Case C-375/16)

(2016/C 392/07)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: Finanzamt Bergisch Gladbach

Defendant: Igor Butin

Questions referred

1. Does Article 226(5) of Council Directive 2006/112/EC on the common system of value added tax of 28 November 2006 ('the VAT Directive') ([1]) require the taxable person to indicate an address at which he carries on his economic activities?

2. If the answer to Question 1 is in the negative:

   a) Is a letterbox address sufficient as an indication of address pursuant to Article 226(5) of the VAT Directive?

   b) Which address must a taxable person who operates an undertaking (in the Internet trade, for example) with no business premises indicate on an invoice?

3. In the event that the formal invoicing requirements laid down in Article 226 of the VAT Directive are not met, must the taxable person automatically be allowed to deduct input tax where no tax evasion has been committed or the taxable person did not know, and could not have known, of the connection with fraud or, in that event, does the principle of the protection of legitimate expectations presuppose that the taxable person has done everything that could reasonably be required of him in order to verify the accuracy of the content of the invoice?

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

Request for a preliminary ruling from the Symvoulio tis Epikrateias (Greece) lodged on 22 July 2016 — Ypourgos Esoterikon, Ypourgos Paideias kai Thriskevmaton v Maria-Eleni Kalliri

(Case C-409/16)

(2016/C 392/08)

Language of the case: Greek

Referring court

Symvoulio tis Epikrateias (Greece)

Parties to the main proceedings

Appellants: Ypourgos Esoterikon, Ypourgos Paideias kai Thriskevmaton

Respondent: Maria-Eleni Kalliri

Question referred

Is Article 1(1) of Presidential Decree 90/2003, which amended Article 2(1) of Presidential Decree 4/1995 and provides that civilian candidates for the Officers' School and the School for Policemen of the Police Academy must, amongst other qualifications, 'be of a height (in the case of men and women) of at least 1.70 m', compatible with Directives 76/207/EEC, ([1]) 2002/73/EC ([2]) and 2006/54/EC, ([3]) which prohibit any indirect discrimination on grounds of sex as regards access to employment, vocational training and promotion, and working conditions, in the public sector (unless that ultimate different treatment is attributable to factors which are objectively justified and are unrelated to any discrimination on grounds of sex, and does not go beyond what is appropriate and necessary in order to serve the objective pursued by the measure)?

([1]) Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (OJ 1976 L 39, p. 40).

([2]) Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (OJ 2002 L 269, p. 15).

([3]) Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (OJ 2006 L 204, p. 23).

Request for a preliminary ruling from the Tribunal Judicial da Comarca do Porto (Portugal) lodged on 27 July 2016 — David Fernando Leal da Fonseca v Varzim Sol — Turismo, Jogo e Animação, SA

(Case C-415/16)

(2016/C 392/09)

Language of the case: Portuguese

Referring court

Tribunal Judicial da Comarca do Porto

Parties to the main proceedings

Applicant: David Fernando Leal da Fonseca

Defendant: Varzim Sol — Turismo, Jogo e Animação, SA

Questions referred

1. In the light of Article 5 of Directive 93/104/EC ([1]) of 23 November 1993, and Directive 2003/88/EC ([2]) of the European Parliament and of the Council of 4 November 2003, as well as Article 31 of the Charter of Fundamental Rights of the European Union, in the case of workers engaged in shift work with rotating rest periods, in an establishment open every day of the week but which does not have continuous 24-hour productive periods, must the compulsory rest day that a worker is entitled to be granted in each period of seven days, that is, at the latest on the seventh day following six consecutive working days?

2. Do those directives and provisions preclude an interpretation to the effect that, in relation to those workers, the employer is free to choose the days on which it grants a worker, for each week, the rest days to which he is entitled, so that the worker may be required, without overtime pay, to work for up to ten consecutive days?

3. Do those directives and provisions preclude an interpretation to the effect that the uninterrupted rest period of 24 hours may be granted on any of the calendar days in a given period of seven calendar days, and the subsequent uninterrupted rest period of 24 hours (to which are added the 11 hours of daily rest) may also be granted on any of the calendar days in the period of seven calendar days immediately following the period mentioned above?

([1]) Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time (OJ 1993 L 307, p. 18).

([2]) Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ 2003 L 299, p. 9).

Request for a preliminary ruling from the Tribunale di Bolzano/Landesgericht Bozen (Italy) lodged on 28 July 2016 — Sabine Simma Federspiel v Provincia autonoma di Bolzano, Equitalia Nord SpA

(Case C-419/16)

(2016/C 392/10)

Language of the case: Italian

Referring court

Tribunale di Bolzano/Landesgericht Bozen

Parties to the main proceedings

Applicant: Sabine Simma Federspiel

Defendants: Provincia autonoma di Bolzano, Equitalia Nord SpA

Questions referred

1. Are Article 2(1)(c) of Directive 75/363/EEC, ([1]) as amended by Directive 82/76/EEC, ([2]) and the annex referred to therein to be interpreted as precluding a provision of national law, such as that applicable in the main proceedings, which makes disbursement of the remuneration for doctors studying to become specialists subject to presentation of a declaration by the recipient doctor undertaking to work for at least five years in the public health service of the Autonomous Province of Bolzano/Bozen within ten years of completing training as a specialist and which, in the event of a total failure to honour that undertaking, expressly permits the Autonomous Province of Bolzano/Bozen, as the body funding the remuneration, to reclaim up to 70 % of the allowance paid together with statutory interest calculated from the moment at which the administration paid each individual instalment?

2. If the first question is answered in the negative: does the principle of freedom of movement for workers under Article 45 TFEU preclude a provision of national law, such as that applicable in the main proceedings, which makes disbursement of the remuneration for doctors studying to become specialists subject to presentation of a declaration by the recipient doctor undertaking to work for at least five years in the public health service of the Autonomous Province of Bolzano/Bozen within ten years of completing training as a specialist and which, in the event of a total failure to honour that undertaking, expressly permits the Autonomous Province of Bolzano/Bozen, as the body funding the remuneration, to reclaim up to 70 % of the allowance paid together with statutory interest calculated from the moment at which the administration paid each individual instalment?

([1]) Council Directive 75/363/EEC of 16 June 1975 concerning the coordination of provisions laid down by law, regulation or administrative action in respect of activities of doctors (OJ 1975 L 167, p. 14).

([2]) Council Directive 82/76/EEC of 26 January 1982 amending Directive 75/362/EEC concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in medicine, including measures to facilitate effective exercise of the right of establishment and freedom to provide services and Directive 75/363/EEC concerning the coordination of provisions laid down by law, regulation or administrative action in respect of activities of doctors (OJ 1982 L 43, p. 21).

Appeal brought on 28 July 2016 by Balázs-Árpád Izsák and Attila Dabis against the judgment delivered on 10 May 2016 in Case T-529/13 Balázs-Árpád Izsák and Attila Dabis v European Commission

(Case C-420/16 P)

(2016/C 392/11)

Language of the case: Hungarian

Parties

Appellants: Balázs-Árpád Izsák and Attila Dabis (represented by: D. Sobor, ügyvéd)

Other parties to the proceedings: European Commission, Hungary, Hellenic Republic, Romania and Slovak Republic

Form of order sought

— Set aside the judgment of the General Court of 10 May 2016 in Case T-529/13 and, pursuant to Article 61 of the Statute of the Court of Justice

  — First, annul Commission Decision C(2013) 4975 of 25 July 2013 rejecting the application for registration of the contested initiative, annulment of which the applicants sought in their application, and decide the case on the merits, and

  — In the alternative, in the event that the Court of Justice considers that the state of the proceedings does not permit it to give final judgment, refer the case back to the General Court in order for it to rule.

— Order the Commission to pay the costs.

Pleas in law and main arguments

The applicants rely on the following grounds in support of their appeal:

1. First ground, alleging infringement of Article 47 of the Charter and Article 92(1) of the Rules of Procedure of the General Court, especially with regard to the failure to fulfil the obligation to provide information regarding the burden of proof, in so far as, in the opinion of the appellants, before delivering its judgment, the General Court did not inform the parties to the proceedings that it considered the questions whether the implementation of the policy of cohesion of the European Union, both by the EU and by the Member States, may threaten the specific characteristics of regions with a national minority and whether the specific ethnic, cultural, religious or linguistic characteristics of regions with a national minority may be considered a severe and permanent handicap within the meaning of the third paragraph of Article 174 TFEU to be questions of fact which must be examined in the proceedings.

2. Second ground, alleging infringement of Article 11(4) TEU and Article 4(2)(b) of the Regulation on the citizens' initiative ([1]) in so far as, in the opinion of the appellants, the European citizens' initiative which is the subject-matter of the proceedings complied with Article 11(4) TEU, given that the organisers proposed it regarding a question on which they consider that a legal act of the Union is required in order to implement the Treaties, and the European Commission had competence to submit the appropriate proposal. Furthermore, the appellants assert that the Commission may refuse the registration of a proposal for a citizens' initiative on the ground of lack of competence only where that lack of competence is manifest.

3. Third ground, alleging infringement of Article 4(2)(c) TFEU and Article 174 TFEU, in so far as the third paragraph of Article 174 TFEU lists by way of example circumstances constituting severe and permanent natural or demographic handicaps such that the cohesion policy of the EU must pay 'particular attention' to a region.

4. Fourth ground, alleging infringement of Article 7 TFEU, Article 167 TFEU, Article 3(3) TEU, Article 22 of the Charter and the provisions of the Treaties relating to the prohibition of discrimination, in so far as the European citizens' initiative which is the subject-matter of the proceedings promotes the consistency of the policies and actions of the EU called for by Article 7 TFEU by calling for cultural diversity and its maintenance to be taken into account by the cohesion policy.

([1]) Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative (OJ 2011 L 65, p. 1).

Request for a preliminary ruling from the Conseil d'État (France) lodged on 28 July 2016 — Ministre des finances et des comptes publics v Marc Lassus

(Case C-421/16)

(2016/C 392/12)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Ministre des finances et des comptes publics

Defendant: Marc Lassus

Questions referred

1. Must the provisions of Article 8 of Directive 90/434/EEC of 23 July 1990 ([1]) be interpreted as meaning that they prohibit, in the event of an exchange of securities 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 securities, and taxed in the year in which the event bringing an end to the deferred taxation occurs, which may, inter alia, be the transfer of the securities that were received at the time of the exchange?

2. Assuming that it is taxable, may the capital gain on the exchange of securities be taxed by the State with powers of taxation at the time of the exchange, although the transfer of the securities received on that exchange falls within the fiscal competence of another Member State?

3. If the answer to the previous questions is that the directive does not preclude the capital gain resulting from an exchange of securities from being taxed at the time at which the securities received at the time of that exchange are subsequently transferred, even if those two transactions do not fall within the fiscal competence of the same Member State, may the Member State in which the capital gain on the exchange was subject to deferred taxation tax the deferred capital gain at the time of the transfer, subject to the applicable provisions of the bilateral Tax Convention, irrespective of the outcome of the transfer when it results in a capital loss? That question is asked in respect of both Directive 90/434/EEC and the freedom of establishment guaranteed by Article 43 [EC], now Article 49 [TFEU], since a taxpayer whose tax residence is in France at the time at which the securities are exchanged and at the time at which they are transferred may, under the conditions set out in paragraph 4 above, benefit from a tax credit derived from the capital loss on the transfer.

4. If the answer to Question 3 is that account must be taken of the capital loss on the transfer of the securities received at the time of the exchange, must the Member State in which the capital gain on the exchange was derived offset the capital loss on the transfer against the capital gain or, if the transfer does not fall within its fiscal competence, must that Member State forego the taxation of the capital gain on the exchange?

5. If the answer to Question 4 is that the capital loss on the transfer may be offset against the capital gain on the exchange, what purchase price must be used for the securities transferred in order to calculate the capital loss on that transfer? In particular, should the purchase price per unit for the securities transferred be the total value of the securities in the company that were received upon the exchange, as indicated on the capital gains tax return, divided by the number of securities received at the time of the exchange, or should a weighted average purchase price be used, also taking into account transactions occurring after the exchange, such as further acquisitions or free allotments of securities in the same company?

([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 Sąd Okręgowy w Łodzi (Poland) lodged on 2 August 2016 — Małgorzata Ciupa and Others v II Szpital Miejski im. L. Rydygiera w Łodzi, now Szpital Ginekologiczno-Położniczy im dr L. Rydygiera Sp. z o.o. w Łodzi

(Case C-429/16)

(2016/C 392/13)

Language of the case: Polish

Referring court

Sąd Okręgowy w Łodzi

Parties to the main proceedings

Applicants: Małgorzata Ciupa and Others

Defendant: II Szpital Miejski im. L. Rydygiera w Łodzi, now Szpital Ginekologiczno-Położniczy im dr L. Rydygiera Sp. z o.o. w Łodzi

Question referred

'Is Article 2 of Directive 98/59/EC ([1]) to be interpreted as meaning that an employer employing at least 20 employees and who intends to give notices of termination of contractual conditions in relation to a number of employees, as provided for in Article 1(1) of the Law of 13 March 2003 laying down special rules on terminating employment relationships with employees for reasons unrelated to the employees (Ustawa o szczególnych zasadach rozwiązywania z pracownikami stosunków pracy z przyczyn niedotyczących pracowników, Dz. U. 2003, No 90, item 844, as amended), is required to use the procedures specified in Articles 2, 3, 4 and 6 of that law, that is, does that obligation apply in the case of the following articles:

1. Article 241(2) [13] in conjunction with Article 241(2) [8] and Article 23 [1] of the Labour Code (Kodeks pracy);

2. Article 241(2) [13] in conjunction with Article 77(5) [2] or Article 241(1) [7] of the Labour Code;

3. Article 42(1) of the Labour Code in conjunction with Article 45(1) of the Labour Code?'

([1]) Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies; OJ 1998 L 225, p. 16.

Request for a preliminary ruling from the Areios Pagos (Greece) lodged on 4 August 2016 — Georgios Leventis, Nikolaos Vafeias v Malcon Navigation Co. Ltd, Brave Bulk Transport Ltd

(Case C-436/16)

(2016/C 392/14)

Language of the case: Greek

Referring court

Areios Pagos (Greece)

Parties to the main proceedings

Appellants: Georgios Leventis, Nikolaos Vafeias

Respondents: Malcon Navigation Co. Ltd, Brave Bulk Transport Ltd

Question referred

Does the jurisdiction clause which has been agreed pursuant to Article 23(1) of Regulation (EC) No 44/2001 ([1]) between companies and in the present case is included in the privately-executed agreement of 14 November 2007 between the first and second respondents, Article 10 of which provides that 'the present agreement shall be governed by English law, it shall be subject to English jurisdiction and any dispute arising from or in connection with it shall be subject to the exclusive jurisdiction of the High Court of England and Wales', also encompass, as regards acts and omissions of the organs of the second respondent, who represent it and give rise to liability on its part pursuant to Article 71 of the Greek Civil Code, the persons responsible who acted in the performance of their duties and are liable under that article, in conjunction with Article 926 of the Greek Civil Code, jointly and severally with the company, a legal person?

([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).

Appeal brought on 4 August 2016 by the European Commission against the judgment of the General Court (Eighth Chamber) delivered on 26 May 2016 in Joined Cases T-479/11 and T-157/12

(Case C-438/16 P)

(2016/C 392/15)

Language of the case: French

Parties

Appellant: European Commission (represented by: B. Stromsky and D. Grespan, acting as Agents)

Other parties to the proceedings: French Republic, IFP Énergies nouvelles

Form of order sought

— Annul the judgment of the General Court of the European Union of 26 May 2016 in Joined Cases T-479/11 and T-157/12 *French Republic and IFP Énergies nouvelles* v *European Commission*;

— Refer the matter back to the General Court for a fresh examination and reserve the costs of the appeal.

Pleas in law and main arguments

The Commission puts forward three grounds of appeal in support of its appeal which all concern infringement of Article 107(1) TFEU and more particularly errors of law concerning the manner in which it was shown that there was an advantage to an undertaking flowing from an implied unlimited guarantee arising as a result of its status.

By its first ground of appeal, the Commission is of the opinion that the General Court committed an error of interpretation as regards the concept of aid scheme and by failing to take account of the ability of a measure to confer an advantage, which involves an error of law as to the nature of the evidence to be adduced by the Commission in order to establish the existence of an advantage to an undertaking flowing from its status as a publicly owned establishment of an industrial and commercial nature (EPIC).

The second ground of appeal alleges an error of law committed by the General Court as regards the scope of the simple presumption of the existence of an advantage flowing from an implied unlimited guarantee and the means by which it may be overturned.

The third ground of appeal alleges an error of law committed by the General Court as regards the scope of the presumption of advantage flowing from an unlimited guarantee: that presumption ought also, logically, to apply to the relationships of the undertaking to which the guarantee is granted with its suppliers and clients.

Appeal brought on 12 August 2016 by Global Steel Wire, S.A. against the judgment of the General Court (Sixth Chamber) delivered on 2 June 2016 in Joined Cases T-426/10 to T-429/16 and T-438/12 to T-441/12, Moreda-Riviere Trefilerías and Others v Commission

(Case C-454/16 P)

(2016/C 392/16)

Language of the case: Spanish

Parties

Appellant: Global Steel Wire, S.A. (represented by: F. González Díaz, A. Tresandi Blanco and V. Romero Algarra, lawyers)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court of 2 June 2016 in Cases T-438/12 to T-441/12 and, in particular, in Case T-438/12, *Global Steel Wire S.A.* v *Commission*;

— order the Commission to pay the costs incurred in both the present proceedings and the proceedings before the General Court.

Grounds of appeal and main arguments

1. The General Court erred in law in declaring inadmissible the plea in law relating to the infringement of the appellant's rights of defence.

2. The General Court erred in law by applying an incorrect legal standard when evaluating the second request for inability to pay and, consequently, the admissibility of the action.

3. The General Court erred in law in evaluating the evidence or clearly distorting the evidence, failing to carry out a full review exercising its powers of unlimited jurisdiction, infringing the right to effective judicial protection and failing to state reasons.

Appeal brought on 12 August 2016 by Moreda-Riviere Trefilerías, S.A. against the judgment of the General Court (Sixth Chamber) delivered on 2 June 2016 in Joined Cases T-426/10 to T-429/16 and T-438/12 to T-441/12, Moreda-Riviere Trefilerías and Others v Commission

(Case C-455/16 P)

(2016/C 392/17)

Language of the case: Spanish

Parties

Appellant: Moreda-Riviere Trefilerías, S.A. (represented by: F. González Díaz, A. Tresandi Blanco and V. Romero Algarra, lawyers)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court of 2 June 2016 in Cases T-438/12 to T-441/12 and, in particular, in Case T-440/12, *Moreda–Riviere Trefilerías S.A.* v *Commission*;

— order the Commission to pay the costs incurred in both the present proceedings and the proceedings before the General Court.

Grounds of appeal and main arguments

1. The General Court erred in law in declaring inadmissible the plea in law relating to the infringement of the appellant's rights of defence.

2. The General Court erred in law by applying an incorrect legal standard when evaluating the second request for inability to pay and, consequently, the admissibility of the action.

3. The General Court erred in law in evaluating the evidence or clearly distorting the evidence, failing to carry out a full review exercising its powers of unlimited jurisdiction, infringing the right to effective judicial protection and failing to state reasons.

Appeal brought on 12 August 2016 by Trefilerías Quijano, S.A. against the judgment of the General Court (Sixth Chamber) delivered on 2 June 2016 in Joined Cases T-426/10 to T-429/16 and T-438/12 to T-441/12, Moreda-Riviere Trefilerías and Others v Commission

(Case C-456/16 P)

(2016/C 392/18)

Language of the case: Spanish

Parties

Appellant: Trefilerías Quijano, S.A. (represented by: F. González Díaz, A. Tresandi Blanco and V. Romero Algarra, lawyers)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court of 2 June 2016 in Cases T-438/12 to T-441/12 and, in particular, in Case T-439/12, *Trefilerías Quijano* v *European Commission*;

— order the Commission to pay the costs incurred in both the present proceedings and the proceedings before the General Court

Grounds of appeal and main arguments

1. The General Court erred in law in declaring inadmissible the plea in law relating to the infringement of the appellant's rights of defence.

2. The General Court erred in law by applying an incorrect legal standard when evaluating the second request for inability to pay and, consequently, the admissibility of the action.

3. The General Court erred in law in evaluating the evidence or clearly distorting the evidence, failing to carry out a full review exercising its powers of unlimited jurisdiction, infringing the right to effective judicial protection and failing to state reasons.

Appeal brought on 12 August 2016 by Global Steel Wire, S.A. against the judgment of the General Court (Sixth Chamber) delivered on 2 June 2016 in Joined Cases T-426/10 to T-429/16 and T-438/12 to T-441/12, Moreda-Riviere Trefilerías and Others v Commission

(Case C-457/16 P)

(2016/C 392/19)

Language of the case: Spanish

Parties

Appellant: Global Steel Wire, S.A. (represented by: F. González Díaz, A. Tresandi Blanco and V. Romero Algarra, lawyers)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court of 2 June 2016 in Cases T-426/10 to T-429/10 and, in particular, in Case T-429/10, *Global Steel Wire S.A.* v *Commission*;

— order the Commission to pay the costs incurred in both the present proceedings and the proceedings before the General Court.

Grounds of appeal and main arguments

The appellant relies on the following thirteen grounds of appeal:

On the imputation of the infringement, in relation to the additional indications:

1. In the **first place**, the General Court distorted the facts and failed to state reasons in relation to the alleged existence of structural links between TQ and GSW prior to 1996 and erred in law in the legal characterisation of the facts relating to the persons liable for the infringement during the entire infringement period.

2. In the **second place**, the General Court erred in law in assessing the evidence, in breach of its duties as regards judicial review and failed to state reasons and applied an incorrect legal standard when assessing the powers of the sole director as a legally relevant indication of the existence of a single economic unit.

3. In the **third place**, the General Court erred in law in the legal characterisation and distorted the facts in relation to the perception of competitors.

4. In the **fourth place**, the General Court erred in law in the legal characterisation of the facts in relation to the overlap of staff.

5. In the **fifth place**, the General Court erred in law in the legal characterisation of the facts in relation to the division of AP production and sales activities between GSW and the companies owned by the latter.

6. In the **sixth place**, the General Court erred in law in the legal characterisation of the facts relating to the alleged meeting.

On the imputation of the infringement, in relation to the issue of corporate succession:

7. In the **seventh place**, the General Court erred in law by applying an incorrect legal standard when assessing the issue of corporate succession.

8. In the **eighth place**, the General Court erred in law in the legal characterisation of the facts by holding both GSW and MRT liable for the conduct of Trenzas y Cables.

On the imputation of the infringement, in relation to the assessment of the exercise of decisive influence and the evidence adduced in order to rebut the presumption of actual exercise of decisive influence:

9. In the **ninth place**, the General Court applied an incorrect legal standard when assessing the exercise of decisive influence and failed to state reasons in relation to the imputation to GSW of TQ's conduct during the entire infringement period.

10. In the **tenth place**, the General Court applied an incorrect legal standard in determining the existence of actual exercise of decisive influence, erred in law in the assessment of the evidence adduced by the appellant in order to rebut the presumption of actual exercise of decisive influence over the companies owned by the latter and breached its duties as regards judicial review.

On the inability to pay:

11. In the **eleventh place**, the General Court committed an error of law consisting in the infringement of the rights of the defence by finding that, inasmuch as the Commission based its assessment of the appellant's ability to pay on facts adduced and known by the latter, the Commission had respected the appellant's right to be heard.

12. In the **twelfth place**, in relation to the alleged possibility of the appellant obtaining external financing, the General Court erred in law in the assessment of the evidence by failing to exercise its powers of judicial review in accordance with law, erred in law by failing to fulfil its duty to state reasons and, lastly, erred in law by distorting the facts and the evidence relating to the possibility of the appellant obtaining external financing.

13. In the **thirteenth place**, in relation to the alleged possibility for the appellant to have recourse to its shareholders, the General Court erred in law in assessing the evidence, and in any event, failed to fulfil its duty to exercise its powers of unlimited jurisdiction, by considering that the appellant had not provided the Commission with the information necessary to evaluate the assets of its shareholders and, in addition, the General Court failed to state reasons since it did not explain why the Deloitte reports relied on by the appellant lacked evidential value.

Appeal brought on 12 August 2016 by Trenzas y Cables de Acero PSC, S.L. against the judgment of the General Court (Sixth Chamber) delivered on 2 June 2016 in Joined Cases T-426/10 to T-429/16 and T-438/12 to T-441/12, Moreda-Riviere Trefilerías and Others v Commission

(Case C-458/16 P)

(2016/C 392/20)

Language of the case: Spanish

Parties

Appellant: Trenzas y Cables de Acero PSC, S.L. (represented by: F. González Díaz, A. Tresandi Blanco and V. Romero Algarra, lawyers)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court of 2 June 2016 in Cases T-438/12 to T-441/12 and, in particular, in Case T-441/12, *Trenzas y Cables de Acero PSC, S.L.* v *Commission*;

— order the Commission to pay the costs incurred in both the present proceedings and the proceedings before the General Court.

Grounds of appeal and main arguments

1. The General Court erred in law in declaring inadmissible the plea in law relating to the infringement of the appellant's rights of defence.

2. The General Court erred in law by applying an incorrect legal standard when evaluating the second request for inability to pay and, consequently, the admissibility of the action.

3. The General Court erred in law in evaluating the evidence or clearly distorting the evidence, failing to carry out a full review exercising its powers of unlimited jurisdiction, infringing the right to effective judicial protection and failing to state reasons.

Appeal brought on 12 August 2016 by Trenzas y Cables de Acero PSC, S.L. against the judgment of the General Court (Sixth Chamber) delivered on 2 June 2016 in Joined Cases T-426/10 to T-429/16 and T-438/12 to T-441/12, Moreda-Riviere Trefilerías and Others v Commission

(Case C-459/16 P)

(2016/C 392/21)

Language of the case: Spanish

Parties

Appellant: Trenzas y Cables de Acero PSC, S.L. (represented by: F. González Díaz, A. Tresandi Blanco and V. Romero Algarra, lawyers)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court of 2 June 2016 in Cases T-426/10 to T-429/10 and, in particular, in Case T-428/10, *Trenzas y Cables de Acero PSC* v *Commission*;

— order the Commission to pay the costs incurred in both the present proceedings and the proceedings before the General Court.

Grounds of appeal and main arguments

1. The General Court erred in law by applying an incorrect legal standard when it held that Tycsa PSC formed an economic unit with MRT since Trenzas y Cables, the company that held a 100 % shareholding in Tycsa PSC, ceased to exist and MRT is not the successor of Trenzas y Cables.

2. The General Court erred in law in failing to apply the appropriate legal standard and failed to state reasons in that it did not explain why the sworn statements of the managing directors of Tycsa PSC were insufficient as legally relevant evidence concerning the existence of a single economic unit.

3. The General Court mischaracterised the facts, namely the impressions of competitors, in finding that those impressions constituted an additional indication, and were therefore legally relevant, in demonstrating the existence of an economic unit comprised of Tycsa PSC, GSW and the other companies owned by the latter.

4. The General Court mischaracterised the facts, namely the overlaps of staff between Tycsa PSC, GSW and the companies owned by the latter, by considering that those overlaps constituted an additional indication, and were therefore legally relevant, in demonstrating that those companies formed an economic unit.

5. The General Court mischaracterised the facts, namely the meeting held between Trenzas y Cables and a competitor, in treating that meeting as an additional indication in order to demonstrate that Tycsa PSC formed part of an economic unit, of which GSW was the parent company.

6. The General Court erred in law in assessing the evidence, and in any event, infringed its obligations as regards judicial review, by rejecting the appellant's argument that it did not form part of an economic unit comprised of Trenzas y Cables and GSW, without even assessing the evidence adduced in order to rebut the alleged presumption of decisive influence.

7. The General Court committed an error of law consisting in infringing the appellant's rights of defence by finding that, inasmuch as the Commission based its assessment of the appellant's ability to pay on facts adduced and known by the latter, the Commission had respected the appellant's right to be heard.

8. The General Court erred in law in the assessment of the evidence and, in any event, did not exercise its powers of judicial review in accordance with law, erred in law by failing to fulfil its duty to state reasons and, lastly, the General Court erred in law by distorting the facts and the evidence relating to the possibility of the appellant obtaining external financing.

9. The General Court erred in law in assessing the evidence, and in any event, failed to fulfil its duty to exercise its powers of unlimited jurisdiction, by considering that the appellant had not provided the Commission with the information necessary to evaluate the assets of its shareholders. In addition, the General Court failed to state reasons since it did not explain why the Deloitte reports relied on by Tycsa PSC lacked evidential value.

Appeal brought on 12 August 2016 by Trefilerías Quijano, SA against the judgment of the General Court (Sixth Chamber) delivered on 2 June 2016 in Joined Cases T-426/10 to T-429/16 and T-438/12 to T-441/12, Moreda-Riviere Trefilerías and Others v Commission

(Case C-460/16 P)

(2016/C 392/22)

Language of the case: Spanish

Parties

Appellant: Trefilerías Quijano, S.A. (represented by: F. González Díaz, A. Tresandi Blanco and V. Romero Algarra, lawyers)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court of 2 June 2016 in Cases T-426/10 to T-429/10 and, in particular, in Case T-427/10, *Trefilerías Quijano* v *Commission*;

— order the Commission to pay the costs incurred in both the present proceedings and the proceedings before the General Court.

Grounds of appeal and main arguments

1. The General Court erred in law by distorting the facts and the evidence and by failing to state reasons in relation to the alleged existence of structural links between TQ and GSW prior to 1996, applied its powers of judicial review in an incorrect and/or *ultra vires* manner and, in any event, relied on manifestly irrelevant facts and/or incorrectly characterised those facts as indications of structural links and, in any event, used the concept of the person liable for the infringement incorrectly by referring to TQ's forming part of Group Celsa.

2. The General Court erred in law by applying an incorrect legal standard and erred in law in the assessment of the evidence, and in any event, breached its duties as regards judicial review by considering that the appellant had merely adduced 'statements of its managing directors' (actually sworn statements of TQ's managing directors) with a view to demonstrating that the executive and control powers of GSW, as sole administrator, were delegated to the respective managing directors of TQ, and that TQ operated independently in the market. Moreover, the General Court failed to state reasons since it did not explain why the sworn statements of TQ's managing directors relied on by that party were insufficient evidence.

3. The General Court mischaracterised the facts, namely the impressions of competitors, in finding that those impressions constituted an additional indication, and were therefore legally relevant, in demonstrating the existence of an economic unit comprised of TQ, GSW and the other companies owned by the latter. In addition, the General Court erred in law by distorting the facts and the evidence in relation to the perception of competitors.

4. The General Court mischaracterised the facts, namely the overlaps of staff between TQ, GSW and the companies owned by the latter, by considering that those overlaps constituted an additional indication, and were therefore legally relevant, in demonstrating that those companies formed an economic unit, of which GSW was the parent company.

5. The General Court erred in law in the characterisation of certain facts, namely the division of production and sales activities between the four companies, by regarding that division as an additional legally relevant indication in order to demonstrate that TQ formed part of an economic unit comprised of GSW and the other companies owned by the latter.

6. The General Court erred in law by applying an incorrect legal standard when examining the alleged exercise of decisive influence, and in any event, failed to state reasons in relation to the alleged exercise of decisive influence by GSW over TQ.

7. The General Court erred in law in the assessment of the evidence, and in any event, breached its duties as regards judicial review, by rejecting the appellant's argument that GSW did not exercise decisive influence over TQ.

8. The General Court committed an error of law consisting in the infringement of the rights of the defence by finding that, inasmuch as the Commission based its assessment of the appellant's ability to pay on facts adduced and known by the latter, the Commission had respected the appellant's right to be heard.

9. The General Court erred in law in the assessment of the evidence and, in any event, failed to exercise its powers of judicial review in accordance with law. Moreover, the General Court erred in law by failing to fulfil its duty to state reasons. Lastly, and in any event, the General Court erred in law by distorting the facts and the evidence relating to the possibility of the appellant obtaining external financing.

10. The General Court erred in law in assessing the evidence, and in any event, failed to fulfil its duty to exercise its powers of unlimited jurisdiction, by considering that the appellant had not provided the Commission with the information necessary to evaluate the assets of its shareholders. In addition, the General Court failed to state reasons since it did not explain why the Deloitte reports relied on by the appellant lacked evidential value.

Appeal brought on 12 August 2016 by Moreda-Riviere Trefilerías, S.A. against the judgment of the General Court (Sixth Chamber) delivered on 2 June 2016 in Joined Cases T-426/10 to T-429/16 and T-438/12 to T-441/12, Moreda-Riviere Trefilerías and Others v Commission

(Case C-461/16 P)

(2016/C 392/23)

Language of the case: Spanish

Parties

Appellant: Moreda-Riviere Trefilerías, S.A. (represented by: F. González Díaz, A. Tresandi Blanco and V. Romero Algarra, lawyers)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court of 2 June 2016 in Cases T-426/10 to T-429/10 and, in particular, in Case T-426/10, *Moreda-Riviere Trefilerías* v *Commission*;

— order the Commission to pay the costs incurred in both the present proceedings and the proceedings before the General Court.

Grounds of appeal and main arguments

On MRT's status as successor:

1. The General Court erred in law by applying an incorrect legal standard when assessing the issue of corporate succession and, in particular, MRT's status as the successor of Trenzas y Cables.

2. The General Court erred in law in the legal characterisation of the facts by holding MRT, as the alleged successor of Trenzas y Cables, liable for the latter's conduct between 10 January 1993 and 19 October 1996.

3. The General Court committed an error of law consisting in a failure to state reasons, by dismissing the appellant's allegations regarding double penalisation.

On the additional evidence:

4. The General Court, in addition to committing an error of law by failing to apply the appropriate legal standard, also failed to state reasons in that it did not explain why the sworn statements of the managing directors of Trenzas y Cables relied on by MRT were insufficient.

5. The General Court mischaracterised the facts, namely the impressions of competitors, in finding that those impressions constituted an additional indication, and were therefore legally relevant, in demonstrating the existence of an economic unit comprised of Trenzas y Cables PSC, GSW and the other companies owned by the latter. The General Court also committed an error of law by distorting the facts and the evidence relating to the perception of the competitors.

6. The General Court mischaracterised the facts, namely the overlaps of staff between Trenzas y Cables, GSW and the companies owned by the latter, in finding that those overlaps constituted an additional indication, and were therefore legally relevant, in demonstrating that the companies owned by GSW were not autonomous with regard to their parent company.

7. The General Court committed an error in law in its characterisation of certain facts, namely the meeting held between Trenzas y Cables and a competitor, by treating that meeting as an additional indication in order to demonstrate that Trenzas y Cables, to which MRT allegedly succeeded, *quad non*, formed part of an economic unit, of which GSW was the parent company.

On the evidence adduced in order to rebut the presumption:

8. The General Court erred in law in assessing the evidence, and in any event, infringed its obligations as regards judicial review, by rejecting the appellant's argument that it did not form part of an economic unit comprised of Trenzas y Cables, GSW and the companies owned by the latter, without even assessing the evidence adduced in order to rebut the alleged presumption of decisive influence.

9. The General Court committed an error of law consisting in infringing the appellant's rights of defence by finding that, inasmuch as the Commission based its assessment of the appellant's ability to pay on facts adduced and known by the latter, the Commission had respected the appellant's right to be heard.

10. The General Court erred in law in the assessment of the evidence and, in any event, did not exercise its powers of judicial review in accordance with law. In addition, the General Court erred in law by failing to fulfil its duty to state reasons. Lastly, and in any event, the General Court erred in law by distorting the facts and the evidence relating to the possibility of the appellant obtaining external financing.

11. The General Court erred in law in assessing the evidence, and in any event, failed to fulfil its duty to exercise its powers of unlimited jurisdiction, by considering that the appellant had not provided the Commission with the information necessary to evaluate the assets of its shareholders. In addition, the General Court failed to state reasons since it did not explain why the Deloitte reports relied on by the appellant lacked evidential value.

GENERAL COURT

Judgment of the General Court of 15 September 2016 — Ferraci v Commission

(Case T-219/13) ([1])

(State aid — Municipal real estate tax — Exemption granted to non-commercial entities carrying out specific activities — Codified law on income tax — Exemption from the one-off municipal tax — Decision in part finding no State aid and in part declaring the aid incompatible with the internal market — Action for annulment — Regulatory act not entailing implementing measures — Whether directly concerned — Admissibility — Absolute impossibility of recovering the aid — Article 14(1) of Regulation (EC) No 659/1999 — Obligation to state reasons)

(2016/C 392/24)

Language of the case: Italian

Parties

Applicant: Pietro Ferraci (San Cesareo, Italy) (represented initially by: A. Nucara and E. Gambaro, and subsequently by E. Gambaro, lawyers)

Defendant: European Commission (represented initially by: V. Di Bucci, G. Conte and D. Grespan, and subsequently by G. Conte, D. Grespan and F. Tomat, acting as Agents)

Intervener in support of the defendant: Italian Republic (represented by: G. Palmieri and G. De Bellis, acting as Agents

Re:

Application based on Article 263 TFEU and seeking the annulment of Commission Decision 2013/284/EU of 19 December 2012 on State aid SA.20829 (C 26/2010, ex NN 43/2010 (ex CP 71/2006)); Scheme concerning the municipal real estate tax exemption granted to real estate used by non-commercial entities for specific purposes implemented by Italy (JO 2013 L 166, p. 24).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Pietro Ferracci to bear his own costs and pay those incurred by the European Commission;*

3. *Orders the Italian Republic to bear its own costs relating to its intervention.*

([1]) OJ C 164, 8.6.2013.

Judgment of the General Court of 8 September 2016 — Xellia Pharmaceuticals and Alpharma v Commission

(Case T-471/13) ([1])

(Competition — Agreements, decisions and concerted practices — Market for antidepressant medicinal products containing the active pharmaceutical ingredient citalopram — Concept of restriction of competition 'by object' — Potential competition — Generic medicinal products — Barriers to market entry resulting from the existence of patents — Agreement concluded between a patent holder and a generic undertaking — Duration of the Commission's investigation — Rights of the defence — Fines — Legal certainty — Principle that penalties must have a proper legal basis)

(2016/C 392/25)

Language of the case: English

Parties

Applicants: Xellia Pharmaceuticals ApS (Copenhagen, Denmark), and Alpharma, LLC, formerly Zoetis Products LLC (Florham Park, New Jersey, United States) (represented by: D. Hull, Solicitor)

Defendant: European Commission (represented by: F. Castilla Contreras and B. Mongin, acting as Agents, and by B. Rayment, Barrister)

Re:

Application for annulment in part of Commission Decision C(2013) 3803 final of 19 June 2013 relating to a proceeding under Article 101 [TFEU] and Article 53 of the EEA Agreement (Case AT.39226 — Lundbeck) and for reduction of the amount of the fine imposed on the applicants by that decision.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Xellia Pharmaceuticals ApS and Alpharma LLC to pay the costs.*

(1) OJ C 325, 9.11.2013.

Judgment of the General Court of 15 September 2016 — K Chimica v ECHA

(Case T-675/13) (1)

(REACH — Fee for registration of a substance — Reduction granted to micro, small and medium-sized enterprises — Error in declaration relating to the size of the enterprise — Recommendation 2003/361/EC — Decision imposing an administrative charge — Determination of an enterprise's size — Power of the ECHA)

(2016/C 392/26)

Language of the case: Italian

Parties

Applicant: K Chimica Srl (Mirano, Italy) (represented by: R. Buizza and M. Rota, lawyers)

Defendant: European Chemicals Agency (ECHA) (represented initially by M. Heikkilä, A. Iber, E. Bigi and E. Maurage and J.-P. Trnka, and subsequently by Heikkilä, Bigi, Maurage and Trnka, acting as Agents, and C. Garcia Molyneux, lawyer)

Re:

Application, first, under Article 263 TFEU, for annulment of Decision SME(2013) 3665 of the ECHA of 15 October 2013, stating that the applicant failed to adduce the necessary evidence to receive a reduction of the fee for small enterprises and imposes an administrative charge on it, second, requesting that the applicant be granted small enterprise status and that the corresponding fee be applied to it, and third, under Article 263 TFEU, for annulment of the invoices issued by the ECHA.

Operative part of the judgment

The Court:

1. *Annuls Decision SME(2013) 3665 of the European Chemicals Agency (ECHA) of 15 October 2013;*

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

3. *Orders the ECHA to bear its own costs and to pay those incurred by K Chimica Srl.*

(1) OJ C 45, 15.2.2014.

Judgment of the General Court of 15 September 2016 — U4U and Others v Parliament and Council

(Case T-17/14) ([1])

(Special and exceptional provisions applicable to officials serving in a third country — Career of officials with the grade of administrator — Amendment of the Staff Regulations of Officials of the European Union — Regulation (EU, Euratom) No 1023/2013 — Irregularities during the procedure for adopting the measures — Failure to consult the Staff Regulations Committee and the trade unions)

(2016/C 392/27)

Language of the case: French

Parties

Applicants: Union pour l'Unité (U4U) (Brussels, Belgium), Unité & Solidarité — Hors Union (USHU) (Brussels), Regroupement Syndical (RS) (St Josse ten Noode, Belgium) and Georges Vlandas (Brussels) (represented by: F. Krenc, lawyer)

Defendants: European Parliament (represented by: A. Troupiotis and E. Taneva, acting as Agents) and Council of the European Union (represented initially by: M. Bauer and A. Bisch, and subsequently by M. Bauer, M. Veiga and J. Herrmann, acting as Agents)

Intervener in support of the defendants: European Commission (represented initially by: J. Currall and G. Gattinara, and subsequently by G. Gattinara and F. Simonetti, acting as Agents)

Re:

Application based on Article 263 TFEU and asking for annulment of Article 1(27), (61), (70) and (73)(k) of Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union (OJ 2013 L 287, p. 15), in so far as those provisions amend Article 45 and annexes I, X and XIII of those regulations, annexed to Regulation No 31 (EEC)/11(EAEC) laying down the Staff Regulations and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ 1962 45, p. 1385).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Union pour l'Unité (U4U), Unité & solidarité — Hors Union (USHU), Regroupement Syndical (RS) and Mr Georges Vlandas to pay the costs;*

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

([1]) OJ C 112, 14.4.2014.

Judgment of the General Court of 8 September 2016 — Goldfish and Others v Commission

(Case T-54/14) ([1])

(Competition — Agreements, decisions and concerted practices — Belgian, German, French and Dutch markets in North Sea shrimps — Decision finding an infringement of Article 101 TFEU — Price-fixing and allocation of sales volumes — Admissibility of evidence — Use of secret recordings of telephone conversations as evidence — Assessment of ability to pay — Unlimited jurisdiction)

(2016/C 392/28)

Language of the case: Dutch

Parties

Applicants: Goldfish BV (Zoutkamp, Netherlands), Heiploeg BV (Zoutkamp), Heiploeg Beheer BV (Zoutkamp) and Heiploeg Holding BV (Zoutkamp) (represented by: P. Glazener and B. Winters, lawyers)

Defendant: European Commission (represented initially by: F. Ronkes Agerbeek and P. Van Nuffel, and subsequently by: P. Van Nuffel and H. van Vliet, acting as Agents)

Re:

Application based on Article 263 TFEU and asking, first, for annulment of Commission Decision C(2013) 8286 final of 27 November 2013 relating to a proceeding under Article 101 TFEU (Case AT.39633 — Shrimps), in so far as it concerns the applicants, and, secondly, for reduction in the amount of the fines imposed on those applicants.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Goldfish BV, Heiploeg BV, Heiploeg Beheer BV and Heiploeg Holding BV to pay the costs.*

([1]) OJ C 71, 8.3.2014.

Judgment of the General Court of 15 September 2016 — Morningstar v Commission

(Case T-76/14) ([1])

(Competition — Abuse of a dominant position — Worldwide market for consolidated real-time datafeeds — Decision making the commitments offered by the dominant undertaking binding — Article 9 of Regulation (EC) No 1/2003)

(2016/C 392/29)

Language of the case: English

Parties

Applicant: Morningstar, Inc. (Chicago, Illinois, United States of America) (represented by: S. Kinsella, K. Daly, P. Harrison, Solicitors, and M. Abenhaïm, lawyer)

Defendant: European Commission (represented by: F. Castilla Contreras, A. Dawes and F. Ronkes Agerbeek, acting as Agents)

Interveners in support of the defendant: Thomson Reuters Corp. (Toronto, Canada), and Reuters Ltd (London, United Kingdom) (represented by: A. Nourry, G. Olsen and C. Ghosh, Solicitors)

Re:

Application under Article 263 TFEU seeking annulment of Commission Decision C(2012) 9635 final of 20 December 2012 relating to a proceeding under Article 102 TFEU and Article 54 of the EEA Agreement (Case COMP/D2/39.654 — Reuters Instrument Codes (RICs)).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Morningstar, Inc. to pay the costs.*

([1]) OJ C 135, 5.5.2014.

Judgment of the General Court of 15 September 2016 — PT Pelita Agung Agrindustri v Council

(Case T-121/14) ([1])

(Dumping — Imports of biodiesel originating in Indonesia — Definitive anti-dumping duty — Article 2 (5) of Regulation (EC) No 1225/2009 — Normal value — Production costs)

(2016/C 392/30)

Language of the case: English

Parties

Applicant: PT Pelita Agung Agrindustri (Medan, Indonesia) (represented by: F. Graafsma and J. Cornelis, lawyers)

Defendant: Council of the European Union (represented initially by S. Boelaert, and subsequently by H. Marcos Fraile, acting as Agents, and by R. Bierwagen and C. Hipp, lawyers)

Interveners in support of the defendant: European Commission (represented by: J.-F. Brakeland, M. França and A. Stobiecka-Kuik, acting as Agents), and European Biodiesel Board (EBB) (Brussels, Belgium) (represented by: O. Prost and M.-S. Dibling, lawyers).

Re:

Action pursuant to Article 263 TFUE for annulment of Council Implementing Regulation (EU) No 1194/2013 of 19 November 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of biodiesel originating in Argentina and Indonesia (OJ 2013 L 315, p. 2) in so far as it imposes an anti-dumping duty on the applicant.

Operative part of the judgment

The Court:

1. *Annuls Articles 1 and 2 of Council Implementing Regulation (EU) No 1194/2013 of 19 November 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of biodiesel originating in Argentina and Indonesia, in so far as they concern PT Pelita Agung Agrindustri;*

2. *Orders the Council of the European Union to bear its own costs and to pay the costs incurred by PT Pelita Agung Agrindustri;*

3. *Orders the European Commission and the European Biodiesel Board (EBB) to bear their own costs.*

([1]) OJ C 112, 14.4.2014.

Judgment of the General Court of 15 September 2016 — Italy v Commission

(Cases T-353/14 and T-17/15) ([1])

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

(2016/C 392/31)

Language of the case: Italian

Parties

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

Defendant: European Commission (represented by: initially J. Currall and G. Gattinara (Cases T-353/14 and T-17/15) and F. Simonetti (Case T-17/15), then G. Gattinara and F. Simonetti, acting as Agents)

Intervener in support of the applicant: Republic of Lithuania (represented by: D. Kriaučiūnas and V. Čepaitė, acting as Agents)

Re:

In Case T-353/14, application based on Article 263 TFEU and asking for annulment of the notice of open competition EPSO/AD/276/14, to constitute a reserve list for administrators (OJ 2014 C 74 A, p. 4), and, in Case T-17/15, application based on Article 263 TFEU and asking for annulment of the notice of open competition EPSO/AD/294/14 to constitute a reserve list of administrators in the field of data protection for the European Data Protection Supervisor (OJ 2014 C 391 A, p. 1.)

Operative part of the judgment

The Court:

1) *Joins Cases T-353/14 and T-17/15 for the purposes of the judgment;*

2) *Annuls the notice of open competition EPSO/AD/276/14, to constitute a reserve list for administrators and the notice of open competition EPSO/AD/294/14 to constitute a reserve list of administrators in the field of data protection for the European Data Protection Supervisor;*

3) *Orders the European Commission to bear its own costs and to pay those incurred by the Italian Republic;*

4) *Orders the Republic of Lithuania to bear its own costs relating to its intervention in Case T-17/15.*

([1]) OJ C 212, 7.7.2014.

Judgment of the General Court of 15 September 2016 — TAO-AFI and SFIE-PE v Parliament and Council

(Case T-456/14) ([1])

(Remuneration and pensions of officials and other servants of the European Union — Annual adjustment — Regulation (EU) No 422/2014 and Regulation (EU) No 423/2014 — Irregularities during the procedure for adopting the measures — Failure to consult trade unions)

(2016/C 392/32)

Language of the case: French

Parties

Applicant: Association des fonctionnaires indépendants pour la défense de la fonction publique européenne (TAO-AFI) (Brussels, Belgium) and Syndicat des fonctionnaires internationaux et européens — Section du Parlement européen (SFIE-PE) (Brussels) (represented by: M. Casado García-Hirschfeld and J. Vanden Eynde, lawyers)

Defendants: European Parliament (represented by: A. Troupiotis and E. Taneva, acting as Agents) and Council of the European Union (represented by: M. Bauer and E. Rebasti, acting as Agents)

Intervener in support of the defendants: European Commission (represented by: initially J. Currall and G. Gattinara, then G. Gattinara and F. Simonetti, acting as Agents)

Re:

Application based on Article 263 TFEU and asking for annulment of Regulations (EU) Nos 422/2014 and 423/2014 of the European Parliament and of the Council of 16 April 2014 adjusting with effect from 1 July 2011 and from 1 July 2012 the remuneration and pensions of officials and other servants of the European Union and the correction coefficients applied thereto (OJ 2014 L 129, respectively, p. 5 and p. 12)

Operative part of the judgment

The Court:

1) *Dismisses the action;*

2) *Orders Association des fonctionnaires indépendants pour la défense de la fonction publique européenne (TAO-AFI) and Syndicat des fonctionnaires internationaux et européens — Section du Parlement européen (SFIE-PE) to pay the costs;*

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

([1]) OJ C 261, 11.8.2014.

Judgment of the General Court of 15 September 2016 — Crosfield Italia v ECHA

(Case T-587/14) ([1])

(REACH — Fee for registration of a substance — Reduction granted to micro-, small-and medium-sized enterprises — Error in declaration relating to the size of the enterprise — Recommendation 2003/361/EC — Decision imposing an administrative charge — Obligation to state reasons)

(2016/C 392/33)

Language of the case: Italian

Parties

Applicant: Crosfield Italia Srl (Verona, Italy) (represented by: M. Baldassarri, lawyer)

Defendant: European Chemicals Agency (represented initially by M. Heikkilä, E. Bigi, J.-P. Trnka and E. Maurage, and subsequently by M. Heikkilä, J.-P. Trnka and E. Maurage, Agents, and by C. Garcia Molyneux, lawyer)

Re:

Application, first, under Article 263 TFEU, for annulment of Decision SME(2013) 4672 of the ECHA of 28 May 2014, which states that the applicant does not fulfil the conditions to receive a reduction of the fee for small enterprises and imposing an administrative charge on it and, second, under Article 263 TFEU for annulment of the invoices issued by the ECHA following adoption of Decision SME(2013) 4672.

Operative part of the judgment

The Court:

1. *Annuls Decision SME(2013) 4672 of the European Chemicals Agency (ECHA) of 28 May 2014;*

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

([1]) OJ C 361, 13.10.2014.

Judgment of the General Court of 9 September 2016 — Tri-Ocean Trading v Council

(Case T-709/14) ([1])

(Common foreign and security policy — Restrictive measures taken against Syria — Freezing of funds — Error of assessment)

(2016/C 392/34)

Language of the case: English

Parties

Applicant: Tri-Ocean Trading (George Town, Cayman Islands) (represented by: B. Kennelly, Barrister, P. Saini QC, and N. Sheikh, Solicitor)

Defendant: Council of the European Union (represented by: B. Driessen and A. Vitro, acting as Agents)

Re:

Action under Article 263 TFEU for the annulment of Council Implementing Decision 2014/488/CFSP of 22 July 2014 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2014 L 217, p. 49) and of Council Implementing Regulation (EU) No 793/2014 of 22 July 2014 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2014 L 217, p. 10), insofar as those measures concern the applicant.

Operative part of the judgment

The Court:

1. *Annuls Council Implementing Decision 2014/488/CFSP of 22 July 2014 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria, and Council Implementing Regulation (EU) No 793/2014 of 22 July 2014 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria, in so far as they concern Tri-Ocean Trading;*

2. *Orders the Council of the European Union to bear its own costs and to pay the costs incurred by Tri-Ocean Trading.*

([1]) OJ C 448, 15.12.2014.

Judgment of the General Court of 9 September 2016 — Tri Ocean Energy v Council

(Case T-719/14) ([1])

(Common foreign and security policy — Restrictive measures taken against Syria — Freezing of funds — Error of assessment)

(2016/C 392/35)

Language of the case: English

Parties

Applicant: Tri Ocean Energy (Cairo, Egypt) (represented by: B. Kennelly, Barrister, P. Saini QC, and N. Sheikh, Solicitor)

Defendant: Council of the European Union (represented by: B. Driessen and A. Vitro, acting as Agents)

Re:

Action under Article 263 TFEU for the annulment of Council Implementing Decision 2014/678/CFSP of 26 September 2014 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2014 L 283, p. 59) and of Council Implementing Regulation (EU) No 1013/2014 of 26 September 2014 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2014 L 283, p. 9), in so far as those measures concern the applicant.

Operative part of the judgment

The Court:

1. *Annuls Council Implementing Decision 2014/678/CFSP of 26 September 2014 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria, and Council Implementing Regulation (EU) No 1013/2014 of 26 September 2014 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria in so far as they apply to Tri Ocean Energy;*

2. *Orders the Council of the European Union to bear its own costs and to pay the costs incurred by Tri Ocean Energy.*

([1]) OJ C 448, 15.12.2014

Judgment of the General Court of 15 September 2016 — Herbert Smith Freehills v Commission

(Case T-755/14) ([1])

(Access to documents — Regulation (EC) No 1049/2001 — Documents relating to discussions preceding the adoption of the directive on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products — Refusal to grant access — Exception relating to the protection of legal advice — Rights of the defence — Overriding public interest)

(2016/C 392/36)

Language of the case: English

Parties

Applicant: Herbert Smith Freehills LLP (London, United Kingdom) (represented by: P. Wytinck, lawyer)

Defendant: European Commission (represented by: P. Van Nuffel, J. Baquero Cruz and F. Clotuche-Duvieusart, acting as Agents)

Intervener in support of the defendant: Council of the European Union (represented by: E. Rebasti, J. Herrmann and M. Veiga, acting as Agents)

Re:

Application based on Article 263 TFEU and seeking annulment of Commission Decision Gestdem 2014/2070 of 24 September 2014 refusing access to certain documents relating to the adoption of Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC (OJ 2014 L 127, p. 1).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Herbert Smith Freehills LLP to bear its own costs and to pay those incurred by the European Commission;*

3. *Orders the Council of the European Union to bear its own costs.*

([1]) OJ C 26, 26.1.2015.

Judgment of the General Court of 15 September 2016 — Philip Morris v Commission

(Case T-796/14) ([1])

(Access to documents — Regulation (EC) No 1049/2001 — Documents drawn up in the context of the preparatory works leading to the adoption of the directive on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products — Refusal to grant access — Exception relating to the protection of court proceedings and legal advice — Exception relating to the protection of the decision-making process — Overriding public interest)

(2016/C 392/37)

Language of the case: English

Parties

Applicant: Philip Morris Ltd (Richmond, United Kingdom) (represented by: K. Nordlander and M. Abenhaïm, lawyers)

Defendant: European Commission (represented by: J. Baquero Cruz and F. Clotuche-Duvieusart, acting as Agents)

Re:

Application based on Article 263 TFEU and seeking annulment of Commission Decision Ares(2014) 3142109 of 24 September 2014, in so far as it refuses to grant the applicant full access to the requested documents, with the exception of the redacted personal data contained therein.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Philip Morris Ltd to pay the costs.*

(1) OJ C 56, 16.2.2015.

Judgment of the General Court of 9 September 2016 — Farahat v Council

(Case T-830/14) (1)

(Common foreign and security policy — Restrictive measures taken against Syria — Freezing of funds — Error of assessment)

(2016/C 392/38)

Language of the case: English

Parties

Applicant: Mohamed Farahat (Cairo, Egypt) (represented by: B. Kennelly, Barrister, P. Saini QC, and N. Sheikh, Solicitor)

Defendant: Council of the European Union (represented by: B. Driessen and A. Vitro, acting as Agents)

Re:

Action under Article 263 TFEU for the annulment of Council Implementing Decision 2014/730/CFSP of 20 October 2014 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2014 L 301, p. 36) and of Council Implementing Regulation (EU) No 1105/2014 of 20 October 2014 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2014 L 301, p. 7), in so far as those measures concern the applicant.

Operative part of the judgment

The Court:

1. *Annuls Council Implementing Decision No 2014/730/CFSP of 20 October 2014 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria and Council Implementing Regulation (EU) No 1105/2014 of 20 October 2014 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria in so far as they apply to Mohamed Farahat;*

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

(1) OJ C 96, 23.3.2015.

Judgment of the General Court of 15 September 2016 — Philip Morris v Commission

(Case T-18/15) ([1])

(Access to documents — Regulation (EC) No 1049/2001 — Documents drawn up in the context of the preparatory works leading to the adoption of the directive on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products — Refusal to grant access — Exception relating to the protection of court proceedings — Exception relating to the protection of the decision-making process — Rights of the defence — Overriding public interest)

(2016/C 392/39)

Language of the case: English

Parties

Applicant: Philip Morris Ltd (Richmond, United Kingdom) (represented by: K. Nordlander and M. Abenhaïm, lawyers)

Defendant: European Commission (represented by: J. Baquero Cruz and F. Clotuche-Duvieusart, acting as Agents)

Re:

Application based on Article 263 TFEU and seeking annulment of Commission Decision Ares(2014) 3694540 of 6 November 2014, refusing access to certain documents relating to the adoption of Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC (OJ 2014 L 127, p. 1).

Operative part of the judgment

The Court:

1. *Annuls Commission Decision Ares(2014) 3694540 of 6 November 2014, refusing access to certain documents relating to the adoption of Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC, in so far as it refused access to the first three sentences of the third paragraph of Document No 6;*

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

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

([1]) OJ C 107, 30.3.2015.

Judgment of the General Court of 14 September 2016 — Trajektna luka Split v Commission

(Case T-57/15) ([1])

(State aid — Port services — Alleged aid to the public ferry operator of Jadrolinija — Setting of fees by the Croatian authorities for port services in the Port of Split in respect of domestic traffic at an allegedly lower level than that of the fees applied in other Croatian ports and those applied for international traffic — Private operator holding an allegedly exclusive concession for the operation of the passenger terminal at the Port of Split — Decision finding no State aid — Definition of aid — State resources)

(2016/C 392/40)

Language of the case: English

Parties

Applicant: Trajektna luka Split d.d. (Split, Croatia) (represented by: M. Bauer, H.-J. Freund and S. Hankiewicz, lawyers)

Defendant: European Commission (represented by: A. Bouchagiar and P.-J. Loewenthal, acting as Agents)

Re:

Application pursuant to Article 263 TFEU for the annulment of Commission Decision C(2013) 7285 final of 15 October 2014 on State Aid SA.37265 (2014/NN) — Croatia — Alleged aid to Jadrolinija.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Trajektna luka Split d.d. to pay the costs.*

([1]) OJ C 118, 13.4.2015.

Judgment of the General Court of 13 September 2016 — hyphen v EUIPO — Skylotec (Representation of a polygon)

(Case T-146/15) ([1])

(EU trade mark — Revocation proceedings — EU figurative mark representing a polygon — Genuine use of a mark — Second subparagraph of Article 15(1)(a) and Article 51(1)(a) of Regulation (EC) No 207/2009 — Form differing in components which do not alter the distinctive character of the mark)

(2016/C 392/41)

Language of the case: German

Parties

Applicant: hyphen GmbH (Munich, Germany) (represented by: M. Gail and M. Hoffmann, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Skylotec GmbH (Neuwied, Germany) (represented by: M. De Zorti and M. Helfrich, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 9 March 2015 (Case R 1506/2014-4), concerning revocation proceedings between Skylotec and hyphen.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 9 March 2015 (Case R 1506/2014-4), concerning revocation proceedings between Skylotec GmbH and hyphen GmbH in so far as the Board of Appeal found, with respect to goods in Classes 9 and 25 within the meaning of the Nice Agreement concerning the International Classification of Goods and Services for the Purpose of the Registration of Marks of 15 June 1957, as revised and amended, that the proprietor of the registered European Union trade mark should have its rights revoked.*

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

3. *Orders EUIPO to bear its own costs and to pay those incurred by hyphen.*

4. *Orders Skylotec to bear its own costs.*

([1]) OJ C 171, 26.5.2015.

Judgment of the General Court of 13 September 2016 — Commission v Kakol

(Case T-152/15 P) ([1])

(Appeal — Civil service — Officials — Open competition — Non-admission of a candidate — Non-recognition of a diploma — Admission to a previous competition — Conditions of similar competitions — Obligation to state reasons)

(2016/C 392/42)

Language of the case: French

Parties

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

Other party to the proceedings: Danuta Kakol (Luxembourg, Luxembourg) (represented by: R. Duta, lawyer)

Re:

Appeal brought against the judgment of the European Union Civil Service Tribunal (Second Chamber) of 22 January 2015, Kakol v Commission (F-1/14 and F-48/14, EU:F:2015:5), asking for annulment of that judgment.

Operative part of the judgment

The Court:

1) *Annuls the judgment of the European Union Civil Service Tribunal (Second Chamber) of 22 January 2015, Kakol v Commission (F-1/14 and F-48/14, EU:F:2015:5),*

2) *Refers the case to a Chamber of the Court other than that which ruled on the present appeal;*

3) *Reserves the costs.*

([1]) OJ C 190, 8.6.2015.

Judgment of the General Court of 9 September 2016 — Puma v EUIPO — Gemma Group (Representation of a bounding feline)

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

(EU trade mark — Opposition proceedings — Application for an EU figurative mark representing a bounding feline — Earlier international figurative marks representing a bounding feline — Relative ground for refusal — Sound administration — Proof of the reputation of the earlier marks — Article 8(5) of Regulation (EC) No 207/2009)

(2016/C 392/43)

Language of the case: English

Parties

Applicant: Puma SE (Herzogenaurach, Germany) (represented by: P. González-Bueno Catalán de Ocón, lawyer)

Defendant: European Union Intellectual Property Office (represented by: initially P. Bullock, and subsequently D. Hanf, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO: Gemma Group Srl (Cerasolo Ausa, Italy)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 19 December 2014 (Case R 1207/2014-5), relating to opposition proceedings between Puma and Gemma Group.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Fifth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 19 December 2014 (Case R 1207/2014-5);*

2. *Orders EUIPO to pay the costs, including those incurred by Puma SE.*

([1]) OJ C 171, 26.5.2015.

Judgment of the General Court of 14 September 2016 — National Iranian Tanker Company v Council

(Case T-207/15) ([1])

(Common foreign and security policy — Restrictive measures adopted against Iran with the aim of preventing nuclear proliferation — Freezing of funds — Res judicata — Right to an effective remedy — Error of assessment — Rights of the defence — Right to property — Proportionality)

(2016/C 392/44)

Language of the case: English

Parties

Applicant: National Iranian Tanker Company (Tehran, Iran) (represented by: T. de la Mare QC, M. Lester, J. Pobjoy, Barristers, R. Chandrasekera, S. Ashley and C. Murphy, Solicitors)

Defendant: Council of the European Union (represented initially by N. Rouam and M. Bishop, and subsequently by M. Bishop and A. Vitro, acting as Agents)

Re:

Application under Article 263 TFEU for annulment of Council Decision (CFSP) 2015/236 of 12 February 2015 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2015 L 39, p. 18) and Council Implementing Regulation (EU) No 2015/230 of 12 February 2015 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2015 L 39, p. 3), in so far as those measures concern the applicant, or, in the alternative, application under Article 277 TFEU for a declaration of inapplicability of Article 20(1)(c) of Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ 2010 L 195, p. 39) and of Article 23(2)(d) of Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (OJ 2012 L 88, p. 1), in so far as those provisions apply to the applicant.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders National Iranian Tanker Company and the Council of the European Union to bear their own costs.*

(1) OJ C 245, 27.7.2015.

Judgment of the General Court of 15 September 2016 — Arrom Conseil v EUIPO — PUIG France (Roméo has a Gun by Romano Ricci)

(Case T-358/15) (1)

(EU trade mark — Opposition proceedings — Application for registration of the EU figurative mark Roméo has a Gun by Romano Ricci — Earlier EU word marks NINA RICCI and RICCI — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — Unfair advantage taken of the distinctive character or reputation of the earlier marks — Damage to reputation — Article 8(5) of Regulation No 207/2009)

(2016/C 392/45)

Language of the case: English

Parties

Applicant: Arrom Conseil (Paris, France) (represented by: C. Herissay Ducamp and J. Blanchard, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: PUIG France SAS (Paris, France) (represented by: E. Armijo Chávarri, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 26 March 2015 (Case R 1020/2014-1) relating to opposition proceedings between Puig France and Arrom Conseil.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Arrom Conseil to bear its own costs and pay the costs incurred by the European Union Intellectual Property Office and PUIG France SAS.*

(1) OJ C 294, 7.9.2015.

Judgment of the General Court of 14 July 2016 — Preferisco Foods v EUIPO — Piccardo & Savore' (PREFERISCO)

(Case T-371/15) (1)

(EU trade mark — Opposition proceedings — Application for EU figurative mark PREFERISCO — Earlier EU word mark I PREFERITI — Relative ground for refusal — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2016/C 392/46)

Language of the case: English

Parties

Applicant: Preferisco Foods Ltd (Vancouver, British Columbia, Canada) (represented by: G. Macías Bonilla, P. López Ronda, G. Marín Raigal and E. Armero, lawyers)

Defendant: European Union Intellectual Property Office (represented by: K. Sidat Humphreys and J.-F. Crespo Carrillo, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO: Piccardo & Savore' Srl (Chiusavecchia, Italy)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 15 April 2015 (Case R 2598/2013-2), relating to opposition proceedings between Piccardo & Savore' and Preferisco Foods.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Preferisco Foods Ltd to pay the costs.*

(1) OJ C 311, 21.9.2015.

Judgment of the General Court of 13 September 2016 — Perfetti Van Melle Benelux v EUIPO — PepsiCo (3D)

(Case T-390/15) (1)

(EU trade mark — Opposition proceedings — Application for EU figurative mark 3D — Earlier EU word and figurative marks 3D'S and 3D's — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation No (EC) No 207/2009)

(2016/C 392/47)

Language of the case: English

Parties

Applicant: Perfetti Van Melle Benelux BV (Breda, Netherlands) (represented by: P. Testa, lawyer)

Defendant: European Union Intellectual Property Office (represented by: J. Ivanauskas and A. Folliard-Monguiral, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: PepsiCo, Inc. (New York, New York, United States) (represented by: V. von Bomhard and J. Fuhrmann, lawyers)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 8 May 2015 (Case R 465/2014-5), relating to opposition proceedings between PepsiCo and Perfetti Van Melle Benelux.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Perfetti Van Melle Benelux BV to pay the costs.*

(1) OJ C 311, 21.9.2015.

Judgment of the General Court of 13 September 2016 — Globo Comunicação e Participações v EUIPO (sound mark)

(Case T-408/15) ([1])

(EU trade mark — Application for a sound mark — Absolute ground for refusal — No distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009 — Obligation to state reasons — Article 75 of Regulation No 207/2009)

(2016/C 392/48)

Language of the case: French

Parties

Applicant: Globo Comunicação e Participações S/A (Rio de Janeiro, Brazil) (represented by: E. Gaspar and M.-E. De Moro-Giafferri, lawyers)

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

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 18 March 2015 (Case R 2945/2014-5), concerning an application for registration of a sound mark as an EU trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Globo Comunicação e Participações S/A to pay the costs.*

([1]) OJ C 320, 28.9.2015.

Judgment of the General Court of 13 September 2016 — Pohjanmäki v Council

(Case T-410/15 P) ([1])

(Appeal — Civil service — Officials — Promotion — 2013 promotion year — Respective roles of the Appointing Authority and the Joint Consultative Committee — Absence of staff reports — Failure on the part of the members of the JCC to consult the staff reports — Compatibility of the functions of the rapporteur in the JCC with those of the former rapporteur — Equal treatment — Obligation to state reasons)

(2016/C 392/49)

Language of the case: French

Parties

Appellant: Jaana Pohjanmäki (Brussels, Belgium) (represented by: M. Velardo, lawyer)

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

Re:

Appeal brought against the judgment of the European Union Civil Service Tribunal (First Chamber) of 18 May 2015, *Pohjanmäki* v *Council* (F-44/14, EU:F:2015:46) seeking to have that judgment set aside.

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Ms Jaana Pohjanmäki to bear her own costs and to pay the costs incurred by the Council of the European Union in the appeal.*

([1]) OJ C 337, 12.10.2015.

Judgment of the General Court of 15 September 2016 — Trinity Haircare v EUIPO — Advance Magazine Publishers (VOGUE)

(Case T-453/15) ([1])

(EU trade mark — Invalidity proceedings — EU figurative trade mark VOGUE — Absolute ground for refusal — No descriptive character — Distinctiveness — Article 52(1)(a), read in conjunction with Article 7(1)(b) and (c) of Regulation (EC) No 207/2009 — Bad faith — Article 52(1)(b) of Regulation No 207/2009)

(2016/C 392/50)

Language of the case: English

Parties

Applicant: Trinity Haircare AG (Herisau, Switzerland) (represented by: J. Kroher and K. Bach, lawyers)

Defendant: European Union Intellectual Property Office (represented by: J. Lewis and J. Crespo Carrillo, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervening before the General Court: Advance Magazine Publishers, Inc. (New York, New York, United States) (represented by: D. Ivison, Barrister)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 27 May 2015 (Case R 2426/2014-4) relating to invalidity proceedings between Advance Magazine Publishers and Trinity Haircare.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Trinity Haircare AG to bear its own costs and to pay those incurred by the European Union Intellectual Property Office (EUIPO) and by Advance Magazine Publishers, Inc.*

([1]) OJ C 320, 28.9.2015.

Judgment of the General Court of 14 September 2016 — Lotte v EUIPO — Kuchenmeister (KOALA LAND)

(Case T-479/15) ([1])

(European Union trade mark — Opposition proceedings — Application for EU word mark KOALA LAND — Prior national word mark KOALA — Rejection in part of the application for registration — Likelihood of confusion — Genuine use — Article 8(1)(b) of Regulation (EC) No 207/2009 — Article 42 (2) and (3) of Regulation No 207/2009)

(2016/C 392/51)

Language of the case: German

Parties

Applicant: Lotte Co. Ltd (Tokyo, Japan) (represented by: M. Knitter and S. Schicker, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Kuchenmeister GmbH (Soest, Germany) (represented by: P. Blumenthal, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 4 June 2015 (Case R 815/2014-1) concerning opposition proceedings between Kuchenmeister and Lotte.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Lotte Co. Ltd to pay the costs.*

(1) OJ C 337, 12.10.2015.

Judgment of the General Court of 9 September 2016 — De Esteban Alonso v Commission

(Case T-557/15 P) (1)

(Appeal — Civil service — Article 24 of the Staff Regulations — Request for assistance — Criminal proceedings before a national court — Decision of the institution to become a civil party — Action at first instance dismissed as manifestly unfounded — Procedural irregularities — Conditions for the application of Article 24 of the Staff Regulations)

(2016/C 392/52)

Language of the case: French

Parties

Appellant: Fernando De Esteban Alonso (Saint-Martin-de-Seignanx, France) (represented by: C. Huglo, lawyer)

Other party to the proceedings: European Commission (represented initially by J. Currall and C. Ehrbar and subsequently by C. Ehrbar and G. Berscheid, acting as Agents)

Re:

Appeal brought against the order of the European Union Civil Service Tribunal (Third Chamber) of 15 July 2015 in *De Esteban Alonso* v *Commission* (F-35/15, EU:F:2015:87), seeking to have that order set aside.

Operative part of the judgment

The Court:

1. *Dismisses the appeal.*

2. *Orders Fernando De Esteban to bear his own costs and to pay those incurred by the European Commission in the present appeal proceedings.*

(1) OJ C 371, 9.11.2015.

Judgment of the General Court of 13 September 2016 — Paglieri Sell System v EUIPO (APOTEKE)

(Case T-563/15) ([1])

(European Union trade mark — Application for figurative mark APOTEKE — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 207/2009 — Obligation to state reasons — Article 75 of Regulation No 207/2009)

(2016/C 392/53)

Language of the case: Italian

Parties

Applicant: Paglieri Sell System SpA (Pozzolo Formigaro, Italy) (represented by: P. Pozzi and F. Braga, lawyers)

Defendant: European Union Intellectual Property Office (represented by: K. Doherty and L, Rampini, acting as Agents)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 23 July 2015 (Case R 2428/2014-5) concerning an application for registration of the figurative sign APOTEKE as a European Union trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Paglieri Sell Systems SpA to pay the costs.*

([1]) OJ C 371, 9.11.2015.

Action brought on 5 August 2016 — Gifi Diffusion v EUIPO — Crocs (Footwear)

(Case T-424/16)

(2016/C 392/54)

Language in which the application was lodged: English

Parties

Applicant: Gifi Diffusion (Villeneuve-sur-Lot, France) (represented by: C. de Chassey, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Crocs, Inc. (Longmont, Colorado, United States)

Details of the proceedings before EUIPO

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

Design at issue: Community design 'Footwear' — Community design No 733 282-0001

Contested decision: Decision of the Third Board of Appeal of EUIPO of 25 April 2015 in Case R 37/2015-3

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— invalidate the Community design No 000733282-0001;

— order EUIPO to pay the costs of the Applicant.

Pleas in law

— Infringement of Article 6 of Regulation No 6/2002;

— Infringement of Articles 62 and 63 of Regulation No 6/2002.

Action brought on 4 August 2016 — Šroubárna Ždánice v Council

(Case T-442/16)

(2016/C 392/55)

Language of the case: Czech

Parties

Applicant: Šroubárna Ždánice a.s. (Kyjov, Czech Republic) (represented by: M. Osladil, lawyer)

Defendant: Council of the European Union

Form of order sought

— find that the European Union is obliged to pay the applicant the sum of CZK 75 502 534 as compensation for damage;

— order the European Union to pay the applicant's costs.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law, alleging that all the conditions are satisfied for the non-contractual liability for damage of the European Union to be established in accordance with Article 268 TFEU in conjunction with the second paragraph of Article 340 TFEU:

— by imposing an anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China, later extended to imports from Malaysia, the European Union breached its obligations arising from membership of the WTO, specifically laid down in the Anti-Dumping Agreement;

— breaching the Anti-Dumping Agreement produced a breach of Article 216(2) TFEU;

— as a result of the unlawful action by the European Union, the applicant incurred damage in the amount of CZK 75 502 534;

— there was a causal relationship between the amount of damage and the unlawful conduct of the European Union.

Action brought on 19 August 2016 — Spain v Commission

(Case T-459/16)

(2016/C 392/56)

Language of the case: Spanish

Parties

Applicant: Kingdom of Spain (represented by: M. Sampol Pucurull, lawyer for the Spanish State)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Implementing Decision (EU) 2016/1059 of 21 June, excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF), the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD), as regards the Kingdom of Spain, in respect of certain area payments and excluding EUR 262 887 429,57;

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on one plea in law, divided into two parts.

1. The applicant claims that the flat rate correction imposed by the Commission infringes Article 31 of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ 2005 L 209, p. 1), as well as the 1997 guidelines (Document VI/5330/97), regarding the conditions that must be satisfied in order to impose a correction of 25 % or of 10 %. That infringement results in the Commission exceeding the limits of its discretion and breach of the principles of proportionality and legal certainty.

   — First, the Spanish authorities are of the opinion that the various flat rate corrections infringe Article 31(2) of Council Regulation (EC) No 1290/2005, in relation to the implementation of the 1997 guidelines and the principle of proportionality, as the Commission lacks serious and reasonable grounds to conclude that it had to impose a financial correction of 25 %, in relation to the wooded pastures in the years 2009 to 2013, except for wooded pastures for five Autonomous Communities in 2009, with regard to which it is considered that Article 73a(2)(a) of Commission Regulation (EC) No 796/2004 of 21 April 2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers (OJ 2004 L 141, p. 18) is applicable.

   The Spanish authorities also dispute the application by the Commission of a flat rate correction of 10 % for the years 2009 to 2013 for the shrub pastures and for the wooded grazing pasture in 2009.

   — Secondly, the authorities are of the opinion that the contested Decision infringes Article 31 of Regulation (EC) No 1290/2005 in relation to the principles of proportionality and legal certainty, in so far as it does not take into account Article 73a(2)(a) of Regulation (EC) No 796/2004, in relation to Article 137 of 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.

Action brought on 22 August 2016 — Portugal v Commission

(Case T-462/16)

(2016/C 392/57)

Language of the case: Portuguese

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— Annul Commission Decision C (2016) 3753 of 20 June 2016, notified on 21 June 2016, excluding from European Union financing of certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD), in so far as, on the ground of 'consolidation weaknesses' it excludes from European Union financing the sum of EUR 29 957 339,70 relating to expenditure declared by the Portuguese Republic in connection with cross-compliance, in the financial years 2011, 2012 and 2013;

— Order the European Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on 3 pleas in law.

1. First plea in law, alleging infringement of the principle of legitimate expectations which the Commission committed by acknowledging the implementation of a public development programme to adjust entitlements in accordance with Article 41(3) of 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 (OJ 2009 L 30, p. 16), but then proceeding, *a posteriori*, to refuse funding for the expenditure based on the adjustment of entitlements that had been proposed to it.

2. Second plea in law, alleging infringement of Articles 34, 36 and 41(3) of Regulation (EC) No 73/2009.

3. Third plea in law alleging infringement of Article 31(2) of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ 2005 L 209, p. 1) and of the principle of proportionality.

Action brought on 22 August 2016 — Portugal v Commission

(Case T-463/16)

(2016/C 392/58)

Language of the case: Portuguese

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— Annul Commission Decision C (2016) 3753 of 20 June 2016, notified on 21 June 2016, excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD), in so far it excludes from European Union financing the sum of EUR 8 984 891,60 relating to expenditure declared by the Portuguese Republic in connection with cross-compliance, in the financial years 2011, 2012 and 2013;

— Order the European Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging failure to state reasons and infringement of Article 11 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 (OJ 2006 L 171, p. 90).

2. Second plea in law, alleging infringement of Article 24 of 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 (OJ 2009 L 30, p. 16), and of the second paragraph of Article 54(c) 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 in that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector (OJ 2009 L 316, p. 65).

3. Third plea in law, alleging infringement of Article 26 and Article 53 of Regulation (EC) No 1122/2009.

4. Fourth plea in law alleging failure to state reasons.

5. Fifth plea in law alleging infringement of the 'ne bis in idem' principle.

6. Sixth plea in law alleging infringement of the principle of proportionality and of Article 31 of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ 2005 L 209, p. 1).

Action brought on 30 August 2016 — Sicignano v EUIPO — Inprodi (GiCapri 'a giacchett'e capri')

(Case T-619/16)

(2016/C 392/59)

Language in which the application was lodged: Italian

Parties

Applicant: Pasquale Sicignano (Santa Maria la Cairtà, Italy) (represented by: A. Masetti Zannini de Concina, M. Bucarelli and G. Petrocchi, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Inghirami Produzione Distribuzione SpA (Inprodi) (Milan, Italy)

Details of the proceedings before EUIPO

Applicant for the trade mark at issue: Applicant

Trade mark at issue: European Union figurative mark containing the word elements 'GiCapri "a giacchett'e capri"' — Application for registration No 12 512 778

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 2 June 2016 in Case R 806/2015-5

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Fifth Board of Appeal of EUIPO delivered on 2 June 2016 in Case R 806/2015-5 dismissing application No 12512778 for registration of the composite mark GiCapri 'a Giacchett'e capri' for goods in Classes 18, 25 and 35, which should therefore be granted;

— order EUIPO to pay the costs.

Plea in law

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

Action brought on 29 August 2016 — České dráhy v Commission

(Case T-621/16)

(2016/C 392/60)

Language of the case: Czech

Parties

Applicant: České dráhy a.s. (Prague, Czech Republic) (represented by: K. Muzikář and J. Kindl, lawyers)

Defendant: European Commission

Form of order sought

— annul Commission Decision C(2016) 3993 final of 22 June 2016 in Case AT.40401 — Twins ordering an inspection pursuant to Article 20(4) of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty;

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

Pleas in law and main arguments

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

1. First plea in law, alleging that the contested decision was adopted on the basis of materials obtained during a previous inspection at the business premises of České dráhy which was carried out on the basis of an illegal decision. The European Commission could not use the materials thus obtained, not even for the adoption of the decision contested by the present action.

2. Second plea in law, alleging that the materials on the basis of which the contested decision was adopted were obtained by the European Commission during a previous inspection, outside the framework of the subject of the inspection, and hence illegally.

3. Third plea in law, alleging that the contested decision and the associated inspection by the European Commission constitute a disproportionate interference with the applicant's private sphere. The contested decision was adopted by the European Commission without legally available materials, the Commission defined the subject of the inspection unacceptably broadly, and it proceeded beyond the bounds of its investigative powers.

4. Fourth plea in law, alleging that the contested decision does not adequately delimit the subject and purpose of the inspection, inter alia in that it defines unacceptably broadly the period of time to which the inspection was to relate, and does not state proper reasons.

5. Fifth plea in law, alleging that because of the contested decision and the associated inspection there was an unacceptable interference with the applicant's fundamental rights and freedoms guaranteed by Article 7 of the Charter of Fundamental Rights of the EU (or Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms) and Article 48 of the Charter of Fundamental Rights of the EU (or Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms).

Action brought on 31 August 2016 — Czech Republic v Commission

(Case T-627/16)

(2016/C 392/61)

Language of the case: Czech

Parties

Applicant: Czech Republic (represented by: M. Smolek, J. Pavliš and J. Vláčil, acting as Agents)

Defendant: European Commission

Form of order sought

— annul Commission Implementing Decision (EU) 2016/1059 of 20 June 2016 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (notified under document C(2016) 3753) ('the contested decision') in so far as it excludes expenditure incurred by the Czech Republic in connection with the single area payment (SAPS) in a total amount of EUR 84 272,83, in so far as it excludes expenditure incurred by the Czech Republic in connection with investment in the wine sector in a total amount of EUR 636 516,20, and in so far as it excludes expenditure incurred by the Czech Republic in connection with cross-compliance conditions in a total amount of EUR 29 485 612,55;

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies in relation to the single area payment scheme (SAPS) on a single plea in law, alleging breach of Article 52(1) 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. The Commission decided to exclude expenditure from EU financing, although there had been no breach of EU or national law.

In relation to investment in the wine sector, the applicant relies on a single plea in law, alleging breach of Article 52(1) of Regulation No 1306/2013. The Commission decided to exclude expenditure from EU financing, although there had been no breach of EU or national law.

In relation to cross-compliance conditions, the applicant relies on two pleas in law:

— The first plea in law alleges breach of Article 52(1) of Regulation No 1306/2013. The Commission decided to exclude expenditure from EU financing, although there had been no breach of EU or national law.

— In the alternative, the applicant relies on the second plea in law, alleging breach of Article 52(2) of Regulation No 1306/2013. Even if the complaints contested in the first plea in law constituted a breach of EU law (quod non), the Commission incorrectly assessed the seriousness of that breach and the financial damage to the EU.

Action brought on 2 September 2016 — Remag Metallhandel and Jaschinsky v Commission

(Case T-631/16)

(2016/C 392/62)

Language of the case: English

Parties

Applicants: Remag Metallhandel GmbH (Steyr, Austria) and Werner Jaschinsky (St. Ulrich bei Steyr, Austria) (represented by: M. Lux, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that, given OLAF's request and subsequent insistence that the authorities of the Member States recover anti-dumping duties for all consignments of silicon metal exported from Taiwan to the EU in accordance with Council Regulation (EC) No 398/2004 of 2 March 2004 imposing a definitive anti-dumping duty on imports of silicon originating in the People's Republic of China (OJ 2004 L 66) and Council Implementing Regulation (EU) No 467/2010 of 25 May 2010 imposing a definitive anti-dumping duty on imports of silicon originating in the People's Republic of China, as extended to imports of silicon consigned from the Republic of Korea, whether declared as originating in the Republic of Korea or not (OJ 2010 L131), although no or insufficient proof has been provided by OLAF that the silicon imported by Remag from Taiwan is of Chinese origin, the Court should:

— order the defendant to pay damages to the applicants as specified in the application, together with default interest at the rate of 8 % annually, and

— order that the costs of the proceedings before Court be borne by the defendant.

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 by requesting Member States to recover anti-dumping duties before the investigation had confirmed the origin of the goods in order to avoid the allegedly owed duties from becoming time-barred, OLAF instructed and incited national administrations to infringe Articles 220(1) and 221(1) of the Community Customs Code (CCC).

2. Second plea in law, alleging that by disregarding in its recovery request the fact that a transhipment of silicon from China does not prove that the silicon is of Chines origin, OLAF infringed the principle of sound administration and the obligation to base its conclusions on substantiated evidence.

3. Third plea in law, alleging that by claiming that all exports of silicon from Taiwan concerned good originating in China, OLAF disregarded the burden of proof for non-preferential origin.

4. Fourth plea in law, alleging that by claiming that the processing taking place in Taiwan was insufficient for conferring Taiwanese origin without taking into account the use of the processed silicon, OLAF disregarded the rules of origin as interpreted by the European Court of Justice.

5. Fifth plea in law, alleging a violation of the applicant's rights of defence.

Action brought on 7 September 2016 — Deichmann v EUIPO — Vans (Representation of a bar on the side of a shoe)

(Case T-638/16)

(2016/C 392/63)

Language in which the application was lodged: German

Parties

Applicant: Deichmann SE (Essen, Germany) (represented by: C. Onken, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Vans, Inc. (Cypress, California, United States of America)

Details of the proceedings before EUIPO

Applicant: Other party to the proceedings before the Board of Appeal

Trade mark at issue: EU position mark (Representation of a bar on the side of a shoe) — Application No 10 263 895

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 6 July 2016 in Case R 408/2015-4

Form of order sought

The applicant claims that the Court should:

— amend the contested decision so that the decision of the Opposition Division of 23 December 2014 is annulled, opposition B 001919210 accepted and EU trade mark application No 10 263 895 rejected;

— in the alternative, annul the decision of the Fourth Board of Appeal of 6 July 2016 in Case R 408/2015-4;

— order EUIPO to pay the costs.

Pleas in law

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

— Infringement of Rules 19(2) and 20(1) and (2) of Regulation (EC) No 2868/95, Articles 151(1) and (2) of Regulation No 207/2009, and the principles of legal certainty and non-retroactivity.

Action brought on 8 September 2016 — GEA Group v Commission

(Case T-640/16)

(2016/C 392/64)

Language of the case: English

Parties

Applicant: GEA Group AG (Düsseldorf, Germany) (represented by: I. du Mont and C. Wagner, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the decision of the European Commission of 29 June 2016, C(2016)3920, amending decision C(2009)8682 final of 11 November 2009 relating to a proceeding of the EC Treaty and Article 53 of the EEA (AT.38589 — Heat Stabilisers);

— in the alternative, reduce the amount of the fine and set a new date for due payment and interest (after adoption of the contested decision), and

— order the European Commission to 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 the European Commission violated Article 25 of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, by adopting the contested decision although the limitation period had elapsed.

2. Second plea in law, alleging that the contested decision violates Article 266(1) TFUE and the applicant's right of defence as the applicant was not granted the opportunity to develop its views orally.

3. Third plea in law, alleging that the Commission violated Article 23(2) and (3) of Regulation No 1/2003 as it did not apply the 10 % cap to the applicant, and as it applied the cap to another infringer to the detriment of the applicant.

4. Fourth plea in law, alleging that the Commission infringed the principle of equal treatment as it held the applicant solely liable for a conduct for which other infringers were found to be responsible while the applicant's liability is only derivative, and because it distributed the extra burden arising from the other infringer's reduced liability exclusively to the detriment of the applicant.

5. Fifth plea in law, alleging that the Commission acted *ultra vires* by setting retroactively a deadline for payment for a date at which no valid legal basis for payment existed, and that the Commission failed to state reasons according to Article 296(2) TFUE as it did not explain for what reasons it deviates from its practice.

Action brought on 12 September 2016 — Iame v EUIPO — Industrie Aeronautiche Reggiane (Parilla)

(Case T-642/16)

(2016/C 392/65)

Language in which the application was lodged: Italian

Parties

Applicant: Iame SpA (Milan, Italy) (represented by: M. Mostardini, G. Galimberti, F. Mellucci and R. Kakkar, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Industrie Aeronautiche Reggiane Srl (Reggio Emilia, Italy)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: European Union figurative mark containing the word element 'Parilla' — European Union trade mark No 3 065 182

Procedure before EUIPO: Revocation proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 23 June 2016 in Case R 608/2015-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision, on the ground of infringement of Article 51 of Regulation No 207/2009, in so far as that decision dismissed action R 608/2015-1 and confirmed the revocation for non-use of EU figurative mark No 3065182 'Parilla', of which IAME S.p.A. is the proprietor, in respect of all the goods and services claimed in Classes 7 and 41;

and, accordingly:

— dismiss the application for revocation under Article 51 of Regulation No 207/2009 of EU figurative mark No 3065182 'Parilla', of which IAME S.p.A. is the proprietor, in respect of all the goods and services claimed in Classes 7 and 41;

— reserve all rights to submit further pleas in law and evidence within the time-limits prescribed;

— order EUIPO to pay the costs.

Plea in law

— Infringement and misapplication of Article 51 of Regulation No 207/2009.

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