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For reasons of protection of personal data, some information contained in this issue cannot be disclosed anymore, therefore a new authentic version has been published.

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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 454/01)

Last publication

OJ C 441, 28.11.2016

Past publications

OJ C 428, 21.11.2016

OJ C 419, 14.11.2016

OJ C 410, 7.11.2016

OJ C 402, 31.10.2016

OJ C 392, 24.10.2016

OJ C 383, 17.10.2016

These texts are available on:

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

Appointment of the First Advocate General

(2016/C 454/02)

At its Meeting on 27 September 2016, the Court of Justice appointed Mr Wathelet as First Advocate General for the period from 7 October 2016 to 6 October 2017.

Designation of the Chamber responsible for cases of the kind referred to in Article 107 of the Rules of Procedure of the Court

(2016/C 454/03)

At its General Meeting on 27 September 2016, the Court designated the Fifth Chamber as the Chamber that is, in accordance with Article 11(2) of the Rules of Procedure, responsible for cases of the kind referred to in Article 107 of those Rules, for the period from 7 October 2016 to 6 October 2017.

Designation of the Chamber responsible for cases of the kind referred to in Article 193 of the Rules of Procedure of the Court

(2016/C 454/04)

At its General Meeting on 27 September 2016, the Court designated the First Chamber as the Chamber that is, in accordance with Article 11(2) of the Rules of Procedure, responsible for cases of the kind referred to in Article 193 of those Rules, for the period from 7 October 2016 to 6 October 2017.

Decisions adopted by the Court in its Special General Meeting on 4 October 2016

(2016/C 454/05)

Assignment of Judges to Chambers of three Judges

At its meeting on 4 October 2016, the Court decided to assign Judges to the Chambers of three Judges as follows:

Sixth Chamber

Mr Regan, President of the Chamber,

Mr Bonichot, Mr Arabadjiev, Mr Fernlund and Mr Rodin, Judges.

Seventh Chamber

Ms Prechal, President of the Chamber,

Mr Rosas, Ms Toader and Mr Jarašiūnas, Judges.

Eighth Chamber

Mr Vilaras, President of the Chamber,

Mr Malenovský, Mr Safjan, and Mr Šváby, Judges.

Ninth Chamber

Mr Juhász, President of the Chamber,

Mr Vajda, Ms Jürimäe and Mr Lycourgos, Judges.

Tenth Chamber

Ms Berger, President of the Chamber,

Mr Borg Barthet, Mr Levits and Mr Biltgen, Judges.

List for determining the composition of the Chambers for cases allocated to a Chamber composed of three Judges

(2016/C 454/06)

At its Meeting on 4 October 2016, the Court drew up the list for determining the composition of the Chambers of three Judges as follows:

Sixth Chamber

Mr Bonichot

Mr Arabadjiev

Mr Fernlund

Mr Rodin

Seventh Chamber

Mr Rosas

Ms Toader

Mr Jarašiūnas

Eighth Chamber

Mr Malenovský

Mr Safjan

Mr Šváby

Ninth Chamber

Mr Vajda

Ms Jürimäe

Mr Lycourgos

Tenth Chamber

Mr Borg Barthet

Mr Levits

Mr Biltgen

Election of the Presidents of the Chambers of three Judges

(2016/C 454/07)

At a meeting on 27 September 2016, the Judges of the Court of Justice elected, pursuant to Article 12(2) of the Rules of Procedure, Mr Regan as President of the Sixth Chamber, Ms Prechal as President of the Seventh Chamber, Mr Vilaras as President of the Eighth Chamber, Mr Juhász as President of the Ninth Chamber and Ms Berger as President of the Tenth Chamber for the period from 7 October 2016 to 6 October 2017.

Taking of the oath by the new Member of the Court of Justice

(2016/C 454/08)

Following his appointment as Advocate General at the Court of Justice for the period from 16 September 2016 to 6 October 2021 by decision of the Representatives of the Governments of the Member States of the European Union of 7 September 2016, ([1]) Mr Tanchev took the oath before the Court of Justice on 19 September 2016.

Taking of the oath by new Members of the General Court

(2016/C 454/09)

Following their appointment as Judges at the General Court for the period from 1 September 2016 to 31 August 2022 by decision of the Representatives of the Governments of the Member States of the European Union of 23 March 2016 ([1]), Ms Kowalik-Bańczyk and Mr Nihoul took the oath before the Court of Justice on 19 September 2016.

Following their appointment as Judges at the General Court by decision of the Representatives of the Governments of the Member States of the European Union of 7 September 2016 ([2]),

— for the period from 1 September 2016 to 31 August 2019,

Mr Kornezov and Mr Perillo,

— for the period from 16 September 2016 to 31 August 2019,

Mr Passer,

— for the period from 19 September 2016 to 31 August 2019,

Mr Öberg,

— for the period from 1 September 2016 to 31 August 2022,

Mr Barents, Mr Svenningsen, Mr Csehi, Mr Iliopoulos, Ms Marcoulli and Mr Spielmann,

— for the period from 16 September 2016 to 31 August 2022,

Ms Costeira, Mr Berke, Mr da Silva Passos and Ms Spineanu-Matei

took the oath before the Court of Justice on 19 September 2016.

([1]) OJ L 247, 15.9.2016, p. 17.
([1]) OJ L 87, 2.4.2016, p. 33.
([2]) OJ L 247, 15.9.2016, pp. 13, 15 and 18.

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Order of the Court (Fifth Chamber) of 29 September 2016 — *Investigación y Desarrollo en Soluciones y Servicios IT, SA* v *European Commission*

(Case C-102/14 P) ([1])

(Appeal — Article 181 of the Rules of Procedure of the Court of Justice — Contracts in respect of EU financial support for projects in the research and development field — Audit report identifying irregularities — Decision to recover advances paid by the European Commission — Action for annulment — Decision to suspend payments — Action to establish non-contractual liability — Decision not to conclude a contract — Action for damages — Inadmissibility)

(2016/C 454/10)

Language of the case: Spanish

Parties

Appellant: Investigación y Desarrollo en Soluciones y Servicios IT, SA (represented by: M. Jiménez Perona, abogado)

Other party to the proceedings: European Commission (represented by: R. Lyal and B. Conte, acting as Agents, and by J. Rivas Andrés, avocat)

Operative part of the order

1. *The appeal is dismissed.*

2. *Investigación y Desarrollo en Soluciones y Servicios IT SA shall pay the costs relating to the appeal.*

([1]) OJ C 135, 5.5.2014.

Order of the Court (Sixth Chamber) of 6 September 2016 — Lidl Stiftung & Co. KG v European Union Intellectual Property Office

(Case C-224/14 P) ([1])

(Appeal — EU trade mark — Article 181 of the Rules of Procedure of the Court of Justice — Appeal manifestly inadmissible or manifestly unfounded)

(2016/C 454/11)

Language of the case: English

Parties

Appellant: Lidl Stiftung & Co. KG (represented by: M. Wolter, M. Kefferpütz and A.K. Marx, Rechtsanwälte)

Other party to the proceedings: European Union Intellectual Property Office (represented by: L. Rampini, acting as Agent)

Operative part of the order

1. *The appeal is dismissed.*

2. *Lidl Stiftung & Co. KG shall pay the costs.*

([1]) OJ C 282, 25.8.2014.

Order of the Court (Sixth Chamber) of 6 September 2016 — Lidl Stiftung & Co. KG v European Union Intellectual Property Office

(Case C-237/14 P) ([1])

(Appeal — EU trade mark — Article 181 of the Rules of Procedure of the Court of Justice — Appeal manifestly inadmissible or manifestly unfounded)

(2016/C 454/12)

Language of the case: English

Parties

Appellant: Lidl Stiftung & Co. KG (represented by: M. Wolter, M. Kefferpütz and A.K. Marx, Rechtsanwälte)

Other party to the proceedings: European Union Intellectual Property Office (represented by: L. Rampini, acting as Agent)

Operative part of the order

1. *The appeal is dismissed.*

2. *Lidl Stiftung & Co. KG shall pay the costs.*

([1]) OJ C 282, 25.8.2014.

Order of the Court (Sixth Chamber) of 13 September 2016 — Arctic Paper Mochenwangen GmbH v European Commission

(Case C-551/14 P) ([1])

(Appeal — Environment — Directive 2003/87/EC — Article 10a — Scheme for greenhouse gas emission allowance trading — Transitional rules for harmonised free allocation of emission allowances from 2013 — Decision 2011/278/EU — National implementation measures submitted by the Federal Republic of Germany — Rejection of the registration of certain installations on the lists of installations receiving free allocations of emission allowances — Provision relating to cases of 'undue hardship' — Implementing powers of the Commission)

(2016/C 454/13)

Language of the case: German

Parties

Appellant: Arctic Paper Mochenwangen GmbH (represented by: S. Kobes and B. Burkert, Rechtsanwälte)

Other party to the proceedings: European Commission (represented by: E. White, C. Hermes and K. Herrmann, acting as Agents)

Operative part of the order

1. *The appeal is dismissed.*

2. *Arctic Paper Mochenwangen GmbH is ordered to bear its own costs and to pay those incurred by the European Commission.*

(1) OJ C 26, 26.1.2015.

Order of the Court (Sixth Chamber) of 13 September 2016 — Raffinerie Heide GmbH v European Commission

(Case C-564/14 P) (1)

(Appeal — Environment — Directive 2003/87/EC — Article 10a — Scheme for greenhouse gas emission allowance trading — Transitional rules for harmonised free allocation of emission allowances from 2013 — Decision 2011/278/EU — National implementation measures submitted by the Federal Republic of Germany — Rejection of the registration of certain installations on the lists of installations receiving free allocations of emission allowances — Provision relating to cases of 'undue hardship' — Implementing powers of the Commission)

(2016/C 454/14)

Language of the case: German

Parties

Appellant: Raffinerie Heide GmbH (represented by: U. Karpenstein and C. Eckart, Rechtsanwälte)

Other party to the proceedings: European Commission (represented by: C. Hermes, E. White and K. Herrmann, acting as Agents)

Operative part of the order

1. *The appeal is dismissed.*

2. *Raffinerie Heide GmbH is ordered to bear its own costs and to pay those incurred by the European Commission.*

(1) OJ C 33, 2.2.2015.

Order of the Court (Sixth Chamber) of 13 September 2016 — Romonta GmbH v European Commission

(Case C-565/14 P) (1)

(Appeal — Environment — Directive 2003/87/EC — Article 10a — Scheme for greenhouse gas emission allowance trading — Transitional rules for harmonised free allocation of emission allowances from 2013 — Decision 2011/278/EU — National implementation measures submitted by the Federal Republic of Germany — Rejection of the registration of certain installations on the lists of installations receiving free allocations of emission allowances — Provision relating to cases of 'undue hardship' — Implementing powers of the Commission)

(2016/C 454/15)

Language of the case: German

Parties

Appellant: Romonta GmbH (represented by: I. Zenke and M.-Y. Vollmer, Rechtsanwälte)

Other party to the proceedings: European Commission (represented by: E. White, C. Hermes and K. Herrmann, acting as Agents)

Operative part of the order

1. *The appeal is dismissed.*

2. *Romonta GmbH is ordered to bear its own costs and to pay those incurred by the European Commission.*

(1) OJ C 46, 9.2.2015.

Order of the Court (Fifth Chamber) of 7 September 2016 — (Reference for a preliminary ruling from the Tribunale di Catania — Italy) — Criminal proceedings against Snezhana Velikova

(Case C-228/15) (1)

(Preliminary ruling — Right of Union citizens to move and reside within the territory of the European Union — Lack of relevance of the request for a preliminary ruling to settle the dispute in the main proceedings — Manifest inadmissibility)

(2016/C 454/16)

Language of the case: Italian

Referring court

Tribunale di Catania

Criminal proceedings against

Snezhana Velikova

Re:

The application for a preliminary ruling from the Tribunale de Catania (Catania District Court), made by decision of 7 January 2015, is manifestly inadmissible.

(1) OJ C 245, 27.7.2015.

Order of the Court (Ninth Chamber) of 8 September 2016 — Real Express SRL v European Union Intellectual Property Office, MIP Metro Group Intellectual Property GmbH & Co. KG

(Case C-309/15 P) (1)

(Appeal — Article 181 of the Rules of Procedure of the Court — EU trade mark — Regulation (EC) No 207/2009 — Blue and red figurative mark containing the word element 'real' — Opposition of the proprietor of the black and white national figurative marks containing the word elements 'Real' and 'Real mark' — Rejection of the opposition)

(2016/C 454/17)

Language of the case: English

Parties

Appellant: Real Express SRL (represented by: C. Anitoae, avocată)

Other parties to the proceedings: European Union Intellectual Property Office (represented by: D. Botis and D. Hanf, Agents), MIP Metro Group Intellectual Property GmbH & Co. KG (represented by: J.-C. Plate and R. Kaase, Rechtsanwälte)

Operative part of the order

1. *The appeal is dismissed.*

2. *Real Express SRL shall bear its own costs and pay the costs of the European Union Intellectual Property Office (EUIPO) and of MIP Metro Group Intellectual Property GmbH & Co. KG.*

(1) OJ C 398, 30.11.2015.

Order of the Court (Fourth Chamber) of 8 September 2016 (request for a preliminary ruling from the Tribunale amministrativo regionale per il Lazio — Italy) — Google Ireland Limited, Google Italy Srl v Autorità per le Garanzie nelle Comunicazioni

(Case C-322/15) (1)

(Reference for a preliminary ruling — Article 53(2) and Article 94 of the Rules of Procedure of the Court of Justice — Lack of sufficient information concerning the factual and legal context of the dispute in the main proceedings and the reasons justifying the need for a reply to the question referred — Manifest inadmissibility)

(2016/C 454/18)

Language of the case: Italian

Referring court

Tribunale amministrativo regionale per il Lazio

Parties to the main proceedings

Applicants: Google Ireland Limited, Google Italy Srl

Defendant: Autorità per le Garanzie nelle Comunicazioni

Intervening parties: Filandolarete Srl, Associazione Confindustria Radio Televisioni, Federazione Italiana Editori Giornali (FIEG)

Operative part of the order

The request for a preliminary ruling brought by the Tribunale amministrativo regionale per il Lazio (Regional Administrative Court for Lazio, Italy), by decision of 22 April 2015, is manifestly inadmissible.

(1) OJ C 320, 28.9.2015.

Order of the Court (Seventh Chamber) of 20 July 2016 — Claire Staelen v European Ombudsman

(Case C-338/15 P) (1)

(Appeal — Non-contractual liability — Handling by the European Ombudsman of a complaint concerning the management of a list of suitable candidates following an open competition — Rules of Procedure of the Court — Article 181)

(2016/C 454/19)

Language of the case: French

Parties

Appellant: Claire Staelen (represented by: V. Olona, avocate)

Other party to the proceedings: European Ombudsman (represented: initially by G. Grill, and subsequently by L. Papadias, acting as Agents)

Operative part of the judgment

1. *The appeal is rejected.*

2. *Claire Staelen is ordered to pay the costs.*

(1) OJ C 294, 7.9.2015.

Order of the Court (First Chamber) of 21 July 2016 — Louis Vuitton Malletier SA v European Union Intellectual Property Office, Nanu-Nana Handelsgesellschaft mbH für Geschenkartikel & Co. KG

(Joined Cases C-363/15 P and C-364/15 P) (1)

(Appeal — European Union trade mark — No need to adjudicate)

(2016/C 454/20)

Language of the case: English

Parties

Appellant: Louis Vuitton Malletier SA (represented by: P. Roncaglia, G. Lazzeretti, F. Rossi and N. Parrotta, avvocati)

Other parties to the proceedings: European Union Intellectual Property Office (represented by: P. Bullock and D. Hanf, acting as Agents), Nanu-Nana Handelsgesellschaft mbH für Geschenkartikel & Co. KG (represented by: T. Boddien and A. Nordemann, Rechtsanwälte)

Operative part of the order

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

2. *Nanu-Nana Handelsgesellschaft mbH für Geschenkartikel & Co. KG shall pay its own costs in Case C-363/15 P and Case C-364/15 P.*

3. *Louis Vuitton Malletier SA shall bear its own costs and pay the costs incurred by the European Union Intellectual Property Office (EUIPO) in Case C-363/15 P and Case C-364/15 P.*

(1) OJ C 414, 14.12.2015.

Order of the Court (Seventh Chamber) of 28 September 2016 — (request for a preliminary ruling from the Tribunale di Taranto — Italy) — Criminal proceedings against Davide Durante

(Case C-438/15) (1)

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Cour of Justice — Identical questions referred — Articles 49 and 56 TFEU — Freedom of establishment — Freedom to provide services — Gambling — Restrictions — Overriding reasons relating to the public interest — Proportionality — Conditions taking part in a tendering procedure and evaluation of economic and financial capacity — Tenderer excluded for failure to produce testimonials of his economic and financial capacity given by two separate banking institutions)

(2016/C 454/21)

Language of the case: Italian

Referring court

Tribunale di Taranto

Criminal proceedings against

Davide Durante

Operative part of the order

Articles 49 and 56 TFEU must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, that requires operators desiring to respond to a call for tenders for the award of licences in the field of betting and gambling to produce evidence of their economic and financial capacity by means of declarations made by at least two banking establishments and does not allow that capacity to be demonstrated otherwise, provided that that provision is capable of satisfying the conditions of proportionality laid down by the Court's case-law, which it is for the court making the reference to ascertain.

([1]) OJ C 381, 16.11.2015.

Order of the Court (Tenth Chamber) of 14 September 2016 (request for a preliminary ruling from the Judecătoria Satu Mare — Romania) — Pavel Dumitraș, Mioara Dumitraș v BRD Groupe Société Générale — Sucursala Județeană Satu Mare

(Case C-534/15) ([1])

(Reference for a preliminary ruling — Consumer protection — Directive 93/13/EEC — Unfair terms — Article 1(1) — Article 2(b) — Status of consumer — Assignment of a debt by novation of loan agreements — Contracts providing immovable property as security entered into by individuals not having any professional relationship with the new debtor company)

(2016/C 454/22)

Language of the case: Romanian

Referring court

Judecătoria Satu Mare

Parties to the main proceedings

Applicants: Pavel Dumitraș, Mioara Dumitraș

Defendant: BRD Groupe Société Générale — Sucursala Județeană Satu Mare

Operative part of the order

Articles 1(1) and 2(b) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts must be interpreted as meaning that that directive applies to a contract providing immovable property as security concluded between natural persons and a credit institution in order to guarantee the obligations that a commercial company has undertaken with respect to that credit institution for a credit agreement, where those natural persons have acted for purposes which are outside their trade, business or profession and have no functional links with that company, which is for the referring court to determine.

([1]) OJ C 16, 18.1.2016.

Order of the Court (Seventh Chamber) of 28 September 2016 (request for a preliminary ruling from the Tribunale di Santa Maria Capua Vetere — Italy) — *Criminal proceedings against Angela Manzo*

(Case C-542/15) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Identical questions referred — Articles 49 TFEU and 56 TFEU — Freedom of establishment — Freedom to provide services — Betting and gambling — Restrictions — Overriding grounds of general interest — Proportionality — Public procurement — Conditions for participating in a call for tenders and assessment of economic and financial standing — Exclusion of the tenderer for failure to present certificates of economic and financial standing issued by two different banks — Directive 2004/18/EC — Article 47 — Applicability)

(2016/C 454/23)

Language of the case: Italian

Referring court

Tribunale di Santa Maria Capua Vetere

Criminal proceedings against

Angela Manzo

Operative part of the order

1. *Articles 49 TFEU and 56 TFEU must be interpreted as not precluding a national provision, such as that at issue in the main proceedings, which imposes on operators wishing to respond to a call for tenders for the grant of concessions in the field of betting and gambling the obligation to provide evidence of their economic and financial standing by means of statements issued by at least two banks, without allowing that standing to be proved also by other means, where such a provision is capable of satisfying the conditions of proportionality laid down by the case-law of the Court, this being a matter for the referring court to ascertain.*

2. *Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, in particular Article 47 thereof, must be interpreted as meaning that national legislation governing the grant of concessions in the field of betting and gambling, such as that at issue in the main proceedings, does not come within its scope.*

([1]) OJ C 16, 18.1.2016.

Order of the Court (Seventh Chamber) of 7 September 2016 — Lotte Co. Ltd v European Union Intellectual Property Office

(Case C-586/15 P) ([1])

(Appeal — Article 181 of the Rules of Procedure of the Court of Justice — EU trade mark — Figurative mark including a word element in Japanese and a picture of a koala in a tree holding a small koala — Opposition by the proprietor of the earlier national three-dimensional mark KOALA-BÄREN and earlier figurative mark KOALA — Proof of genuine use of the mark — Use of the mark in a form differing by elements not altering the distinctive character of the mark — Article 15(1)(a) and Article 42(2) and (3) of Regulation (EC) No 207/2009 — Appeal in part manifestly inadmissible and in part manifestly unfounded)

(2016/C 454/24)

Language of the case: German

Parties

Appellant: Lotte Co. Ltd (represented by: M. Knitter, lawyer)

The other parties to the proceedings: Nestlé Unternehmungen Deutschland GmbH (represented by: A. Jaeger-Lenz, lawyer), European Union Intellectual Property Office (represented by: D. Walicka, acting as Agent)

Operative part of the judgment

The Court:

1) *Dismisses the appeal;*

2) *Orders Lotte Co. Ltd to bear, in addition to its own costs, the costs incurred by Nestlé Unternehmungen Deutschland GmbH;*

3) *The European Union Intellectual Property Office (EUIPO) shall bear its own costs.*

([1]) OJ C 59, 15.2.2016.

Order of the Court of 21 September 2016 (reference for a preliminary ruling from the Curtea de Apel Craiova — Romania) — Rodica Popescu v Direcția Sanitar Veterinară și pentru Siguranța Alimentelor Gorj

(Case C-614/15) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Social policy — Directive 1999/70/EC — Framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP — Successive fixed-term employment contracts — Veterinary assistant in the veterinary health inspection sector — Public sector — Clause 5(1) — Measures aimed at preventing the misuse of fixed-term contracts — Concept of 'objective reasons' justifying the use of such contracts — Replacements for vacant posts pending completion of competition procedures)

(2016/C 454/25)

Language of the case: Romanian

Referring court

Curtea de Apel Craiova

Parties to the main proceedings

Applicant: Rodica Popescu

Defendant: Direcția Sanitar Veterinară și pentru Siguranța Alimentelor Gorj

Operative part of the order

Clause 5(1) of the of the Framework agreement on fixed-term work, concluded on 18 March 1999, which is set out in the Annex to Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, must be interpreted as precluding national rules, such as those at issue in the main proceedings, under which the renewal of successive fixed-term employment contracts, in the public sector, is deemed justified by 'objective reasons' within the meaning of that clause on the sole ground that inspections performed by staff employed in the veterinary health sector are non-permanent in nature due to the variations in volume of the activities of the establishments to be inspected, unless the renewal of those contracts is actually aimed at covering a specific need in the relevant sector, without the underlying reason being budgetary considerations, which it is for the national court to verify. Moreover, the fact that the renewal of successive fixed-term contracts is done pending completion of competition procedures does not make those rules compliant with that clause where the actual application thereof leads, in reality, to abusive recourse to successive fixed-term employment contracts, which it is also for the national court to verify.

([1]) OJ C 68, 22.2.2016.

Order of the Court (Tenth Chamber) of 21 September 2016 (request for a preliminary ruling from the Juzgado de lo Contencioso-Administrativo No 1 de Oviedo — Spain) — Carlos Álvarez Santirso v Consejería de Educación, Cultura y Deporte del Principado de Asturias

(Case C-631/15) ([1])

(References for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Directive 1999/70/EC — Framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP — Clause 4 — Successive fixed-term employment contracts in the public sector — Non-tertiary education — National rules — Grant of remuneration supplement — Condition — Positive result obtained in evaluation process — Professors employed as interim civil servants — Not included — Principle of non-discrimination)

(2016/C 454/26)

Language of the case: Spanish

Referring court

Juzgado de lo Contencioso-Administrativo No 1 de Oviedo

Parties to the main proceedings

Applicant: Carlos Álvarez Santirso

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

Operative part of the order

Clause 4(1) of the of the Framework agreement on fixed-term work, concluded on 18 March 1999, which is set out in the Annex to Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP must be interpreted as precluding national rules, such as those at issue in the main proceedings, which reserve participation in teaching evaluation plans and, in the case of a positive result, the ensuing financial incentives, exclusively for teachers employed under permanent employment relationships as established career civil servants, thereby excluding persons employed as interim civil servants under fixed-term employment relationships.

([1]) OJ C 68, 22.2.2016.

Order of the Court (Fifth Chamber) of 8 September 2016 (requests for a preliminary ruling from the Juzgado de Primera Instancia No 60 de Madrid — Spain) — *Caixabank SA* v *Héctor Benlliure Santiago* (C-91/16), *Abanca Corporación Bancaria SA* v *Juan José González Rey, María Consuelo González Rey, Francisco Rodríguez Alonso* (C-120/16)

(Joined Cases C-91/16 and C-120/16) ([1])

(Reference for a preliminary ruling — Directive 93/13/EEC — Unfair terms — Default interest rate — Application of the remunerative interest rate — Article 53(2) of the Rules of Procedure of the Court of Justice — Inadmissibility)

(2016/C 454/27)

Language of the cases: Spanish

Referring court

Juzgado de Primera Instancia No 60 de Madrid

Parties to the main proceedings

Applicants: Caixabank SA (C-91/16), Abanca Corporación Bancaria SA (C-120/16)

Defendants: Héctor Benlliure Santiago (C-91/16), Juan José González Rey, María Consuelo González Rey, Francisco Rodríguez Alonso (C-120/16)

Operative part of the order

The requests for a preliminary ruling made by the Juzgado de Primera Instancia No 60 de Madrid (Court of First Instance No 60, Madrid, Spain), by decisions of 8 February 2016 (Case C-91/16) and of 18 February 2016 (Case C-120/16), are manifestly inadmissible.

([1]) OJ C 175, 17.5.2016.

Order of the Court (Seventh Chamber) of 20 July 2016 (request for a preliminary ruling from the Commissione Tributaria Regionale di Milano — Italy) — *Stanleybet Malta Ltd, Mario Stoppani* v *Agenzia delle dogane e dei Monopoli — Ufficio dei Monopoli per la Lombardia*

(Case C-141/16) ([1])

(Reference for a preliminary ruling — Freedom of establishment and freedom to provide services — Single tax on betting and pools — Tax liability of national intermediaries transmitting gambling data on behalf of operators established in another Member State — Insufficient information concerning the factual and regulatory background to the dispute in the main proceedings and the reasons justifying the need for an answer to the question referred for a preliminary ruling — Manifest inadmissibility)

(2016/C 454/28)

Language of the case: Italian

Referring court

Commissione Tributaria Regionale di Milano

Parties to the main proceedings

Applicants: Stanleybet Malta Ltd, Mario Stoppani

Defendant: Agenzia delle dogane e dei Monopoli — Ufficio dei Monopoli per la Lombardia

Operative part of the order

The request for a preliminary ruling made by the Commissione tributaria regionale di Milano (Milan Regional Tax Court, Italy), by decision of 29 September 2015, is manifestly inadmissible.

([1]) OJ C 191 of 30.5.2016.

Appeal brought on 24 August 2016 by Staatliche Porzellan-Manufaktur Meissen GmbH against the judgment of the General Court (Third Chamber) of 14 June 2016 in Case T-789/14, *Staatliche Porzellan-Manufaktur Meissen GmbH* v *European Union Intellectual Property Office (EUIPO)*

(Case C-471/16 P)

(2016/C 454/29)

Language of the case: German

Parties

Appellant: Staatliche Porzellan-Manufaktur Meissen GmbH (represented by: O. Spuhler and M. Geitz, Rechtsanwälte)

Other parties to the proceedings: European Union Intellectual Property Office (EUIPO), Meissen Keramik GmbH

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court of the European Union of 14 June 2016 in Case T-789/14 and annul the decision of the Fourth Board of Appeal of the respondent of 29 September 2014 in Cases R 1182/2013-4 and R 1245/2013-4;

— in the alternative, set aside that judgment of the General Court of the European Union and refer the case back to the General Court of the European Union;

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

Grounds of appeal and main arguments

1. By the present appeal, the appellant claims that the General Court repeatedly infringed the Treaty on European Union (TEU) and Regulation No 207/2009 ([1]) in the judgment under appeal.

2. First of all, the appellant alleges infringement of the principle of fair procedure under Article 6(1) TEU, in conjunction with the second paragraph of Article 47 of the Charter of Fundamental Rights. The General Court, it submits, failed to consider documents that were submitted in the context of the statement of claim. Those documents merely supplemented the present matters of fact or law. The General Court also did not justify the failure to examine those documents, but merely adopted formulaic wording from another judgment that does not apply to the present case.

3. The General Court hereby breached the appellant's right to fair procedure under Article 6(1) TEU, in conjunction with the second paragraph of Article 47 of the Charter.

4. In addition, the appellant alleges infringement of Article 15(1) of Regulation No 207/2009 by reason of a distortion of the facts. The General Court based its decision on, inter alia, the ground that certain goods were supposedly not listed in the submitted evidence of use. Those goods were, in fact, listed in the evidence of use.

5. The General Court hereby distorted the factual basis for the proceedings and therefore infringed Article 15(1) of Regulation No 207/2009.

6. Furthermore, the appellant alleges infringement of Article 7(3) of Regulation No 207/2009. The General Court based its decision on the fact that the Meissen® trade mark was an indication of geographical origin. The Meissen® trade mark was registered by the respondent pursuant to Article 7(3) of Regulation No 207/2009 by virtue of acquired distinctive character. The respondent thereby established in law that the Meissen® trade mark was specifically not an indication of geographical origin but rather an indication of trade origin.

7. By registering the Meissen® trade mark on the basis of acquired distinctive character, the respondent accorded that mark protection in accordance with Article 7(3) of Regulation No 207/2009. The General Court classified the Meissen® trade mark as a purely geographical indication of origin. The General Court hereby effectively deprived the Meissen® trade mark once more of its protection.

8. The appellant also alleges infringement of Article 8(5) of Regulation No 207/2009. The General Court denied the intervention of protection based on reputation under Article 8(5) of Regulation No 207/2009 with the argument that there was no similarity of the goods and services at issue. Article 8(5) of Regulation No 207/2009 explicitly provides that the existence of similarity between goods or services is not necessary. By its decision, the General Court thus turned Article 8(5) of Regulation No 207/2009 into its opposite.

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

Request for a preliminary ruling from the Fővárosi Törvényszék (Hungary) lodged on 14 September 2016 — Incyte Corporation v Szellemi Tulajdon Nemzeti Hivatala

(Case C-492/16)

(2016/C 454/30)

Language of the case: Hungarian

Referring court

Fővárosi Törvényszék

Parties to the main proceedings

Applicant: Incyte Corporation

Defendant: Szellemi Tulajdon Nemzeti Hivatala

Questions referred

1. Must Article 17(2) of Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products ([1]) be interpreted as meaning that 'the date of the first authorization to place the product on the market in the Community' is incorrect in an application for a supplementary protection certificate, within the meaning of that regulation and of Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products, ([2]) where that date was determined without taking account of the Court of Justice's interpretation of the law in the judgment in *Seattle Genetics* (Case C-471/14), with the result that it is appropriate to rectify the date of expiry of the supplementary protection certificate even if the decision to grant that certificate was made prior to that judgment and the time limit for appealing against that decision has already expired?

2. Is the industrial property authority of a Member State which is entitled to grant a supplementary protection certificate required to rectify, of its own motion, the date of expiry of that certificate in order to ensure that that certificate complies with the interpretation of the law set out in Case C-471/14?

([1]) OJ 1996, L 198, p. 30.
([2]) OJ 2009, L 152, p. 1.

Request for a preliminary ruling from the Tribunale Amministrativo Regionale della Campania (Italy) lodged on 14 September 2016 — Sicurbau Srl and Others v Ministero delle Infrastrutture e dei Trasporti and Others

(Case C-493/16)

(2016/C 454/31)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale della Campania

Parties to the main proceedings

Applicants: Sicurbau Srl, IGR — Imprese Generali Riunite Srl, Iterga Costruzioni Generali SpA, Pa.Co. — Pacifico Costruzioni SpA

Defendants: Ministero delle Infrastrutture e dei Trasporti, Autorità Portuale di Napoli, Soa Rina SpA

Question referred

Do the Community principles of the protection of legitimate expectations and legal certainty, together with the principles of the free movement of goods, the freedom of establishment and the freedom to provide services, laid down in the Treaty on the Functioning of the European Union (TFEU), as well as the principles deriving therefrom, such as equality of treatment, non-discrimination, mutual recognition, proportionality and transparency, referred to (most recently) in Directive 2014/24/EU, ([1]) preclude national legislation, such as the Italian legislation founded on the combined provisions of Articles 87(4) and 86(3 bis) of Legislative Decree No 163 of 2006 and Article 26(6) of Legislative Decree No 81 of 2008, as interpreted, with a view to securing proper respect for, and uniform application of, the law, pursuant to Article 99 of the Code of Administrative Procedure, by judgments No 3 and No 9 of 2015 of the Plenary Assembly of the Consiglio di Stato, according to which the failure to list the corporate safety and security costs separately in tenders in a procedure for the award of a public works contract inevitably results in the exclusion of the tendering undertaking concerned, even in the case where the obligation to list that information separately was not set out in the tender rules, and even though, in substantive terms, the tender in question took into account the minimum costs of corporate safety and security?

([1]) Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ 2014 L 94, p. 65).

Request for a preliminary ruling from the Tribunale civile di Trapani (Italia) lodged on 15 September 2016 — Giuseppa Santoro v Comune di Valderice, Presidenza del Consiglio dei Ministri

(Case C-494/16)

(2016/C 454/32)

Language of the case: Italian

Referring court

Tribunale civile di Trapani

Parties to the main proceedings

Applicant: Giuseppa Santoro

Defendants: Comune di Valderice, Presidenza del Consiglio dei Ministri

Questions referred

1. Is the granting of compensation in the amount of between 2,5 and 12 monthly payments of the last overall salary payment (Article 32(5) of Law No 183/2010) to a public employee, who is a victim of the unlawful successive renewal of fixed-term contracts, who may obtain full compensation only by proving the loss of other work opportunities or by proving that, if he had participated in an open competition, he would have been successful, an equivalent and effective measure within the meaning of the judgments of the Court of Justice in *Mascolo* [and Others (C-22/13, C-61/13 to C-63/13 and C-418/13)] and *Marrosu* [and Sardino] (C-53/04)?

2. Must the principle of equivalence referred to by the Court of Justice (inter alia) in those judgments, be interpreted as meaning that, when the Member State decides not to apply the conversion of the employment relationship (as awarded in the private sector) to the public sector, it must nevertheless provide the worker with the same benefit, if necessary through compensation which must relate to the value of the employment contract of indefinite duration?

Request for a preliminary ruling from the Tribunal da Relação de Évora (Portugal) lodged on 23 September 2016 — Luis Isidro Delgado Mendes v Crédito Agrícola Seguros — Companhia de Seguros de Ramos Reais, SA

(Case C-503/16)

(2016/C 454/33)

Language of the case: Portuguese

Referring court

Tribunal da Relação de Évora

Parties to the main proceedings

Applicant: Luis Isidro Delgado Mendes

Defendant: Crédito Agrícola Seguros — Companhia de Seguros de Ramos Reais, SA

Question referred

In the case of a road traffic accident resulting in personal injury and damage to property of a pedestrian who was intentionally run over by a motor vehicle of which he is the owner, which was being driven by the person who stole the car, does EU law, specifically Articles 12(3) and 13(1) of Directive 2009/103/EC ([1]) of the European Parliament and of the Council [of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability] preclude the exclusion by national law of any form of compensation for the pedestrian in question as a result of the fact that he is the owner of the vehicle and the insurance policyholder thereof?

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

Request for a preliminary ruling from the Tribunal da Relação do Porto (Portugal) lodged on 26 September 2016 — José Joaquim Neto de Sousa v Portuguese State

(Case C-506/16)

(2016/C 454/34)

Language of the case: Portuguese

Referring court

Tribunal da Relação do Porto

Parties to the main proceedings

Applicant: José Joaquim Neto de Sousa

Defendant: Portuguese State

Question referred

Do the requirements of the Second ([1]) and Third ([2]) Directives on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles preclude the national legislation from providing for the culpable driver to be compensated, in respect of pecuniary damage, in the event that his spouse, who was a passenger in the vehicle, dies, in accordance with Article 7(3) of Decree-Law No 522 of 31 December 1985, as amended by Decree-Law No 130 of 19 May 1994?

([1]) Second Council Directive 84/5/EEC of 30 December 1983 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles (OJ 1984 L 8, p. 17).

([2]) Third Council Directive 90/232/EEC of 14 May 1990 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles (OJ 1990 L 129, p. 33).

Order of the President of the Court of 22 September 2016 — European Commission v Republic of Austria, supported by: Federal Republic of Germany, Czech Republic

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

(2016/C 454/35)

Language of the case: German

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

([1]) OJ C 73, 2.3.2015.

Order of the President of the Court of 8 July 2016 — European Commission v Romania

(Case C-62/16) ([1])

(2016/C 454/36)

Language of the case: Romanian

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

([1]) OJ C 145, 25.4.2016.

Order of the President of the Court of 15 July 2016 (request for a preliminary ruling from the Attunda Tingsrätt — Sweden) — Airhelp Ltd v Thomas Cook Airlines Scandinavia A/S

(Case C-161/16) ([1])

(2016/C 454/37)

Language of the case: Swedish

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

([1]) OJ C 175, 17.5.2016.

Order of the President of the Court of 21 July 2016 (request for a preliminary ruling from the Amtsgericht Düsseldorf — Germany) — Ljiljana Kammerer, Frank Kammerer v Swiss International Air Lines AG

(Case C-172/16) ([1])

(2016/C 454/38)

Language of the case: German

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

([1]) OJ C 211, 13.6.2016.

Order of the President of the Court of 18 July 2016 (request for a preliminary ruling from the Amtsgericht Köln — Germany) — Elke Roch, Jürgen Roch v Germanwings GmbH

(Case C-257/16) ([1])

(2016/C 454/39)

Language of the case: German

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

([1]) OJ C 279, 1.8.2016.

GENERAL COURT

Judgment of the General Court of 20 October 2016 — August Wolff and Remedia v Commission

(Case T-672/14) ([1])

(Medicinal products for human use — Article 31 of Directive 2001/83/EC — Article 116 of Directive 2001/83 — Active substance estradiol — Commission decision ordering the Member States to withdraw or amend national marketing authorisations for medicinal products with 0,01 % estradiol by weight for topical use — Burden of proof — Proportionality — Equal treatment)

(2016/C 454/40)

Language of the case: German

Parties

Applicants: Dr. August Wolff GmbH & Co. KG Arzneimittel (Bielefeld, Germany) and Remedia d.o.o (Zagreb, Croatia) (represented by: P. Klappich, C. Schmidt and P. Arbeiter, lawyers)

Defendant: European Commission (represented by: B.-R. Killmann and A. Sipos, acting as Agents)

Re:

Application based on Article 263 TFEU and seeking the annulment of Commission Decision C(2014) 6030 final of 19 August 2014 concerning, in the framework of Article 31 of Directive 2001/83/EC of the European Parliament and of the Council, the marketing authorisations for high concentration of estradiol containing human medicinal products for topical use in so far as it requires Member States to comply with the obligations imposed in the implementing decision for the medicinal products listed in Annex I to the implementing decision and those not listed with 0,01 % estradiol by weight for topical use, with the exception of the restriction that the medicinal products named in Annex I to the implementing decision with 0,01 % estradiol by weight for topical use may be administered only intravaginally.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Dr. August Wolff GmbH & Co. KG Arzneimittel and Remedia d.o.o. to pay the costs of the proceedings and of those relating to the application for interim measures.*

([1]) OJ C 439, 8.12.2014.

Judgment of the General Court of 20 October 2016 — Lufthansa AirPlus Servicekarten v EUIPO — Mareea Comtur (airpass.ro)

(Case T-14/15) ([1])

(EU trade mark — Opposition proceedings — Application for EU figurative mark airpass.ro — Earlier EU word mark AirPlus International — Opposition dismissed — Rule 21 of Regulation (EC) No 2865/95 — No need to adjudicate — Article 81(4) of Regulation (EC) No 207/2009)

(2016/C 454/41)

Language of the case: English

Parties

Applicant: Lufthansa AirPlus Servicekarten GmbH (Neu Isenburg, Germany) (represented by: R. Kunze and G. Würtenberger, lawyers)

Defendant: European Union Intellectual Property Office (represented by: V. Melgar and H. Kunz, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO: SC Mareea Comtur SRL (Deva, Romania)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 17 October 2014 (Case R 1918/2013-5), relating to opposition proceedings between Lufthansa AirPlus Servicekarten and SC Mareea Comtur.

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 17 October 2014 (Case R 1918/2013-5) in so far as it concerns 'advertising; business management; business administration; office functions' in Class 35 of the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, of 15 June 1957, as revised and amended;*

2. *Orders EUIPO to bear its own costs and those incurred by Lufthansa AirPlus Servicekarten GmbH.*

([1]) OJ C 81, 9.3.2015.

Judgment of the General Court of 20 October 2016 — Czech Republic v Commission

(Case T-141/15) ([1])

(EAGF and EAFRD — Expenditure excluded from financing — Protection of vineyards — Expenditure incurred by the Czech Republic — Legal certainty — Legitimate expectations)

(2016/C 454/42)

Language of the case: Czech

Parties

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

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

Re:

Application under Article 263 TFEU for the annulment of Commission Implementing Decision (EU) 2015/103 of 16 January 2015 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2015, L 16, p. 33), in so far as it excludes the expenditure envisaged by the Czech Republic under EAGF for a degree of protection of vineyards for the years 2010 to 2012, coming to a total of EUR 2 123 199,04.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

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

(1) OJ C 213, 29.6.2015.

Judgment of the General Court of 20 October 2016 — Monster Energy v EUIPO — Hot-Can Intellectual Property (HotoGo self-heating can technology)

(Case T-407/15) (1)

(EU trade mark — Opposition proceedings — Application for an EU figurative mark HotoGo self-heating can technology — Earlier EU figurative marks representing claws — Relative grounds for refusal — No similarity of the signs — No likelihood of confusion — No connection between the signs — Article 8(1)(b) and (5) of Regulation (EC) No 207/2009)

(2016/C 454/43)

Language of the case: English

Parties

Applicant: Monster Energy Company (Corona, California, United States) (represented by: P. Brownlow, Solicitor)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Hot-Can Intellectual Property Sdn Bhd (Cheras, Malaysia)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 4 May 2015 (Case R 1028/2014-5), relating to opposition proceedings between Monster Energy Company and Hot-Can Intellectual Property.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Monster Energy Company to pay the costs.*

(1) OJ C 311, 21.9.2015.

Judgment of the General Court of 20 October 2016 — Clover Canyon v EUIPO — Kaipa Sportswear (CLOVER CANYON)

(Case T-693/15) (1)

(EU trade mark — Opposition proceedings — International registration designating the European Union — Word mark CLOVER CANYON — Earlier national word mark CANYON — Relative ground for refusal — Article 8(1)(b) of Regulation (EC) No 207/2009 — Likelihood of confusion)

(2016/C 454/44)

Language of the case: English

Parties

Applicant: Clover Canyon, Inc. (Los Angeles, California, United States) (represented by: T. Schmitz, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Kaipa Sportswear GmbH (Heilbronn, Germany) (represented by: D. Pauli, lawyer)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 4 August 2015 (Case R 3018/2014-5), relating to opposition proceedings between Kaipa Sportswear and Clover Canyon.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Clover Canyon, Inc. to pay the costs.*

([1]) OJ C 38, 1.2.2016.

Order of the General Court of 12 October 2016 — Lysoform Dr. Hans Rosemann and Others v ECHA

(Case T-543/15) ([1])

(Actions for annulment — Inclusion as supplier of an active substance on the list provided for in Article 95 of Regulation (EU) No 528/2012 — Lack of direct concern — Inadmissibility)

(2016/C 454/45)

Language of the case: English

Parties

Applicants: Lysoform Dr. Hans Rosemann GmbH (Berlin, Germany), Ecolab Deutschland GmbH (Monheim, Germany), Schülke & Mayr GmbH (Norderstedt, Germany) and Diversey Europe Operations BV (Amsterdam, Netherlands) (represented by: K. Van Maldegem, M. Grunchard and P. Sellar, lawyers)

Defendant: European Chemicals Agency (represented by: C. Buchanan, W. Broere and M. Heikkilä, acting as Agents, and by P. Oliver, Barrister)

Re:

Action pursuant to Article 263 TFEU for annulment of the decision of ECHA of 17 June 2015 concerning the inclusion of the company Oxea GmbH, established in Germany, as supplier of an active substance on the list referred to in Article 95(1) of Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ 2012 L 167, p. 1).

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *There is no longer any need to adjudicate on the applications to intervene of Oxea GmbH and BASF SE.*

3. *Lysoform Dr. Hans Rosemann GmbH, Ecolab Deutschland GmbH, Schülke & Mayr GmbH and Diversey Europe Operations BV shall bear their own costs and pay those incurred by the European Chemicals Agency (ECHA) except for those relating to the applications for leave to intervene.*

4. *Lysoform Dr. Hans Rosemann, Ecolab Deutschland, Schülke & Mayr, Diversey Europe Operations, ECHA, Oxea and BASF shall each bear its own costs relating to the applications for leave to intervene.*

(1) OJ C 406, 7.12.2015.

Order of the General Court of 11 October 2016 — Spliethoff's Bevrachtingskantoor v Commission

(Case T-564/15) (1)

(Actions for annulment — Financial assistance in the field of Connecting Europe Facility — Act not open to challenge — Preparatory act — Inadmissibility)

(2016/C 454/46)

Language of the case: English

Parties

Applicant: Spliethoff's Bevrachtingskantoor BV (Amsterdam, Netherlands) (represented by: P. Glazener, lawyer)

Defendant: European Commission (represented by: J. Hottiaux and J. Samnadda, acting as Agents)

Re:

Application pursuant to Article 263 TFEU seeking the annulment of the decision allegedly contained in the email of the Innovation and Networks Executive Agency (INEA) of 17 July 2015, relating to the proposal submitted by the applicant in response to the call for proposals launched under the Connecting Europe Facility on the basis of the Multi-Annual Work Programme adopted in 2014 pursuant to Commission Implementing Decision C(2014) 1921 of 26 March 2014 establishing the 2014 Multi-Annual Work Programme for financial assistance in the field of Connecting Europe Facility (CEF) — Transport sector for the period 2014-2020.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Spliethoff's Bevrachtingskantoor BV is ordered to pay the costs.*

(1) OJ C 398, 30.11.2015.

Order of the General Court of 17 October 2017 — Orthema Service v EUIPO (Gehen wie auf Wolken)

(Case T-620/15) (1)

(EU trade mark — Application for EU word mark Gehen wie auf Wolken — Mark consisting of an advertising slogan — Absolute ground for refusal — Absence of distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009 — Action manifestly lacking any foundation in law)

(2016/C 454/47)

Language of the case: German

Parties

Applicant: Orthema Service GmbH (Rotkreuz, Switzerland) (represented by: M. Gail, lawyer)

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

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 1 September 2015 (Case R 404/2015-4), concerning an application for registration of the word sign Gehen wie auf Wolken as an EU trade mark.

Operative part of the order

1. *The action is dismissed.*

2. *Orthema Service GmbH is ordered to pay the costs.*

([1]) OJ C 7, 11.1.2016.

Order of the General Court of 12 October 2016 — Lysoform Dr. Hans Rosemann and Others v ECHA

(Case T-669/15) ([1])

(Actions for annulment — Inclusion as supplier of an active substance on the list provided for in Article 95 of Regulation (EU) No 528/2012 — Lack of direct concern — Inadmissibility)

(2016/C 454/48)

Language of the case: English

Parties

Applicants: Lysoform Dr. Hans Rosemann GmbH (Berlin, Germany), Ecolab Deutschland GmbH (Monheim, Germany), Schülke & Mayr GmbH (Norderstedt, Germany) and Diversey Europe Operations BV (Amsterdam, Netherlands) (represented by: K. Van Maldegem, M. Grunchard and P. Sellar, lawyers)

Defendant: European Chemicals Agency (ECHA) (represented by: M. Heikkilä and C. Buchanan, acting as Agents, and by P. Oliver)

Re:

Action pursuant to Article 263 TFEU for annulment of the decision of ECHA of 16 July 2015 concerning the inclusion of the company BASF SE, established in Germany, as supplier of an active substance on the list referred to in Article 95(1) of Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ 2012 L 167, p. 1).

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *There is no longer any need to adjudicate on the applications to intervene of Oxea GmbH and BASF SE.*

3. *Lysoform Dr. Hans Rosemann GmbH, Ecolab Deutschland GmbH, Schülke & Mayr GmbH and Diversey Europe Operations BV shall bear their own costs and pay those incurred by the European Chemicals Agency (ECHA) except for those relating to the applications for leave to intervene.*

4. *Lysoform Dr. Hans Rosemann, Ecolab Deutschland, Schülke & Mayr, Diversey Europe Operations, ECHA, Oxea and BASF shall each bear its own costs relating to the applications for leave to intervene.*

([1]) OJ C 48, 8.2.2016.

Appeal brought on 29 September 2016 by the European Parliament against the judgment of the Civil Service Tribunal of 19 July 2016 in Case F-147/15, Meyrl v Parliament

(Case T-699/16 P)

(2016/C 454/49)

Language of the case: French

Parties

Appellant: European Parliament (represented by: V. Montebello-Demogeot and M. Dean, acting as Agents)

Other party to the proceedings: Sonja Meyrl (Brussels, Belgium)

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal;

— consequently, dismiss the action at first instance;

— declare that each of the parties should bear its own costs in relation to the present proceedings;

— order Ms Meyrl to pay the costs of the proceedings at first instance.

Grounds of appeal and main arguments

In support of its appeal, the appellant raises three grounds.

1. First ground of appeal, alleging an error in law, a distortion of the facts and a failure to provide adequate reasons, in so far as the Civil Service Tribunal (CST) held, in paragraph 25 of the judgment under appeal, that the possibility of reassigning the other party to the proceedings to a different post would have made it possible for the latter not to be dismissed.

2. Second ground of appeal, alleging an error in law, a distortion of the facts and a failure to provide adequate reasons in the conclusion that the CST reached, in paragraphs 23 and 30 of the judgment under appeal, that the relationship problems were an additional reason for the dismissal of the other party to the proceedings.

3. Third ground of appeal, alleging a manifest error of assessment resulting from the finding of the CST according to which, if the other party to the proceedings had also been given the opportunity to set out her views on the relationship problems, that might indeed have changed the outcome of the decision-making process resulting in the contested decision, namely, her dismissal.

Action brought on 26 September 2016 — Murka v EUIPO (SCATTER SLOTS)

(Case T-704/16)

(2016/C 454/50)

Language of the case: English

Parties

Applicant: Murka Ltd (Tortola, British Virgin Islands) (represented by: S. Santos Rodriguez, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: EU word mark 'SCATTER SLOTS' — Application for registration No 14 590 889

Contested decision: Decision of the First Board of Appeal of EUIPO of 21 June 2016 in Case R 471/2016-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs, including those incurred in the proceedings before EUIPO.

Pleas in law

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

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

— Infringement of Article 7(3) of Regulation No. 207/2009.

Appeal brought on 3 October 2016 by WQ (*) against the judgment of the Civil Service Tribunal of 21 July 2016 in Case F-1/16, WQ (*) v Parliament

(Case T-705/16 P)

(2016/C 454/51)

Language of the case: French

Parties

Appellant: WQ (*) (represented by S. Orlandi and T. Martin, lawyers)

Other party to the proceedings: European Parliament

Form of order sought by the appellant

The appellant claims that the Court should:

— set aside the judgment of the Civil Service Tribunal in Case F-1/16, *WQ (*)* v *Parliament*;

— annul the decision of the Appointing Authority of 27 March 2015 not to include the appellant's name on the list of officials selected to participate in the training programme for the 2014 certification exercise;

— order the Parliament to pay the costs of both sets of proceedings.

Grounds of appeal and main arguments

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

1. First ground of appeal, alleging that the Civil Service Tribunal (CST) erred in law when it examined the plea in law submitted by the applicant at first instance alleging infringement of the general principle of equal treatment, by concluding that the applicant was in a different factual situation to that of a candidate with a qualification at the same level who completed a course of at least one year.

2. Second ground of appeal, alleging that the CST erred in law when it held that the decision at issue, that is to say, the decision not to include the appellant's name on list of officials selected to participate in the training programme for the 2014 certification exercise, did not infringe Article 165 of the Treaty on the Functioning of the European Union and the division of competences between the Union and its Member States in the field of education.

(*) Information erased within the framework of the protection of individuals with regard to the processing of personal data.

3. Third ground of appeal, alleging that the CST erred in law when it dismissed the plea of illegality raised by the applicant at first instance, on the ground that the requirement for having completed a course of at least one year was justified and proportionate having regard to the nature of the certification process. In that context, the appellant submits that the CST also distorted his arguments when it concluded that he had not contested the argument that taking into consideration the qualification at issue would have had the effect of highlighting his professional experience acquired at the institutions twice.

Appeal brought on 3 October 2016 by HB against the judgment of the Civil Service Tribunal of 21 July 2016 in Case F-125/15, HB v Commission

(Case T-706/16 P)

(2016/C 454/52)

Language of the case: French

Parties

Appellant: HB (Schweich, Germany) (represented by S. Orlandi and T. Martin, lawyers)

Other party to the proceedings: European Commission

Form of order sought by the appellant

The appellant claims that the Court should:

— set aside the judgment of the Civil Service Tribunal (CST) in Case F-125/15, *HB* v *Commission*;

giving judgment itself,

— annul the decision not to promote the appellant under the 2014 promotion exercise;

— order the Commission to pay to the appellant the sum of EUR 15 000 in respect of non-material harm;

— order the Commission to pay the costs of the proceedings at first instance and on appeal.

Grounds of appeal and main arguments

In support of the appeal, the appellant relies on three grounds, alleging several errors of law on the part of the Civil Service Tribunal (CST).

First, the appellant alleges that the CST erred in law in taking the view that the appointing authority had carried out an effective comparative assessment of the merit points, that is to say, on an objective and equal basis, whereas it confined itself to disregarding the appellant's merit points for 2013, because the 2013 staff report did not contain an assessment, without attempting to obtain comparable sources of information or information.

Second, the appellant considers that the CST erred in law in finding that the absence of an assessment in the 2013 staff report is attributable to the appellant and that the appointing authority was prevented from assessing the merit points for that year by the fact that there was no challenge by the appellant within the period prescribed in the Staff Regulations.

Third, the CST, according to the appellant, erred in law in finding that she had not adduced evidence to show that there was discrimination based on gender, whereas her staff report lacks any substantial assessment exclusively because of her long-term absences justified by her periods of maternity leave and pregnancy-related illness.

Action brought on 7 October 2016 — Luxottica Group v EUIPO — Chen (BeyBeni)

(Case T-721/16)

(2016/C 454/53)

Language in which the application was lodged: Spanish

Parties

Applicant: Luxottica Group S.p.A. (Milan, Italy) (represented by: E.M. Ochoa Santamaría and I. Aparicio Martínez, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Xian Chen (Wenzhou, China)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union figurative mark containing the word element 'BeyBeni' — Application for registration No 12 511 317

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 8 June 2016 in Case R 675/2015-5

Form of order sought

The applicant claims that the Court should:

— uphold the application by annulling the decision of the Fifth Board of Appeal of EUIPO of 8 June 2016 in Case R 675/2015-5 and by refusing registration of the EU trade mark No 12 511 317 'BeyBeni' pursuant to the provisions of Article 8(5) of Regulation No 207/2009;

— order the defendant to pay the costs.

Pleas in law

— Infringement of Article 8(5) of Regulation No 207/2009 in respect of the analysis of the conditions for its application.

— Infringement of Articles 63(2) and 75 of Regulation No 207/2009 in respect of a possible infringement of the right of the defence and the right to be heard at the appeal stage.

Action brought on 20 October 2016 — Valencia Club de Fútbol v Commission

(Case T-732/16)

(2016/C 454/54)

Language of the case: Spanish

Parties

Applicant: Valencia Club de Fútbol, SAD (Valencia, Spain) (represented by: J.R. García-Gallardo Gil-Fournier and A. Guerrero Righetto, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul the decision of the European Commission of 4 July 2016 on State aid SA.36387 (2013/C) (ex 2013/CP), implemented by Spain in favour of Valencia Club de Fútbol, S.A.D. (and other football clubs), in particular measures 1 and 4, which affect Valencia FC;

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging a manifest error of assessment of three of the four criteria for considering a guarantee to be State aid. It claims in this regard that the Commission was wrong to find that Valencia FC was in a difficult financial position, relying on piecemeal information and without taking into account the specific business model of football clubs, basing itself on the book value of the players rather than on their real market value, and without analysing a feasibility study which at all times was based on realistic assumptions. In the second place, the Commission was wrong to consider that the guarantee covered more than 80 % of the loan and, in the third place, the Commission erred when it evaluated the general interest rate of the loan in relation to the market price.

2. Second plea in law, relied on in the alternative, based on the existence of manifest errors by the Commission in the application of the compatibility test in respect of four of six of the criteria in the Rescue and Restructuring Guidelines, that is: the return to long-term viability, the avoidance of any excessive distortion of competition by means of compensation, the principle that aid should be limited to the minimum necessary and the principle of 'one time, last time'.

3. Third plea in law, alleging that the Commission made an error in assessing the high value of the compensation offered, specifically, the pledge on shares, as well as additional guarantees provided by the Fundación Valencia to the Instituto Valenciano de Finanzas.

4. Fourth plea in law, alleging an error in the assessment of the amount of the alleged principal loan and interest to be recovered, since the Commission made both an erroneous assumption that the reference rates would remain the same throughout the duration of the measures and an erroneous assumption as to the duration of those measures.

5. Fifth plea in law, alleging infringement of the principle of proportionality, in that the sums which the Commission has ordered be recovered are disproportionate in comparison with those already paid.

6. Sixth plea in law, alleging an error of assessment by the Commission, in that it failed to consider the lender to be a beneficiary and took no account of the fact that the club had a new owner.

7. Seventh plea in law, alleging infringement of the principle of non-discrimination since the Commission assessed in the same way the different situations of the clubs under investigation, although their circumstances were entirely different.

8. Eighth plea in law, alleging infringement of the principle that reasons on which a measure is based must be given.

Action brought on 18 October 2016 — Banque Postale v ECB

(Case T-733/16)

(2016/C 454/55)

Language of the case: French

Parties

Applicant: La Banque Postale (Paris, France) (represented by: E. Guillaume and L. Coudray, lawyers)

Defendant: European Central Bank

Form of order sought

The applicant claims that the General Court should:

— annul the decision of the European Central Bank of 24 August 2016 on the application submitted by La Banque Postale seeking authorisation to exclude exposures to the public sector from the calculation of the leverage ratio in accordance with Article 429(14) of Regulation (EU) No 575/2013;

— order the European Central Bank to bear all costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the European Central Bank erred in law by delivering prematurely its decision of 24 August 2016 on the application submitted by La Banque Postale seeking authorisation to exclude exposures to the public sector from the calculation of the leverage ratio ('the contested decision').

2. Second plea in law, alleging that the ECB lacks discretion in applying Article 429(14) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ 2013 L 176, p. 1) ('Regulation No 575/2013').

3. Third plea in law, alleging infringements of law by the ECB in adopting the contested decision, relating in particular to:

   — the lack of a leverage effect in regard to La Banque Postale's centralised savings;

   — the alleged risks of non-payment by the Caisse des dépôts et consignations and by the French State;

   — the alleged operational risks linked to the gathering of La Banque Postale's centralised savings.

Order of the General Court of 19 September 2016 — European Dynamics Luxembourg and Others v Frontex

(Case T-613/15) ([1])

(2016/C 454/56)

Language of the case: Greek

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

([1]) OJ C 7, 11.1.2016.

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