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Contents

IV *Notices*

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

Court of Justice of the European Union

2017/C 357/01 Last publications of the Court of Justice of the European Union in the *Official Journal of the European Union* 1

V *Announcements*

COURT PROCEEDINGS

Court of Justice

2017/C 357/02 Case C-139/17 P: Appeal brought on 20 March 2017 by QuaMa Quality Management GmbH against the judgment of the General Court (Second Chamber) delivered on 17 January 2017 in Case T-225/15, QuaMa Quality Management GmbH v European Union Intellectual Property Office 2

2017/C 357/03 Case C-421/17: Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 13 July 2017 — Szef Krajowej Administracji Skarbowej v Polfarmex Spółka Akcyjna, established in Kutno 3

2017/C 357/04 Case C-422/17: Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 13 July 2017 — Szef Krajowej Administracji Skarbowej v Skarpa Travel sp. z o.o. w Krakowie 3

2017/C 357/05 Case C-477/17: Request for a preliminary ruling from the Centrale Raad van Beroep (Netherlands) lodged on 8 August 2017 — Raad van bestuur van de Sociale Verzekeringsbank v D. Balandin and Others 4

EN

2017/C 357/06 Case C-482/17: Action brought on 9 August 2017 — Czech Republic v European Parliament, Council of the European Union 4

2017/C 357/07 Case C-490/17: Request for a preliminary ruling from the Sąd Okręgowy w Warszawie (Poland) lodged on 11 August 2017 — Passengers Rights sp. z o.o. v Deutsche Lufthansa AG 5

2017/C 357/08 Case C-506/17: Action brought on 18 August 2017 — European Commission v Republic of Slovenia 6

General Court

2017/C 357/09 Case T-411/10 RENV: Judgment of the General Court of 12 September 2017 — Laufen Austria v Commission (Competition — Agreements, decisions and concerted practices — Bathroom fittings and fixtures markets of Belgium, Germany, France, Italy, the Netherlands and Austria — Decision establishing an infringement of Article 101 TFEU and of Article 53 of the EEA Agreement — Fines — Fine imposed jointly and severally on a parent company and its subsidiary — Ceiling of 10 % of turnover — Calculation of the ceiling on the basis solely of the turnover of the subsidiary for the period of the infringement prior to its acquisition by the parent company) 8

2017/C 357/10 Case T-671/14: Judgment of the General Court of 12 September 2017 — Bayerische Motoren Werke v Commission (State aid — Regional investment aid — Aid granted by Germany to BMW for a large investment project in Leipzig concerning the production of two models of electric cars (i3 and i8) — Decision declaring the aid partly compatible and partly incompatible with the internal market — Article 107(3)(c) TFEU — Article 108(2) and (3) TFEU — Incentive effect of the aid — Whether the aid is necessary) 8

2017/C 357/11 Case T-374/15: Judgment of the General Court of 7 September 2017 — VM Vermogens-Management v EUIPO — DAT Vermögensmanagement (Vermögensmanufaktur) (European Union trade mark — Invalidity proceedings — EU word mark Vermögensmanufaktur — Absolute grounds for refusal — Descriptive character — Lack of distinctive character — Article 7(1)(b) and (c) of Regulation (EC) No 207/2009 — Article 52(1)(a) of Regulation No 207/2009) 9

2017/C 357/12 Case T-451/15: Judgment of the General Court of 7 September 2017 — AlzChem v Commission (Access to documents — Regulation (EC) No 1049/2001 — Documents relating to a procedure for reviewing State aid — Refusal to grant access — Exception relating to the protection of the purpose of inspections, investigations and audits — Obligation to carry out a specific and individual examination — Overriding public interest) 10

2017/C 357/13 Case T-572/15: Judgment of the General Court of 8 September 2017 — Aldi v EUIPO (EU trade mark — Opposition proceedings — Application for EU figurative mark GOURMET — Prior EU figurative mark ORIGINE GOURMET — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation No 207/2009 — Suspension of the administrative procedure — Rule 20(7)(c) of Regulation (EC) No 2968/95) 10

2017/C 357/14 Case T-578/16: Judgment of the General Court of 8 September 2017 — Gillet v Commission (Civil service — Contract staff — Former employed worker under Belgian law — Allowance applicable pursuant to Articles 6 and 7 of Decision C(2005) 1287 — Recalculation of the amount of the allowance by the administration in the context of an update of management procedures — Act adversely affecting an official or other member of staff — Act which is merely confirmatory — Obligation to state reasons — Recovery of sums overpaid) 11

2017/C 357/15	Case T-678/16 P: Judgment of the General Court of 12 September 2017 — Siragusa v Council (Appeal — Civil Service — Officials — Leaving the service — Request to retire — Amendment of the Staff Regulations after that request had been made — Withdrawal of an earlier decision — Legal classification of the contested decision)	12
2017/C 357/16	Case T-835/16: Order of the General Court of 8 September 2017 — Louvers Belgium v Commission (Action for annulment and compensation — Public goods and services contracts — Procurement procedure — Supply of curtains, draperies and interior blinds and fitting, cleaning and maintenance services — Rejection of a tenderer's bid — Annulment of the procedure — No need to adjudicate — Action manifestly devoid of any foundation in law)	12
2017/C 357/17	Case T-451/17 R: Order of the President of the General Court of 29 August 2017 — Verband der Deutschen Biokraftstoffindustrie v Commission (Application for interim measures — Calculation of greenhouse gas emissions — Biodiesel — European Commission Communication BK/abd/ener.c.1 (2017)2122195 — Application for suspension of operation of a measure — No urgency)	13
2017/C 357/18	Case T-181/17: Action brought on 18 August 2017 — PC v EASO	13
2017/C 357/19	Case T-446/17: Action brought on 15 July 2017 — TK v Parliament	15
2017/C 357/20	Case T-450/17: Action brought on 18 July 2017 — Eurosupport — Fineurop support v EIGE	16
2017/C 357/21	Case T-474/17: Action brought on 1 August 2017 — Portugal v Commission	16
2017/C 357/22	Case T-476/17: Action brought on 27 July 2017 — Arysta LifeScience Netherlands v Commission	17
2017/C 357/23	Case T-480/17: Action brought on 3 August 2017 — Greece v Commission	18
2017/C 357/24	Case T-487/17: Action brought on 3 August 2017 — UE v Commission	19
2017/C 357/25	Case T-511/17: Action brought on 7 August 2017 — Corra González and Others v SRB	19
2017/C 357/26	Case T-516/17: Action brought on 4 August 2017 — Imasa, Ingeniería y Proyectos v Commission and SRB	20
2017/C 357/27	Case T-517/17: Action brought on 4 August 2017 — Grúas Roxu v Commission and SRB	21
2017/C 357/28	Case T-524/17: Action brought on 7 August 2017 — Folch Torrela and Others v SRB	21
2017/C 357/29	Case T-525/17: Action brought on 7 August 2017 — Taberna Ángel Sierra and Others v SRB	22
2017/C 357/30	Case T-532/17: Action brought on 11 August 2017 — Coral Venture v SRB	22
2017/C 357/31	Case T-550/17: Action brought on 12 August 2017 — Troszczynski v Parliament	23

2017/C 357/32	Case T-557/17: Action brought on 17 August 2017 — Liaño Reig v SRB	24
2017/C 357/33	Case T-571/17: Action brought on 22 August 2017 — UG v Commission	25
2017/C 357/34	Case T-576/17: Action brought on 24 August 2017 — Mas Que Vinos Global v EUIPO — JESA (EL SEÑORITO)	26
2017/C 357/35	Case T-595/17: Action brought on 4 September 2017 — Demp v EUIPO (Representation of the colours grey and yellow)	26
2017/C 357/36	Case T-598/17: Action brought on 5 September 2017 — Italian Republic v Commission	27
2017/C 357/37	Case T-602/17: Action brought on 4 September 2017 — Spain v Commission	27
2017/C 357/38	Case T-603/17: Action brought on 5 September 2017 — *Republic of Lithuania* v *European Commission*	29
2017/C 357/39	Case T-610/17: Action brought on 6 September 2017 — ICL-IP Terneuzen and ICL Europe Coöperatief v Commission	30
2017/C 357/40	Joined Cases T-481/13 and T-421/15: Order of the General Court of 6 September 2017 — Systran v Commission	31
2017/C 357/41	Case T-548/16: Order of the General Court of 6 September 2017 — Clarke v EUIPO	32
2017/C 357/42	Case T-549/16: Order of the General Court of 6 September 2017 — Papathanasiou v EUIPO	32
2017/C 357/43	Case T-550/16: Order of the General Court of 6 September 2017 — Dickmanns v EUIPO	32

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COURT OF JUSTICE OF THE EUROPEAN UNION

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

(2017/C 357/01)

Last publication

OJ C 347, 16.10.2017

Past publications

OJ C 338, 9.10.2017

OJ C 330, 2.10.2017

OJ C 318, 25.9.2017

OJ C 309, 18.9.2017

OJ C 300, 11.9.2017

OJ C 293, 4.9.2017

These texts are available on:

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

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Appeal brought on 20 March 2017 by QuaMa Quality Management GmbH against the judgment of the General Court (Second Chamber) delivered on 17 January 2017 in Case T-225/15, QuaMa Quality Management GmbH v European Union Intellectual Property Office

(Case C-139/17 P)

(2017/C 357/02)

Language of the case: German

Parties

Appellant: QuaMa Quality Management GmbH (represented by: C. Russ, Rechtsanwalt)

Other parties to the proceedings: European Union Intellectual Property Office, Microchip Technology, Inc.

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court of 17 January 2017;

— annul the decision of the Fourth Board of Appeal of EUIPO of 19 February 2015 (Joined Cases R 1809/2014-4 and R 1680/2014-4).

Grounds of appeal and main arguments

The appellant bases its appeal, lodged against the judgment of the General Court, on the following considerations:

The appeal alleges an infringement of Article 41(1) of Regulation No 207/2009. ([1]) The General Court, it is submitted, erred in proceeding on the basis of the premiss that the intervener had, on 9 April 2013, submitted the correct application for registration of the change of ownership and had merely used an incorrect form for that purpose. In fact, the application for a 'change of name or address of a proprietor' related to all of SMSC Europe GmbH's trade marks (14) and was also interpreted by EUIPO in that manner, as the letter of 14 April 2013 makes clear. It is therefore not in dispute that EUIPO dismissed the application of 9 April 2013 in its entirety and upheld only the application lodged on 14 June 2013, after the period for submitting a statement of opposition had expired.

The appeal further alleges infringement of Article 8(1)(b) of Regulation No 207/2009. Neither the Opposition Division nor the Board of Appeal, it is submitted, addressed the determination of the relevant public in anything approaching a sufficiently satisfactory manner. The assessment of the likelihood of confusion cannot take place without determination of the relevant public and the distinctiveness in relation to each of the individual goods and services. This is even more so the case as regards the General Court's finding that the similarity of the signs in question for a specialist public — to which the General Court does not belong — is 'low'.

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

Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 13 July 2017 — Szef Krajowej Administracji Skarbowej v Polfarmex Spółka Akcyjna, established in Kutno

(Case C-421/17)

(2017/C 357/03)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Appellant: Szef Krajowej Administracji Skarbowej

Respondent: Polfarmex Spółka Akcyjna, established in Kutno

Question referred

Does the transfer by a public limited company of immovable property to a shareholder in connection with the redemption of its shares constitute a transaction that is subject to value added tax in accordance with Article 2(1)(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax? [1]

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

Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 13 July 2017 — Szef Krajowej Administracji Skarbowej v Skarpa Travel sp. z o.o. w Krakowie

(Case C-422/17)

(2017/C 357/04)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Appellant: Szef Krajowej Administracji Skarbowej

Respondent: Skarpa Travel sp. z o.o. w Krakowie

Questions referred

1. Must Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax [1] be interpreted as meaning that tax becomes chargeable on payments on account received by a taxable person supplying tourist services, which are taxed under the special scheme for travel agents provided for in Articles 306 to 310 of Directive 2006/112/EC, at the time defined in Article 65 of Directive 2006/112/EC?

2. If the answer to the first question is in the affirmative, must Article 65 of Directive 2006/112/EC be interpreted as meaning that, for taxation purposes, a payment on account received by a taxable person supplying tourist services, taxed under the special scheme for travel agents provided for in Articles 306 to 310 of Directive 2006/112/EC, is reduced by the cost referred to in Article 308 of Directive 2006/112/EC actually incurred by the taxable person up to the time when he receives the payment on account?

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

Request for a preliminary ruling from the Centrale Raad van Beroep (Netherlands) lodged on 8 August 2017 — Raad van bestuur van de Sociale Verzekeringsbank v D. Balandin and Others

(Case C-477/17)

(2017/C 357/05)

Language of the case: Dutch

Referring court

Centrale Raad van Beroep

Parties to the main proceedings

Applicant: Raad van bestuur van de Sociale Verzekeringsbank

Defendant: D. Balandin, I. Lukachenko, Holiday on Ice Services B.V.

Question referred

Must Article 1 of Regulation No 1231/2010 ([1]) be interpreted as meaning that third-country nationals, who live outside the European Union, but who work in various Member States on a temporary basis for an employer who is established in the Netherlands, may invoke (Title II of) Regulation No 883/2004 ([2]) and Regulation No 987/2009 ([3])?

([1]) Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality (OJ 2010 L 344, p. 1).

([2]) Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ 2004 L 166, p. 1).

([3]) Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ 2009 L 284, p. 1).

Action brought on 9 August 2017 — Czech Republic v European Parliament, Council of the European Union

(Case C-482/17)

(2017/C 357/06)

Language of the case: Czech

Parties

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

Defendants: European Parliament, Council of the European Union

Form of order sought

— annul Directive (EU) 2017/853 of the European Parliament and of the Council of 17 May 2017 amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons; ([1])

— order the European Parliament and the Council to pay the costs.

In the alternative, the applicant asks the Court to:

— annul Article 1(6) of the contested directive, in so far as it inserts Article 5(3) and the second subparagraph of Article 6 (6) into Directive 91/477/EEC; ([2])

— annul Article 1(7) of the contested directive, in so far as it inserts Article 7(4a) into Directive 91/477/EEC;

— annul Article 1(19) of the contested directive, in so far as:

— it inserts points 6, 7 and 8 into Category A of Part II of Annex I to Directive 91/477/EEC;

— it amends Category B of Part II of Annex I to Directive 91/477/EEC;

— it inserts point 6 into Category C of Part II of Annex I to Directive 91/477/EEC;

— it amends Part III of Annex I to Directive 91/477/EEC;

— order the European Parliament and the Council to pay the costs.

Pleas in law and main arguments

The first plea in law alleges **breach of the principle of the conferral of powers**. The contested directive was adopted on the basis of Article 114 of the Treaty on the Functioning of the European Union, even though it does not pursue the objective of eliminating obstacles to the internal market, but solely the objective of preventing crime and terrorism. The EU legislature does not, however, have power to adopt harmonising measures in this field.

The second plea in law alleges **breach of the principle of proportionality**. The EU legislature did not address the question of the proportionality of the measures adopted and deliberately did not obtain sufficient information (for example, by carrying out an assessment of the consequences) in order to make an informed assessment of compliance with that principle. As a result of the lack of that assessment, the EU legislature adopted manifestly disproportionate measures consisting in the prohibition of certain kinds of semi-automatic weapons which are not however used in the European Union for committing terrorist acts, making stricter the regulation of certain minimally dangerous weapons (historical replicas or weapons shown to have been permanently deactivated), and not least affecting the possession of certain magazines.

The third plea in law alleges **breach of the principle of legal certainty**. The newly delimited categories of prohibited weapons (A7 and A8), like the provision constituting an interference with the possession of magazines above the limit, are altogether unclear from the point of view of legal certainty, and therefore do not enable the persons concerned unambiguously to discern their rights and obligations. Article 7(4a) of Directive 91/477/EEC, as amended by the contested directive, (the 'grandfathering clause') moreover effectively forces Member States to adopt national legislation that will have retroactive effects.

The fourth plea in law alleges **breach of the principle of non-discrimination**. The exception in the second subparagraph of Article 6(6) of Directive 91/477/EEC, as amended by the contested directive, admittedly gives the impression of a seemingly neutral measure, but in fact the conditions of its application are determined in such a way that they are complied with only by the Swiss system of leaving a weapon after completion of military service, in which connection they lack any objective justification with respect to the objectives of the contested directive.

(1) OJ 2017 L 137, p. 22.
(2) OJ 1991 L 256, p. 51.

Request for a preliminary ruling from the Sąd Okręgowy w Warszawie (Poland) lodged on 11 August 2017 — Passengers Rights sp. z o.o. v Deutsche Lufthansa AG

(Case C-490/17)

(2017/C 357/07)

Language of the case: Polish

Referring court

Sąd Okręgowy w Warszawie

Parties to the main proceedings

Appellant: Passengers Rights sp. z o.o.

Respondent: Deutsche Lufthansa AG

Questions referred

1. Does an internal strike organised by a trade union of a carrier's employees constitute 'extraordinary circumstances' within the meaning of Article 5(3) of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, (1) in conjunction with recital 14 of that regulation?

2. For a carrier to be exempted from the obligation to pay compensation under Article 5(3) of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, in conjunction with recital 14 of that regulation, is it sufficient to make out a probable case, or is it also necessary to prove, that the employees' strike constitutes an extraordinary circumstance which could not have been avoided even if all reasonable measures at the carrier's disposal had been taken?

(1) OJ 2004 L 46, p. 1.

Action brought on 18 August 2017 — European Commission v Republic of Slovenia

(Case C-506/17)

(2017/C 357/08)

Language of the case: Slovene

Parties

Applicant: European Commission (represented by: E. Sanfrutos Cano, M. Žebre)

Defendant: Republic of Slovenia

Form of order sought

The applicant claims that the Court should:

— declare that the Republic of Slovenia, by failing to adopt, in respect of the landfill sites Dragonja, Dvori, Rakek — Pretržje, Bukovžlak — Cinkarna, Suhadole, Lokovica, Mislinjska Dobrava, Izola, Mozelj, Dolga Poljana, Dolga vas, Jelšane, Volče, Stara gora, Stara vas, Dogoše, Mala gora, Tuncovec — steklarna, Tuncovec — OKP, and Bočna — Podhom, the necessary measures, in accordance with Articles 7(g) and 13 of that directive, to close down as soon as possible the sites which had not been granted, in accordance with Article 8 of the directive, a permit to continue to operate, has failed to fulfil its obligations under Article 14(b) of Directive 1999/31/EC;

— declare that the Republic of Slovenia, [by failing] to adopt, with regard to the Ostri Vrh landfill site, the necessary measures authorising the necessary works and fixing a transition period for completely implementing the conditioning plan and bringing the facility into compliance with the requirements of Directive 1999/31/EC, with the exception of the requirements in Annex I, point 1, within eight years of the date stipulated in Article 18(1) of that directive, has failed to fulfil its obligations under Article 14(c) of Directive 1999/31/EC;

— order the Republic of Slovenia to pay the costs.

Pleas in law and main arguments

1. In accordance with Article 14 of Directive 1999/31/EC ('the directive'), Member States were required to take measures in order that existing landfill sites — ie, 'landfills which [had] been granted a permit, or which [were] already in operation at the time of transposition of [the] Directive', that being 16 July 2001 (in Slovenia's case 1 May 2004, the date of its accession to the EU) — were examined in the light of the requirements of the directive and, on the basis of such an evaluation, were closed down as soon as possible or were guaranteed to comply with the requirements of the directive within a transitional period of eight years, which expired on 16 July 2009. That deadline applied also to Slovenia, which, in that respect, was not given a transitional period under the Accession Treaty.

2. In the light of the Republic of Slovenia's declarations in the pre-litigation phase, and taking into account the decisions of the Slovenian administrative bodies as set out in the individual permits authorising the operation of the facilities during the closure and after-care procedures, the Commission correctly observes that, as regards seven landfill sites (Mislinjska Dobrava, Volče, Izola, Dragonja, Dvori, Mozelj, Tuncovec — OKP), the closure works are still being carried out. This is why the Commission concludes that, as regards those landfill sites, the Republic of Slovenia has not yet fulfilled its obligations under Article 14(b) of the directive.

3. After analysing all the information available, and taking into consideration the Republic of Slovenia's declarations in the pre-litigation phase and the lack of any evidence to the contrary, it appears that five landfill sites (Bočna — Podhom, Dogoše, Mala gora, Tuncovec — steklarna and Stara vas) — despite the Republic of Slovenia's claims that closure is largely complete — have not yet received a definitive decision on closure, as required by Article 14(b) read in conjunction with Article 13(b) of the directive. The Commission deduces from this, therefore, that the Republic of Slovenia, as regards those five landfill sites, has not yet fulfilled its obligations under Article 14(b) of the directive.

4. After analysing all the information available, and taking into consideration the Republic of Slovenia's declarations in the pre-litigation phase and the lack of any evidence to the contrary, it appears that eight landfill sites (Dolga vas, Jelšane, Stara gora, Rakek — Pretržje, Lokovica, Dolga Poljana, Bukovžlak Cinkarna, Suhadole), have not yet received a definitive decision on closure, as required by Article 14(b) read in conjunction with Article 13(b) of the directive. It also appears that the closure works are still ongoing. The Commission deduces from this, therefore, that the Republic of Slovenia, as regards those eight landfill sites also, has not yet fulfilled its obligations under Article 14(b) of the directive.

5. The Republic of Slovenia has never provided any evidence to demonstrate that an environmental permit for the continued operation of the Ostri Vrh landfill site was issued within the deadline for replying to the additional reasoned opinion (that is, before the day on which the present action was commenced), so that the Member State would have fulfilled its obligations under Article 14(c). In addition, the Commission notes that the permit subsequently obtained, granting permission to operate during the closure procedure and afterwards, shows that the closure works are still ongoing and must be completed by 30 May 2019, which indicates that the Republic of Slovenia has in no way fulfilled its obligations under Article 14 of the directive.

GENERAL COURT

Judgment of the General Court of 12 September 2017 — Laufen Austria v Commission

(Case T-411/10 RENV) [1]

(Competition — Agreements, decisions and concerted practices — Bathroom fittings and fixtures markets of Belgium, Germany, France, Italy, the Netherlands and Austria — Decision establishing an infringement of Article 101 TFEU and of Article 53 of the EEA Agreement — Fines — Fine imposed jointly and severally on a parent company and its subsidiary — Ceiling of 10 % of turnover — Calculation of the ceiling on the basis solely of the turnover of the subsidiary for the period of the infringement prior to its acquisition by the parent company)

(2017/C 357/09)

Language of the case: Spanish

Parties

Applicant: Laufen Austria AG (Wilhelmsburg, Austria) (represented by: E. Navarro Varona, lawyer)

Defendant: European Commission (represented by: F. Castillo de la Torre, F. Jimeno Fernández and F. Castilla Contreras, acting as Agents)

Re:

Application based on Article 263 TFEU and seeking, first, partial annulment of Commission Decision C(2010) 4185 final of 23 June 2010 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (Case COMP/39092 — Bathroom Fittings and Fixtures) and, second, a reduction of the amount of the fine imposed on the applicant in that decision.

Operative part of the judgment

The Court:

1. *Fixes at EUR 4 788 001 the portion of the fine imposed on Laufen Austria AG for which it is held individually liable in respect of the infringement committed during the period between 12 October 1994 and 28 October 1999;*

2. *Orders Laufen Austria AG and the European Commission each to bear their own respective costs relating to the proceedings before the General Court and the Court of Justice.*

[1] OJ C 301, 6.11.2010.

Judgment of the General Court of 12 September 2017 — Bayerische Motoren Werke v Commission

(Case T-671/14) [1]

(State aid — Regional investment aid — Aid granted by Germany to BMW for a large investment project in Leipzig concerning the production of two models of electric cars (i3 and i8) — Decision declaring the aid partly compatible and partly incompatible with the internal market — Article 107(3)(c) TFEU — Article 108(2) and (3) TFEU — Incentive effect of the aid — Whether the aid is necessary)

(2017/C 357/10)

Language of the case: German

Parties

Applicant: Bayerische Motoren Werke AG (Munich, Germany) (represented by: M. Rosenthal, G. Drauz and M. Schütte, lawyers)

Defendant: European Commission (represented: initially by F. Erlbacher, T. Maxian Rusche and R. Sauer, and subsequently by T. Maxian Rusche and R. Sauer, acting as Agents)

Intervener in support of the applicant: Freistaat Sachsen (Germany) (represented by: T. Lübbig and K. Gaßner, lawyers)

Re:

Application pursuant to Article 263 TFEU for partial annulment of Commission Decision C(2014) 4531 final of 9 July 2014 on the State aid No SA.32009 (2011/C) (ex 2010/N) which the Federal Republic of Germany plans to grant to BMW for a large investment project in Leipzig.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Bayerische Motoren Werke AG to bear its own costs and to pay those incurred by the European Commission;*

3. *Orders the Freistaat Sachsen to bear its own costs.*

[1] OJ C 439, 8.12.2014.

Judgment of the General Court of 7 September 2017 — VM Vermogens-Management v EUIPO — DAT Vermögensmanagement (Vermögensmanufaktur)

(Case T-374/15) [1]

(European Union trade mark — Invalidity proceedings — EU word mark Vermögensmanufaktur — Absolute grounds for refusal — Descriptive character — Lack of distinctive character — Article 7(1)(b) and (c) of Regulation (EC) No 207/2009 — Article 52(1)(a) of Regulation No 207/2009)

(2017/C 357/11)

Language of the case: German

Parties

Applicant: VM Vermögens-Management GmbH (Düsseldorf, Germany) (represented by: T. Dolde and P. Homann, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: DAT Vermögensmanagement GmbH (Baldham, Germany) (represented by: H.-G. Stache, lawyer)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 29 April 2015 (Case R 418/2014–5), relating to invalidity proceedings between DAT Vermögensmanagement and VM Vermögens-Management.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders VM Vermögens-Management GmbH to bear its own costs and those incurred by the European Union Intellectual Property Office (EUIPO) as well;*

3. *Orders DAT Vermögensmanagement GmbH to bear its own costs.*

[1] OJ C 302, 14.9.2015.

Judgment of the General Court of 7 September 2017 — AlzChem v Commission

(Case T-451/15) [1]

(Access to documents — Regulation (EC) No 1049/2001 — Documents relating to a procedure for reviewing State aid — Refusal to grant access — Exception relating to the protection of the purpose of inspections, investigations and audits — Obligation to carry out a specific and individual examination — Overriding public interest)

(2017/C 357/12)

Language of the case: English

Parties

Applicant: AlzChem AG (Trostberg, Germany) (represented: initially by A. Borsos and J. Guerrero-Pérez, and subsequently by A. Borsos, J. Guerrero-Pérez and I. Georgiopoulos, lawyers)

Defendant: European Commission (represented by: A. Buchet, M. Konstantinidis and L. Armati, acting as Agents)

Re:

Action under Article 263 TFEU seeking the annulment of the Commission decision of 26 May 2015 refusing to grant the applicant access to documents relating to a procedure for reviewing State aid.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders AlzChem AG to pay the costs.*

[1] OJ C 320, 28.9.2015.

Judgment of the General Court of 8 September 2017 — Aldi v EUIPO

(Case T-572/15) [1]

(EU trade mark — Opposition proceedings — Application for EU figurative mark GOURMET — Prior EU figurative mark ORIGINE GOURMET — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation No 207/2009 — Suspension of the administrative procedure — Rule 20(7)(c) of Regulation (EC) No 2968/95)

(2017/C 357/13)

Language of the case: German

Parties

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

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

Other party to the proceedings before the Board of Appeal of EUIPO: Pierre-André Rouard (Madrid, Spain) (represented by: P. Merino Baylos, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 24 July 2015 (Case R 1985/2013-4) concerning opposition proceedings between Mr Rouard and Aldi.

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 24 July 2015 (Case R 1985/2013-4);*

2. *Orders EUIPO to bear its own costs and to pay the costs incurred by Aldi GmbH & Co. KG.*

([1]) OJ C 389, 23.11.2015.

Judgment of the General Court of 8 September 2017 — Gillet v Commission

(Case T-578/16) ([1])

(Civil service — Contract staff — Former employed worker under Belgian law — Allowance applicable pursuant to Articles 6 and 7 of Decision C(2005) 1287 — Recalculation of the amount of the allowance by the administration in the context of an update of management procedures — Act adversely affecting an official or other member of staff — Act which is merely confirmatory — Obligation to state reasons — Recovery of sums overpaid)

(2017/C 357/14)

Language of the case: French

Parties

Applicant: Évelyne Gillet (Brussels, Belgium) (represented by: C. Mourato, lawyer)

Defendant: European Commission (represented by: G. Berscheid and C. Berardis-Kayser, acting as Agents)

Re:

Application based on Article 270 TFEU and seeking the annulment of the Commission's decisions of 12 December 2014 and of 9 April 2015 and subsequent salary statements that reduce the amount of the allowance paid to the applicant, who was employed under an employment contract of indeterminate duration governed by Belgian law, and that require the repayment of amounts overpaid.

Operative part of the judgment

The Court:

1. *Annuls the European Commission's decision of 9 April 2015 in so far as it seeks to recover the amount of EUR 3 959,38 under Article 85 of the Staff Regulations of Officials of the European Union and Article 116 of the Conditions of Employment of Other Servants of the European Union;*

2. *Dismisses the remainder of the action;*

3. *Orders Ms Évelyne Gillet to bear her own costs;*

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

([1]) OJ C 145 of 25.4.2016 (case originally registered before the European Union Civil Service Tribunal under case number F-7/16 and transferred to the General Court of the European Union on 1.9.2016).

Judgment of the General Court of 12 September 2017 — Siragusa v Council

(Case T-678/16 P) ([1])

(Appeal — Civil Service — Officials — Leaving the service — Request to retire — Amendment of the Staff Regulations after that request had been made — Withdrawal of an earlier decision — Legal classification of the contested decision)

(2017/C 357/15)

Language of the case: French

Parties

Appellant: Sergio Siragusa (Brussels, Belgium) (represented by T. Bontinck and A. Guillerme, lawyers)

Other parties to the proceedings: Council of the European Union (represented by: M. Bauer and M. Veiga, acting as Agents) and European Parliament (represented by: M. Dean and D. Nessaf, acting as Agents)

Re:

Appeal brought against the order of the European Union Civil Service Tribunal (First Chamber) of 13 July 2016, *Siragusa* v *Council* (F-124/15, EU:F:2016:147), seeking to have that order set aside.

Operative part of the judgment

The Court:

1. *Sets aside the order of the European Union Civil Service Tribunal (First Chamber) of 13 July 2016, Siragusa v Council (F-124/15);*

2. *Refers the case to a chamber of the General Court other than that which has ruled on the present appeal;*

3. *Reserves the costs.*

([1]) OJ C 419, 14.11.2016.

Order of the General Court of 8 September 2017 — Louvers Belgium v Commission

(Case T-835/16) ([1])

(Action for annulment and compensation — Public goods and services contracts — Procurement procedure — Supply of curtains, draperies and interior blinds and fitting, cleaning and maintenance services — Rejection of a tenderer's bid — Annulment of the procedure — No need to adjudicate — Action manifestly devoid of any foundation in law)

(2017/C 357/16)

Language of the case: French

Parties

Applicant: Louvers Belgium Co. (Zaventem, Belgium) (represented by: V. Lejeune, lawyer)

Defendant: European Commission (represented by: O. Verheecke and A. Katsimerou, acting as Agents)

Re:

Firstly, application on the basis of Article 263 TFEU seeking the annulment of the decision of the Commission of 19 September 2016 not to award contract No OIB.02/PO/2016/012/703 to the applicant and, secondly, application based on Article 268 TFEU seeking damages in compensation for the loss allegedly suffered by the applicant due to the unlawful conduct of the Commission in that procurement procedure.

Operative part of the order

1. *There is no longer any need to adjudicate on the application for annulment of the decision of the Commission of 19 September 2016 not to award contract No OIB.02/PO/2016/012/703 to Louvers Belgium Co. or on the application for damages insofar as it concerns the alleged loss of earnings resulting of the non-award of the contract.*

2. *The application for damages is rejected as manifestly devoid of any foundation in law insofar as it concerns the costs and expenses of Louvers Belgium Co. involved in the participation of Louvers Belgium Co. in procurement procedure OIB.02/PO/2016/012/703.*

3. *The European Commission shall pay the costs.*

(1) OJ C 30, 30.1.2017.

Order of the President of the General Court of 29 August 2017 — Verband der Deutschen Biokraftstoffindustrie v Commission

(Case T-451/17 R)

(Application for interim measures — Calculation of greenhouse gas emissions — Biodiesel — European Commission Communication BK/abd/ener.c.1(2017)2122195 — Application for suspension of operation of a measure — No urgency)

(2017/C 357/17)

Language of the case: German

Parties

Applicant: Verband der Deutschen Biokraftstoffindustrie e.V. (Berlin, Germany) (represented by: R. Stein, P. Friton and H.-J. Prieß, lawyers)

Defendant: European Commission (represented by: A. Becker, J.-F. Brakeland and K. Talabér-Ritz, acting as Agents)

Re:

Application for interim measures based on Articles 278 TFEU and 279 TFEU, seeking suspension of the operation of Commission Communication BK/abd/ener.c.1(2017)2122195 of 27 April 2017.

Operative part of the order

1. *The application for interim measures is dismissed.*

2. *The costs are reserved.*

Action brought on 18 August 2017 — PC v EASO

(Case T-181/17)

(2017/C 357/18)

Language of the case: Finnish

Parties

Applicant: PC (represented by: L. Railas, lawyer)

Defendant: European Asylum Support Office (EASO)

Form of order sought

— order EASO to cancel and destroy the anonymous document degrading to human dignity from the reasoned decision of 15 June 2016 and to take a new decision relating to the backdated decision EASO/ED/2015/358 and the dismissal decision EASO/HR/2015/607 made on its basis, which are sought to be annulled in the applicant's action T-610/16;

— order EASO to remove the separate personal files and to maintain, as regards the applicant, only a single personal file in accordance with Article 26 of the EU Staff Regulations, the documents in which are in accordance with the Staff Regulations; order EASO to remove from the applicant's personal file the handwritten documents which cannot be identified with complete certainty and do not belong there;

— order EASO to investigate the process by which document EASO/ED/2015/358 came into being, and order EASO and the EASO management board to take measures with respect to the poor administration of the office in accordance with Articles 29(b) and 31(6) of Regulation No 439/2010 establishing EASO, and to pay the applicant compensation of EUR 30 000 for the breach of Article 41(2) of the Charter of Fundamental Rights of the European Union when EASO adopted an individual measure which adversely affected her;

— order EASO to investigate the workplace harassment directed to the applicant, and order EASO and the EASO management board to take measures against those who were responsible for the harassment, and to pay the applicant compensation of EUR 30 000 for that long-term workplace harassment;

— order EASO to investigate the leaking to unauthorised third parties of confidential documents concerning the applicant, and order EASO and the EASO management board to take measures against those responsible for leaking the document, and to pay the applicant compensation of EUR 20 000 on account of the administrative infringement;

— order EASO to investigate the breach of the Protocol on the Privileges and Immunities of the European Union, and order EASO and the EASO management board to take measures against those responsible for the breaches of the Protocol, and to pay the applicant compensation of EUR 20 000 on account of the administrative infringement;

— order EASO to restore the applicant's five-year employment relationship, so that it continues without interruption and for remuneration, and require EASO to pay the applicant as compensation the salary for the post, allowances and employer's pension contributions for the period of time in which she was absent from her work until it is restored;

— in the alternative, if EASO cannot restore the applicant's employment relationship, order EASO to pay the applicant as compensation the salary for the post, allowances and employer's pension contributions for a period of five years without interruption;

— order EASO to pay the applicant damages of EUR 30 000 as compensation for the mental suffering experienced by her, that is, the feeling of psychological damage which the applicant experienced because of EASO's manner of proceeding in which the right to be heard was handled contrary to the spirit of Article 41(2) of the Charter of Fundamental Rights of the European Union;

— order EASO to pay the applicant's costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that workplace harassment done and directed by her superior was systematically and repeatedly applied to the applicant. That caused, for example, abnormal working conditions for the probationary period, which thus lacked integrity and objectivity and was characterised by authoritarian measures, manipulation and groundless public criticism of the applicant.

2. Second plea in law, alleging that in EASO's reasoned decision EASO/HR/2016/525 there is a document, based on anonymous complaints, which was not connected with the applicant's dismissal and does not form part of the applicant's personal file.

3. Third plea in law, alleging that EASO deprived the applicant of possibilities of defence both by drawing up document EASP/ED/2015/358 retrospectively and by infringing Article 41(2) of the Charter of Fundamental Rights of the European Union.

4. Fourth plea in law, alleging that EASO is also blackening the applicant's character outside EASO, for example by sending the European Ombudsman reasoned decision EASO/HR/2016/525, which contains an unfounded, irrelevant and unconfirmed document about the applicant.

5. Fifth plea in law, alleging that EASO transmits and leaks confidential documents concerning the applicant to third parties who are not entitled to have access to them, contrary to Articles 17 and 19 of the EU Staff Regulations.

6. Sixth plea in law, alleging that EASO has infringed the rules concerning the consistency of documents, in that EASO keeps two different personal files on the applicant and refuses to regard as relevant even the data in the public personal file, contrary to Article 26 of the EU Staff Regulations.

Action brought on 15 July 2017 — TK v Parliament

(Case T-446/17)

(2017/C 357/19)

Language of the case: French

Parties

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

Defendant: European Parliament

Form of order sought

— Declare this action admissible and well-founded;

In consequence:

— Annul the decision of the President of the European Parliament of 26 August 2016 rejecting the applicant's claims of 28 April 2016;

— Insofar as necessary, annul the decision of the President of the European Parliament of 5 April 2017 rejecting the applicant's claim of 25 November 2016;

— Order the defendant to pay damages in compensation for the applicant's non-pecuniary harm valued *ex aequo et bono* at EUR 25 000;

— Annul the decision of the Secretary General of the European Parliament of 26 April 2017 rejecting the applicant's claim of 16 January 2017 inasmuch as it failed to remedy the applicant's non-pecuniary harm and order the defendant to pay damages in compensation for the applicant's non-pecuniary harm valued *ex aequo et bono* at EUR 25 000;

— Order the defendant to pay all the costs.

Pleas in law and main arguments

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

1. First plea in law, concerning the decisions of 26 August 2016 and 5 April 2017 and comprising three parts:

   — as regards the application for annulment of the decisions rejecting the first claim of 28 April 2016, the first plea in law alleges infringement of Article 41 of the Charter of Fundamental Rights of the European Union ('the Charter'), of Article 296 TFEU, of Article 25(2) of the Staff Regulations of Officials of the European Union ('the Staff Regulations') and breach of the duty of care;

   — as regards the application for annulment of the decisions rejecting the second claim of 28 April 2016, the first plea alleges infringement of Article 2(2) of Annex IX of the Staff Regulations and of Article 41 of the Charter;

— as regards the application for compensation, the applicant argues that the decisions caused her non-pecuniary harm which cannot be remedied by the annulment of the contested decisions.

2. Second plea in law, concerning the decision of 26 April 2017, alleging [infringement] of Article 41 of the Charter committed by the defendant and breach of its obligation to state reasons and duty of care, in that it claims that the decision against which the applicant brought a claim has been annulled and the decision taken to open an enquiry, and in that it deduces therefrom that there is no need to grant her claim for compensation. The applicant is also of the view that she has shown that she has suffered separate harm which cannot be remedied by annulment of the contested decision. In her submission, the defendant therefore should not only have annulled the decision challenged by the claim but should also have made good that harm.

Action brought on 18 July 2017 — Eurosupport — Fineurop support v EIGE

(Case T-450/17)

(2017/C 357/20)

Language of the case: English

Parties

Applicant: Eurosupport — Fineurop support Srl (Milano, Italy) (represented by: M. Velardo, lawyer)

Defendant: European Institute for Gender Equality (EIGE)

Form of order sought

The applicant claims that the Court should:

— set aside the contested decision of 8 May 2017 rejecting the applicant's tender in procedure EIGE/2017/OPER/04 'Female Genital Mutilation: Estimating Girls at Risk' and the subsequent decisions which assessed the bid of another tenderer as successful and which awarded the contract to that tenderer;

— order the defendant to pay damages suffered by the applicant with interest of 8 % or, in the alternative, compensation with interest of 8 %;

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

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the principle of equal treatment, the principle of transparency, the principle to act with a certain care and the duty to respect confidentiality, and further alleging manifest error of appraisal.

2. Second plea in law, alleging inconsistency in the grounds of the evaluation decisions and infringement of the principle of proportionality in the assessment of the applicant's tender.

3. Third plea in law, alleging infringement of the right to good administration.

Action brought on 1 August 2017 — Portugal v Commission

(Case T-474/17)

(2017/C 357/21)

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 Implementing Decision C(2017) 4136 of 26 June 2017 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 expenditure declared by Portugal relating to the alleged failure to comply with the ceilings and payment deadlines;

— order the European Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging 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 8 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).

3. Third plea in law, alleging infringement of Article 31(4) 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).

4. Fourth plea in law, alleging infringement of Articles 9(3) and 17 of Commission Regulation (EC) No 968/2006 of 27 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 320/2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community (OJ 2006 L 176, p. 32).

Action brought on 27 July 2017 — Arysta LifeScience Netherlands v Commission

(Case T-476/17)

(2017/C 357/22)

Language of the case: English

Parties

Applicant: Arysta LifeScience Netherlands BV (Amsterdam, Netherlands) (represented by: C. Mereu and M. Grunchard, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare the application admissible and well-founded;

— annul the contested Regulation [1];

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

Pleas in law and main arguments

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

1. First plea in law, alleging manifest errors of assessment.

   — The applicant submits that: the defendant has committed a series of manifest errors of appraisal; the defendant has acted unreasonably by failing to give sufficient and due weight to factors which are specific to the unique case of diflubenzuron; the defendant has neither considered the timing of two regulatory procedures nor the available and new data; the defendant has failed to examine carefully and impartially all the individual elements and factors of this case.

2. Second plea in law, alleging breach of right of defence: the defendant did not guarantee that the applicant was able to present properly and effectively its own views throughout the review process.

3. Third plea in law, alleging adoption of the contested Regulation Ultra Vires: the defendant acted ultra vires since the European Chemicals Agency ('ECHA') is the only authority legally responsible for classification or re-classification of substances, as set out in Regulation 1272/2008 ([2]), and not the defendant.

4. Fourth plea in law, alleging disproportion of the contested Regulation: the contested Regulation is disproportionate since the defendant had a choice of measures and the choice of adopting the contested Regulation restricting the use of diflubenzuron to non-edible crop causes disadvantages which are excessive in relation to the aims pursued.

([1]) Commission Implementing Regulation (EU) 2017/855 of 18 May 2017 amending Implementing Regulation (EU) No 540/2011 as regards the conditions of approval of the active substance diflubenzuron (OJ 2017, L 128, p. 10).

([2]) Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ 2008, L 353, p. 1).

Action brought on 3 August 2017 — Greece v Commission

(Case T-480/17)

(2017/C 357/23)

Language of the case: Greek

Parties

Applicant: Hellenic Republic (represented by: G. Kanellopoulos and A. Vassilopoulou)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul the contested Commission Implementing Decision of 26 June 2017 in so far as it excluded from European Union financing, in the context of the clearance of accounts for compliance, expenditure of the Hellenic Republic amounting in total to EUR 1 182 054,72, by means of the imposition of one-off and flat-rate financial corrections on the ground of alleged weaknesses in the application of cross compliance within the framework of the EAGF and the EAFRD for the claim years 2012, 2013 and 2014, in accordance with what is set out in the pleadings and the pleas in law in support of annulment,·and

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. By the first plea in law, it is claimed that the contested correction has been imposed unlawfully, on the basis of error as to the facts, with a defective and insufficient statement of reasons and in breach of the principles of good administration and equity, as shown in detail, in the first part of that plea, with respect to alleged weaknesses of certain elements in the verification of SMR 1 and particular elements in the verification of minimum requirements in the use of fertilisers and plant protection products, and, in the second part of that plea, with respect to a claimed weakness in risk analysis.

2. The second plea in law is based on a failure to state reasons, error as to the facts and the contested decision’s breach of the principle of proportionality in the part thereof that rejects the accurate calculation of the financial effect of the identified failings (were they to be real) which was established by the Greek authorities, given the recommendations of the Conciliation Body to the Commission.

Action brought on 3 August 2017 — UE v Commission

(Case T-487/17)

(2017/C 357/24)

Language of the case: English

Parties

Applicant: UE (represented by: S. Rodrigues and A. Tymen, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the European Commission’s decision dated 4 October 2016 rejecting the applicant’s requests dated 14 October 2013;

— if needed, annul the European Commission’s decision dated 26 April 2017 rejecting the applicant’s complaint dated 5 January 2017;

— compensate the applicant for the moral and material prejudiced suffered by the fault of the defendant, evaluated at the sum of 120 000 euro (moral harm), 748 800 (loss of earnings), and 576 000 euro (loss of pension);

— compensate the applicant for the harm caused by the course and the outcome of the inquiry on the issue of harassment, evaluated at the sum of 50 000 euro;

— reimburse the applicant’s incurred costs.

Pleas in law and main arguments

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

1. First plea in law, alleging violation of the principle of sound administration, violation of Article 41 of the Charter of Fundamental Rights of the European Union, violation of the right to be heard and violation of the adversarial principle.

2. Second plea in law, alleging a manifest error of assessment, factual errors and a violation of Article 35, second sentence of the Charter of Fundamental Rights of the European Union.

Action brought on 7 August 2017 — Corra González and Others v SRB

(Case T-511/17)

(2017/C 357/25)

Language of the case: Spanish

Parties

Applicants: José María Francisco Corra González (Madrid, Spain) and seven other applicants (represented by: C. de Santiago Álvarez and J. Redondo Martin, lawyers)

Defendant: Single Resolution Board

Form of order sought

The applicants claim that the General Court should:

— declare that, by adopting in its executive session of 7 June 2017 Decision SRB/EES/2017/08 establishing the resolution scheme in respect of the financial institution Banco Popular Español S.A., the Single Resolution Board (‘the SRB’) infringed EU law;

— consequently, annul that measure, and any subsequent implementing measures too that the SRB may have adopted, with effect *ex tunc*.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those put forward in Cases T-478/17, *Mutualidad de la Abogacía and Hermandad Nacional de Arquitectos Superiores y Químicos* v *Single Resolution Board*, T-481/17, *Fundación Tatiana Pérez de Guzmán el Bueno and SFL* v *Single Resolution Board*, T-482/17, *Comercial Vascongada Recalde* v *Commission and Single Resolution Board*, T-483/17, *García Suárez and Others* v *Commission and Single Resolution Board*, T-484/17, *Fidesban and Others* v *Single Resolution Board*, T-497/17, *Sáchez del Valle and Calatrava Real State 2015* v *Commission and Single Resolution Board*, and T-498/17, *Pablo Álvarez de Linera Granda* v *Commission and Single Resolution Board*.

Action brought on 4 August 2017 — Imasa, Ingeniería y Proyectos v Commission and SRB

(Case T-516/17)

(2017/C 357/26)

Language of the case: Spanish

Parties

Applicant: Imasa, Ingeniería y Proyectos (Oviedo, Spain) (represented by: B. Gutiérrez de la Roza Pérez, P. Rubio Escobar, R. Ruiz de la Torre Esporrín and B. Fernández García, lawyers)

Defendants: European Commission and Single Resolution Board

Form of order sought

The applicant claims that the Court should annul the following measures:

— Decision (SRB/EES/2017/08) of the Single Resolution Board agreed at its executive session of 7 June 2017 adopting the resolution scheme regarding the institution Banco Popular Español, S.A.

— Commission Decision (EU) 2017/1246 of 7 June 2017 endorsing the resolution scheme for Banco Popular Español, S. A.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those put forward in Cases T-478/17, *Mutualidad de la Abogacía and Hermandad Nacional de Arquitectos Superiores y Químicos* v *Single Resolution Board*, T-481/17, *Fundación Tatiana Pérez de Guzmán el Bueno and SFL* v *Single Resolution Board*, T-482/17, *Comercial Vascongada Recalde* v *Commission and Single Resolution Board*, T-483/17, *García Suárez and Others* v *Commission and Single Resolution Board*, T-484/17, *Fidesban and Others* v *Single Resolution Board*, T-497/17, *Sáchez del Valle and Calatrava Real State 2015* v *Commission and Single Resolution Board*, and T-498/17, *Pablo Álvarez de Linera Granda* v *Commission and Single Resolution Board*.

Action brought on 4 August 2017 — Grúas Roxu v Commission and SRB

(Case T-517/17)

(2017/C 357/27)

Language of the case: Spanish

Parties

Applicant: Grúas Roxu, S.A. (Meres, Spain) (represented by: B. Gutiérrez de la Roza Pérez, P. Rubio Escobar, R. Ruiz de la Torre Esporrín and B. Fernández García, lawyers)

Defendants: European Commission and Single Resolution Board

Form of order sought

The applicant claims that the Court should annul the following measures:

— Decision (SRB/EES/2017/08) of the Single Resolution Board agreed at its executive session of 7 June 2017 adopting the resolution scheme regarding the institution Banco Popular Español, S.A.

— Commission Decision (EU) 2017/1246 of 7 June 2017 endorsing the resolution scheme for Banco Popular Español, S. A.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those put forward in Cases T-478/17, *Mutualidad de la Abogacía and Hermandad Nacional de Arquitectos Superiores y Químicos* v *Single Resolution Board*, T-481/17, *Fundación Tatiana Pérez de Guzmán el Bueno and SFL* v *Single Resolution Board*, T-482/17, *Comercial Vascongada Recalde* v *Commission and Single Resolution Board*, T-483/17, *García Suárez and Others* v *Commission and Single Resolution Board*, T-484/17, *Fidesban and Others* v *Single Resolution Board*, T-497/17, *Sáchez del Valle and Calatrava Real State 2015* v *Commission and Single Resolution Board*, and T-498/17, *Pablo Álvarez de Linera Granda* v *Commission and Single Resolution Board*.

Action brought on 7 August 2017 — Folch Torrela and Others v SRB

(Case T-524/17)

(2017/C 357/28)

Language of the case: Spanish

Parties

Applicants: Ángel Folch Torrela (Terrassa, Spain) and 42 other applicants (represented by: V. Clavell Hernández, C. de Santiago Álvarez y J. Redondo Martín, lawyers)

Defendant: Single Resolution Board

Form of order sought

The applicants claim that the General Court should:

— declare that, by adopting in its executive session of 7 June 2017 Decision SRB/EES/2017/08 establishing the resolution scheme in respect of the financial institution Banco Popular Español S.A., the Single Resolution Board ('the SRB') infringed EU law;

— consequently, annul that measure, and any subsequent implementing measures too that the SRB may have adopted, with effect *ex tunc*.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those put forward in Cases T-478/17, *Mutualidad de la Abogacía and Hermandad Nacional de Arquitectos Superiores y Químicos* v *Single Resolution Board*, T-481/17, *Fundación Tatiana Pérez de Guzmán el Bueno and SFL* v *Single Resolution Board*, T-482/17, *Comercial Vascongada Recalde* v *Commission and Single Resolution Board*, T-483/17, *García Suárez and Others* v *Commission and Single Resolution Board*, T-484/17, *Fidesban and Others* v *Single Resolution Board*, T-497/17, *Sáchez del Valle and Calatrava Real State 2015* v *Commission and Single Resolution Board*, and T-498/17, *Pablo Álvarez de Linera Granda* v *Commission and Single Resolution Board*.

Action brought on 7 August 2017 — Taberna Ángel Sierra and Others v SRB

(Case T-525/17)

(2017/C 357/29)

Language of the case: Spanish

Parties

Applicants: Taberna Ángel Sierra, SL (Madrid, Spain) and 67 other applicants (represented by: P. Rúa Sobrino, lawyer)

Defendant: Single Resolution Board

Form of order sought

The applicants claim that the Court should:

— Annul the contested decision;

— Declare Articles 18 and 29 of Regulation (EU) No 806/2014 illegal and inapplicable;

— Order the Single Resolution Board to pay the costs.

Pleas in law and main arguments

The present action concerns Decision SRB/EES/2017/08 of the Single Resolution Board of 7 June 2017 allowing the resolution of the Banco Popular Español, S.A.

The pleas in law and main arguments are similar to those put forward in Cases T-478/17, *Mutualidad de la Abogacía and Hermandad Nacional de Arquitectos Superiores y Químicos* v *Single Resolution Board*, T-481/17, *Fundación Tatiana Pérez de Guzmán el Bueno and SFL* v *Single Resolution Board*, T-482/17, *Comercial Vascongada Recalde* v *Commission and Single Resolution Board*, T-483/17, *García Suárez and Others* v *Commission and Single Resolution Board*, T-484/17, *Fidesban and Others* v *Single Resolution Board*, T-497/17, *Sáchez del Valle and Calatrava Real State 2015* v *Commission and Single Resolution Board*, and T-498/17, *Pablo Álvarez de Linera Granda* v *Commission and Single Resolution Board*.

Action brought on 11 August 2017 — Coral Venture v SRB

(Case T-532/17)

(2017/C 357/30)

Language of the case: Spanish

Parties

Applicant: Coral Venture, S.L. (Madrid, Spain) (represented by: M. Niño Camazón, lawyer)

Defendant: Single Resolution Board

Form of order sought

The applicant claims that the Court should:

— Take note of the annulment proceedings against the resolution issued by the SRB on 7 June 2017 (SRB/EES/2017/08) agreeing to the resolution of the institution Banco Popular and approving the resolution scheme containing the resolution measures to apply to that institution and, following the appropriate procedural steps, grant the forms of order sought.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those put forward in Cases T-478/17, *Mutualidad de la Abogacía and Hermandad Nacional de Arquitectos Superiores y Químicos* v *Single Resolution Board*, T-481/17, *Fundación Tatiana Pérez de Guzmán el Bueno and SFL* v *Single Resolution Board*, T-482/17, *Comercial Vascongada Recalde* v *Commission and Single Resolution Board*, T-483/17, *García Suárez and Others* v *Commission and Single Resolution Board*, T-484/17, *Fidesban and Others* v *Single Resolution Board*, T-497/17, *Sáchez del Valle and Calatrava Real State 2015* v *Commission and Single Resolution Board*, and T-498/17, *Pablo Álvarez de Linera Granda* v *Commission and Single Resolution Board*.

Action brought on 12 August 2017 — Troszczynski v Parliament

(Case T-550/17)

(2017/C 357/31)

Language of the case: French

Parties

Applicant: Mylène Troszczynski (Noyon, France) (represented by: F. Wagner, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— annul the decision of the European Parliament of 14 June 2017 on the request for the waiver of immunity of Mylène Troszczynski 2017/2019(IMM);

— order the European Parliament to pay to Mylène Troszczynski the amount of EUR 35 000 by way of compensation for the non-material damage which she has suffered;

— order the European Parliament to pay to Mylène Troszczynski the amount of EUR 5 000 by way of reimbursement of recoverable costs;

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

Pleas in law and main arguments

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

1. First plea in law, alleging an infringement of Article 8 of Protocol No 7 on the privileges and immunities of the European Union (OJ 2010 C 83, p. 266) ('the protocol').

2. Second plea in law, alleging an infringement of Article 9 of the protocol.

3. Third plea in law, alleging an infringement of the principle of equality of treatment and of the principle of good administration.

4. Fourth plea in law, alleging that the rights of the defence have been infringed and that the contested decision is unlawful.

Action brought on 17 August 2017 — Liaño Reig v SRB

(Case T-557/17)

(2017/C 357/32)

Language of the case: Spanish

Parties

Applicant: Carmen Liaño Reig (Alcobendas, Spain) (represented by: F. López Antón, lawyer)

Defendant: Single Resolution Board

Form of order sought

The applicant claims that the Court should:

— On the basis of the considerations set out in pleas 3.1 to 3.4 of the present action, annul the resolution measure agreed in Article 6(1)(d) consisting in the conversion of the Level 2 capital instrument relating to the subordinated bonds issued by BPE Financiaciones S.A. under ISIN XS0550098569, and identified as #4, into newly issued Banco Popular Español S.A. shares on the ground that it is unfounded and contrary to the Regulation and the Charter of Fundamental Rights of the European Union;

— Should the Court uphold the request set out in the previous paragraph, given that, according to the provisions of Recital 91 and the last subparagraph of Article 85(4) of the Directive, annulment of a decision of a resolution authority does not affect any subsequent administrative acts or transactions that are based on the annulled decision, order the SRB, pursuant to that article, and in accordance with Article 87(3) of the Regulation, to compensate the applicant for the loss incurred as a consequence of annulment of the decision referred to in the previous paragraph.

To that effect, the loss incurred by the applicant is fixed at the actual value at the date of her payment of the sum of EUR 50 000 corresponding to the nominal value of the bond with a maturity date of 22 October 2020 issued by BPE Financiaciones S.A. under ISIN XS0550098569 which the applicant held at the date of the decision, plus the actual value at the date of her payment of interest at the annual fixed rate of 6,873 % which that bond would have accrued between 7 June 2017 (date of the decision) and 22 October 2020 (maturity date of that bond).

— In the alternative to the requests made in the preceding paragraphs, and in accordance with the considerations in plea 3.5 of the present action, order the SRB to compensate the applicant with an amount equivalent to that which she would have received as holder of the bond ISIN XS0550098569 issued by BPE Financiaciones S.A. had that company been liquidated at the date of the Decision as a result of an ordinary insolvency procedure, taking into account the fact that the applicant has not received any compensation or consideration either as a result of the conversion of the bond referred to, which she held, into newly issued Banco Popular Español S.A. shares or owing to the transfer of those shares to Banco Santander S.A.;

— If the Spanish law requirements for starting an ordinary insolvency procedure in relation to BPE Financiaciones S.A., which would result in its liquidation at the date of the decision, are not met (which the applicant believes to be the case), the amount of the compensation to be paid to the applicant is fixed at EUR 50 000, corresponding to the nominal value of the bond issued by that company which she holds;

— If the Spanish law requirements for starting an ordinary insolvency procedure in relation to BPE Financiaciones S.A., which would result in its liquidation at the date of the decision, are met, the amount of the compensation claimed will be the amount resulting from the valuation that has to be made in accordance with the provisions of Article 20(16) to (18) of the Regulation;

— In the alternative to the requests made in the preceding paragraphs, and in accordance with the considerations in plea 3.6 of the present action, order the SRB to compensate the applicant with a commensurate amount to the amount which would have stemmed from the conversion of all the subordinated bonds issued by the Banco Popular Español S. A. in existence at the date of the decision that had not been converted into shares of that institution pursuant to the provisions of Article 6(1) of the Decision.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those put forward in Cases T-478/17, *Mutualidad de la Abogacía and Hermandad Nacional de Arquitectos Superiores y Químicos* v *Single Resolution Board*, T-481/17, *Fundación Tatiana Pérez de Guzmán el Bueno and SFL* v *Single Resolution Board*, T-482/17, *Comercial Vascongada Recalde* v *Commission and Single Resolution Board*, T-483/17, *García Suárez and Others* v *Commission and Single Resolution Board*, T-484/17, *Fidesban and Others* v *Single Resolution Board*, T-497/17, *Sáchez del Valle and Calatrava Real State 2015* v *Commission and Single Resolution Board*, and T-498/17, *Pablo Álvarez de Linera Granda* v *Commission and Single Resolution Board*.

Action brought on 22 August 2017 — UG v Commission

(Case T-571/17)

(2017/C 357/33)

Language of the case: French

Parties

Applicant: UG (represented by: M. Richard and P. Junqueira de Oliveira, lawyers)

Defendant: European Commission

Form of order sought

— Annul the decision of the European Commission of 18 May 2017 (No R/40/17) and all the decisions which form the basis thereof;

— Order the re-employment of the applicant;

— Order the European Commission to pay pending salaries and damages of EUR 40 000;

— Annul the salary deductions made unlawfully;

— Reimburse the sum of EUR 6 818,81 deducted in excess of the salary deductions made unlawfully;

— Order the European Commission to pay all the costs and to pay the legal fees, provisionally assessed at EUR 10 000.

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 infringement of the right to be heard, in that the Commission organised no more than a semblance of a procedure prior to dismissal.

2. Second plea in law, alleging material errors vitiating the contested decision, in that the grounds on which it is based are imprecise, not real and not genuine.

3. Third plea in law, alleging misuse of powers, in that the Commission dismissed the applicant because of the applicant's trade union activities and for having taken parental leave.

4. Fourth plea in law, alleging infringements of Article 42 of the Staff Regulations of Officials, Clause 5.4 of the Revised Framework Agreement on parental leave following Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC (OJ 2010 L 68, p. 13), Article 7 of Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community — Joint declaration of the European Parliament, the Council and the Commission on employee representation (OJ 2002 L 80, p. 29) and Annex IX to the Staff Regulations, failing to follow the disciplinary procedure.

5. Fifth plea in law, alleging that the penalty is disproportionate.

Action brought on 24 August 2017 — Mas Que Vinos Global v EUIPO — JESA (EL SEÑORITO)

(Case T-576/17)

(2017/C 357/34)

Language in which the application was lodged: Spanish

Parties

Applicant: Mas Que Vinos Global, SL (Dobarrios, Spain) (represented by: M. Sanmartín Sanmartín, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Jose Estevez, SA (JESA) (Jerez de la Frontera, Spain)

Details of the proceedings before EUIPO

Applicant for the trade mark at issue: Applicant

Trade mark at issue: European Union word mark 'EL SEÑORITO' — Application for registration No 13 502 166

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 9 June 2017 in Case R 1775/2016-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to bear its own costs and to pay the applicant's costs.

Pleas in law

— Infringement of Articles 42, 60, 63, 75 and 76 of Regulation No 207/2009 and of Article 8(1)(b) of that regulation.

Action brought on 4 September 2017 — Demp v EUIPO (Representation of the colours grey and yellow)

(Case T-595/17)

(2017/C 357/35)

Language of the case: German

Parties

Applicant: Demp BV (Vianen, Netherlands) (represented by: C. Gehweiler, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Colour mark (Representation of the colours grey and yellow) — Application for registration No 15 439 987

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 10 July 2017 in Case R 1624/2016-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

— Infringement of Article 7(1)(b) and Article 4 of Regulation No 207/2009.

Action brought on 5 September 2017 — Italian Republic v Commission

(Case T-598/17)

(2017/C 357/36)

Language of the case: Italian

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul, in so far as it is the subject matter of the present action, European Commission Implementing Decision No 2017/1144 of 26 June 2017, notified on the same date, on the exclusion 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);

— order the Commission to bear the costs.

Pleas in law and main arguments

In support of its action, the applicant relies on a single plea in law, alleging breach of Article 7(4) of Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy ([1]) and Article 31 of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy. ([2])

By that plea, the applicant challenges the application of the financial corrections imposed by the contested decision, in view of the inconsistency of the information.

The applicant also challenges the quantification of those financial corrections, in so far as the actual amount set is disproportionate and clearly illogical, being significantly higher than any damage potentially resulting from the conduct imputed to the Italian authorities.

([1]) OJ L 160, 26.6.1999, p. 103.
([2]) OJ L 209, 18.8.2005, p. 1.

Action brought on 4 September 2017 — Spain v Commission

(Case T-602/17)

(2017/C 357/37)

Language of the case: Spanish

Parties

Applicant: Kingdom of Spain (represented by: M. Sampol Pucurull and A. Gavela Llopis, agents)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul Commission Implementing Decision C(2017) 4136 of 26 June 2017 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF), fruit and vegetable sector, operational funds, in so far as it affects the Kingdom of Spain.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Article 26(2) of Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors. ([1])

   — The applicant claims in this regard that the Commission made a manifest error in finding a failure to check the criterion of recognition of the producers organisation's main activity, inasmuch as that check is ensured by the adequate checking of the value of the production marketed.

   — It is also claimed that the Commission infringed the principle of protection of legitimate expectations, in that the Commission's finding was inconsistent with the earlier finding in investigation FV/2010/004.

2. Second plea in law, alleging infringement of Article 104(2)(d) of Regulation (EU) No 543/2011 and the principle of protection of legitimate expectations.

   — The applicant claims that the Commission made a manifest error with regard to this provision, in finding shortcomings in the checking of the criterion of consistency and technical quality of the investments relating to the requests for amendments to the operational programme, laid down in that provision. The applicant states in that regard that that article does not require an analysis linked to the commercial strategy of a producer organisation.

   — The applicant also claimed that the Commission infringed the principle of protection of legitimate expectations, in that the Commission's finding was inconsistent with the earlier finding in investigation FV/2010/004.

3. Third plea in law, alleging infringement of Article 59(c)(iv), Article 60(2) and (5) and Article 65 of Regulation (EU) No 543/2011 and the principle of protection of legitimate expectations.

   — The applicant claims that the Commission made a manifest error in finding shortcomings in the checking of the eligibility of the operational programme, because the regulation mentioned does not prohibit investment costs from being carried over to another annuity within the same operational programme.

   — Similarly, the Commission infringed the principle of protection of legitimate expectations in that the Commission's finding is inconsistent with the reply given by the Director General of the European Commission's Directorate General for Agriculture of 19 November 2013 to queries from the Spanish authorities concerning the application of Article 65 of the Regulation.

4. Fourth plea in law, alleging infringement of Article 52(2) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 ([2]) and the Guidelines for the calculation of financial consequences contained in Document VI/5330/97.

   — The applicant claims in this regard that the flat-rate correction imposed is unfounded because there were no shortcomings in the checks. In the alternative, the applicant states that the correction is disproportionate and that, where appropriate, no correction or, as a last resort, a correction of 2 % should be imposed, given the specific circumstances and the Commission's conduct in the present case.

([1]) OJ 2011 L 157, p. 1.
([2]) OJ 2013 L 347, p 549.

Action brought on 5 September 2017 — *Republic of Lithuania* v *European Commission*

(Case T-603/17)

(2017/C 357/38)

Language of the case: Lithuanian

Parties

Applicant: Republic of Lithuania, represented by D. Kriaučiūnas, R. Krasuckaitė, R. Dzikovič and M. Palionis

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul Commission Implementing Decision (EU) 2017/1144 of 26 June 2017 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) ([1]) in so far as it applies to Lithuania a financial correction of EUR 4 207 894,93;

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

Pleas in law and main arguments

In its application the applicant puts forward three pleas in law.

By applying a flat-rate 5 % financial correction of EUR 4 207 894,93 on the ground of deficiencies in key controls, the European Commission ('the Commission') breached Article 52(2) of Regulation (EU) No 1306/2013 ([2]) in that, when deciding on the extent of the non-conformity, the nature of the infringements and the financial damage caused to the European Union:

1. it mistakenly took the view that the quality of the on-the-spot checks carried out in Lithuania was inadequate and was to be regarded as constituting a deficiency in a key control, because:

   1.1. it misinterpreted and misapplied Article 26(1)(a) of Regulation (EU) No 65/2011 ([3]) and, basing itself on that interpretation, unjustifiably established that, during the on-the-spot check, the Lithuanian institutions had failed to verify whether the payment claims submitted by the support beneficiary were supported by accounting and other suitable documents;

   1.2. it misinterpreted Article 26(1)(d) of Regulation (EU) No 65/2011 and, basing itself on that interpretation, unjustifiably established that, during the on-the-spot check, the Lithuanian institutions had failed to verify that the publicly funded operations had been implemented in accordance with, in particular, the rules on public tendering;

   1.3. it misinterpreted Article 25(4) of Regulation (EU) No 65/2011 and, basing itself on that interpretation, found that the inspectors undertaking the on-the-spot check had failed to comply with the requirement that they be independent of the workers who had been involved in carrying out the administrative checks of the same operation;

2. it mistakenly took the view that the quality of the checks carried out on the soundness of the expenditure effected in Lithuania was to be regarded as constituting a deficiency in a key control, because:

   2.1. it misinterpreted Article 24(2)(d) of Regulation (EU) No 65/2011 and, basing itself on that interpretation, unjustifiably established that the reasonableness of the costs submitted had not been adequately verified;

   2.2. in any event, it unjustifiably applied a 5 % financial correction, as the established scale of the potential non-compliance with the system for checking the validity of expenditure is significantly smaller;

3. it failed to have regard for the harm actually caused to the European Union in respect of the expenditure connected with voluntary work, and incorrectly took the view that there had been an inadequate verification as to whether the expenditure for the activity connected with immovable property satisfies the requirements, and consequently erred in establishing that there had been a deficiency in a key control, because:

   3.1. it improperly failed to take account of the data supplied by the Lithuanian institutions concerning the examination ordered by the Agency and carried out by independent experts, in the course of which it was established what actual damage may have been caused to the EU funds and what the amount of that damage was, and also what damage was connected with deficiencies in the system of checks of in-kind contributions (voluntary unpaid work), and unjustifiably applied a flat-rate 5 % financial correction;

   3.2. it incorrectly held that Article 24(2)(c) and (d) of Regulation (EU) No 65/2011 had not been complied with during the conducting of the administrative checks on applications for support and the verification of project expenditure — in-kind contributions (immovable property).

(1) OJ 2017 L 165, p. 37.
(2) Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ 2013 L 347, p. 549).
(3) Commission Regulation (EU) No 65/2011 of 27 January 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures (OJ 2011 L 25, p. 8).

Action brought on 6 September 2017 — ICL-IP Terneuzen and ICL Europe Coöperatief v Commission

(Case T-610/17)

(2017/C 357/39)

Language of the case: English

Parties

Applicants: ICL-IP Terneuzen, BV (Terneuzen, Netherlands) and ICL Europe Coöperatief UA (Amsterdam, Netherlands) (represented by: R. Cana and E. Mullier, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— declare the application admissible and well-founded;

— annul the Commission Regulation (EU) 2017/999 of 13 June 2017 amending Annex XIV to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) (OJ 2017, L 150, p. 7) as far as it includes nPB on Annex XIV of the REACH Regulation;

— order the defendant to pay the costs of these proceedings; and

— take such other or further measure as justice may require.

Pleas in law and main arguments

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

1. First plea in law, alleging that the European Commission committed a manifest error of assessment by failing to take into account all relevant facts and breached the principle of sound administration.

   — The applicants submit that the European Commission made a manifest error of assessment by failing to carefully and impartially consider the relevant information submitted to the European Commission by the Applicants which showed that the Substance did not meet the criteria for prioritisation and inclusion on Annex XIV of the REACH Regulation. According to the applicants, if the European Commission had taken the information into account, the scoring received by the substance would have been lower or similar to the scoring of other substances which were not prioritised in the same round of prioritisation, and the substance would not have been included in Annex XIV to the REACH Regulation by the contested Regulation.

2. Second plea in law, alleging that the contested Regulation breaches Article 55 of the REACH Regulation and runs contrary to the REACH Regulation's competitiveness objective, as well as interferes with the right to trade.

   — The applicants submit that the contested Regulation runs counter the objectives of competitiveness of the REACH Regulation and in particular of its authorisation Title VII, thereby affecting the applicants' competitive position, as well as impeding the applicants' rights to trade by prioritizing the Substance despite information which showed that the Substance did not meet the criteria for prioritisation and inclusion on Annex XIV.

3. Third plea in law, alleging that the European Commission breached the applicants' rights of defence and breached its obligation to state reasons

   — The Applicants submit that the European Commission breached their right of defence and breached its duty to state reasons in not setting out the reasons for 'grouping' the substance with trichioroethylene, despite the European Chemical's Agency express recognition (in the Prioritisation Approach Guidance) that in the case of factors such as 'grouping' are taken into account, which are not part of the formal Article 5 8(3) criteria, reasons for prioritisation must be clearly set out and be in line with the role and purpose of the recommendation step in the authorisation process.

4. Fourth plea in law, alleging that the contested Regulation breaches the applicants' legitimate expectations.

   — The applicants submit that the adoption of the contested Regulation breaches their legitimate expectations in so far as it does not comply with the guidance on prioritisation. Specifically, the applicants submit that the prioritisation and inclusion of nPB on Annex XIV breached their legitimate expectations that the volume criterion and the grouping considerations would be applied asthey are set out in the Prioritisation Approach Guidance and the General Approach Guidance.

5. Fifth plea in law, alleging that the contested Regulation breaches the principle of proportionality.

   — The Applicants submit that the European Commission should have considered it appropriate to postpone the inclusion of nPB on Annex XIV in the contested Regulation, and that this would have been less onerous since the applicants would not have had to suffer the consequences of inclusion on Annex XIV already now but only when nPB was correctly included on Annex XIV in light of a real high relative priority.

6. Sixth plea in law, alleging that the contested Regulation breaches the principle of equal treatment and non-discrimination

   — The applicants submit that the contested Regulation breaches the principle of equal treatment and non-discrimination by treating the substance differently — by including it on Annex XIV of the REACH Regulation — than other substances, including antimony lead yellow. According to the applicants, both substances were in a comparable situation: they were both considered as part of the same prioritisation round, they both received (or should have received) a total prioritisation score of 17, and in both cases their priority assessment involved grouping considerations. However, so the applicants state, they were treated differently by ECHA and the European Commission as the substance was recommended and later included in Annex XIV whereas antimony lead yellow was not recommended for inclusion and thus not included on Annex XIV.

Order of the General Court of 6 September 2017 — Systran v Commission

(Joined Cases T-481/13 and T-421/15) ([1])

(2017/C 357/40)

Language of the case: French

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

([1]) OJ C 336, 16.11.2013.

Order of the General Court of 6 September 2017 — Clarke v EUIPO

(Case T-548/16) ([1])

(2017/C 357/41)

Language of the case: German

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

([1]) OJ C 221, 6.7.2015 (case initially registered before the European Union Civil Service Tribunal under Case No F-63/15 and transferred to the General Court of the European Union on 1.9.2016).

Order of the General Court of 6 September 2017 — Papathanasiou v EUIPO

(Case T-549/16) ([1])

(2017/C 357/42)

Language of the case: German

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

([1]) OJ C 221, 6.7.2015 (case initially registered before the European Union Civil Service Tribunal under Case No F-64/15 and transferred to the General Court of the European Union on 1.9.2016).

Order of the General Court of 6 September 2017 — Dickmanns v EUIPO

(Case T-550/16) ([1])

(2017/C 357/43)

Language of the case: German

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

([1]) OJ C 221, 6.7.2015 (case initially registered before the European Union Civil Service Tribunal under Case No F-65/15 and transferred to the General Court of the European Union on 1.9.2016).

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