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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Fifth Chamber) of 9 November 2017 (request for a preliminary ruling from the Juzgado de lo Social No 33 de Barcelona (Spain)) — María Begoña Espadas Recio v Servicio Público de Empleo Estatal (SPEE)

(Case C-98/15) ([1])

(Reference for a preliminary ruling — Directive 97/81/EC — Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC — Clause 4 — Male and female workers — Equal treatment in matters of social security — Directive 79/7/EEC — Article 4 — 'Vertical' part-time worker — Unemployment benefit — National legislation excluding days not worked from the contribution period for the purpose of establishing the duration of the benefit)

(2018/C 005/02)

Language of the case: Spanish

Referring court

Juzgado de lo Social No 33 de Barcelona

Parties to the main proceedings

Applicant: María Begoña Espadas Recio

Defendant: Servicio Público de Empleo Estatal (SPEE)

Operative part of the judgment

1. *Clause 4(1) of the Framework Agreement on part-time work concluded on 6 June 1997, which is annexed to Council Directive 97/81/EC of 15 December 1997 concerning the framework agreement on part-time work concluded by UNICE, CEEP and the ETUC, is not applicable to a contributory unemployment benefit such as that at issue in the main proceedings.*

2. *Article 4(1) of Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security must be interpreted as precluding legislation of a Member State which, in the case of 'vertical' part-time work, excludes days not worked from the calculation of days in respect of which contributions have been paid, and therefore reduces the unemployment benefit payment period, when it is established that the majority of vertical part-time workers are women who are adversely affected by such legislation.*

([1]) OJ C 171, 26.5.2015

Judgment of the Court (Fifth Chamber) of 9 November 2017 (request for a preliminary ruling from the Landgericht Berlin (Germany)) — CTL Logistics GmbH v DB Netz AG

(Case C-489/15) ([1])

(Reference for a preliminary ruling — Rail transport — Directive 2001/14/EC — Infrastructure charges — Pricing — National regulatory body monitoring the conformity of those infrastructure charges with that directive — Contract for use of infrastructure concluded between a railway infrastructure manager and a railway undertaking — Principle of non-discrimination — Reimbursement of the charges without intervention by that body and outside the claims procedures involving it — National legislation enabling the civil courts to set a fair amount in the case of unfair charges)

(2018/C 005/03)

Language of the case: German

Referring court

Landgericht Berlin (Germany)

Parties to the main proceedings

Applicant: CTL Logistics GmbH

Defendant: DB Netz AG

Operative part of the judgment

The provisions of Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure, as amended by Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004, in particular Article 4(5) and Article 30(1), (3), (5) and (6) of that directive, as amended, must be interpreted as meaning that they preclude the application of national legislation, such as that at issue in the main proceedings, which provides for a review of the equity of charges for the use of railway infrastructure, on a case-by-case basis, by the ordinary courts and the possibility, if necessary, of amending the amount of those charges, independently of the monitoring carried out by the regulatory body provided for in Article 30 of Directive 2001/14, as amended by Directive 2004/49.

([1]) OJ C 406, 7.12.2015.

Judgment of the Court (First Chamber) of 9 November 2017 — TV2/Danmark A/S v European Commission, Kingdom of Denmark, Viasat Broadcasting UK Ltd

(Case C-649/15 P) ([1])

(Appeal — State aid — Article 107(1) TFEU — Public broadcasting service — Measures implemented by the Danish authorities in favour of the Danish broadcaster TV2/Danmark — Concept of 'aid granted by a Member State or through State resources' — Judgment in Altmark)

(2018/C 005/04)

Language of the case: Danish

Parties

Appellant: TV2/Danmark A/S (represented by: O. Koktvedgaard, advokat)

Other parties to the proceedings: European Commission (represented by: T. Maxian Rusche, B. Stromsky and L. Grønfeldt, acting as Agents), Kingdom of Denmark (represented by: C. Thorning, acting as Agent, and by R. Holdgaard, advokat), Viasat Broadcasting UK Ltd (represented by: S. Kalsmose-Hjelmborg and M. Honoré, advokater)

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders TV2/Danmark A/S to bear its own costs and to pay all the costs incurred by the European Commission and Viasat Broadcasting UK Ltd both at first instance and in relation to this appeal;*

3. *Orders the Kingdom of Denmark to bear its own costs.*

([1]) OJ C 48, 8.2.2016.

Judgment of the Court (First Chamber) of 9 November 2017 — European Commission v TV2/ Danmark A/S, Kingdom of Denmark, Viasat Broadcasting UK Ltd

(Case C-656/15 P) ([1])

(Appeal — State aid — Article 107(1) TFEU — Public broadcasting service — Measures implemented by the Danish authorities in favour of the Danish broadcaster TV2/Danmark — Concept of 'aid granted by a Member State or through State resources's)

(2018/C 005/05)

Language of the case: Danish

Parties

Appellant: European Commission (represented by: B. Stromsky, T. Maxian Rusche and L. Grønfeldt, acting as Agents)

Other parties to the proceedings: TV2/Danmark A/S (represented by: O. Koktvedgaard, advokat), Kingdom of Denmark (represented by: C. Thorning, acting as Agent, and by R. Holdgaard, advokat), Viasat Broadcasting UK Ltd (represented by: M. Honoré and S. Kalsmose-Hjelmborg, advokater)

Intervener in support of the applicant: EFTA Surveillance Authority (represented by: C. Zatschler, M. Schneider, Í. Isberg and C. Perrin, acting as Agents)

Operative part of the judgment

The Court:

1. *Sets aside the judgment of the General Court of the European Union of 24 September 2015, TV2/Danmark v Commission (T-674/ 11, EU:T:2015:684), to the extent that it annulled Commission Decision 2011/839/EU of 20 April 2011 on the measures implemented by Denmark (C 2/03) for TV2/Danmark in that the European Commission held that the advertising revenue for the years 1995 and 1996 paid to TV2/Danmark through the TV2 Fund constituted State aid;*

2. *Dismisses the action brought by TV2/Danmark A/S seeking the annulment of Decision 2011/839;*

3. *Orders TV2/Danmark A/S to bear its own costs and to pay all the costs incurred by the European Commission and Viasat Broadcasting UK Ltd both at first instance and in relation to this appeal;*

4. *Orders the Kingdom of Denmark and the EFTA Surveillance Authority to bear their own costs.*

([1]) OJ C 48, 8.2.2016.

Judgment of the Court (First Chamber) of 9 November 2017 — Viasat Broadcasting UK Ltd v TV2/ Danmark A/S

(Case C-657/15 P) ([1])

(Appeal — State aid — Article 107(1) TFEU — Public broadcasting service — Measures implemented by the Danish authorities in favour of the Danish broadcaster TV2/Danmark — Concept of 'aid granted by a Member State or through State resources' — Judgment in Altmark)

(2018/C 005/06)

Language of the case: Danish

Parties

Appellant: Viasat Broadcasting UK Ltd (represented by: M. Honoré and S. Kalsmose-Hjelmborg, advokater)

Other parties to the proceedings: TV2/Danmark A/S (represented by: O. Koktvedgaard, advokat), European Commission (represented by: B. Stromsky, T. Maxian Rusche and L. Grønfeldt, Agents), Kingdom of Denmark (represented by: C. Thorning, Agent, and by R. Holdgaard, advokat)

Operative part of the judgment

The Court:

1. *Sets aside the judgment of the General Court of the European Union of 24 September 2015, TV2/Danmark v Commission (T-674/ 11, EU:T:2015:684), to the extent that it annulled Commission Decision 2011/839/EU of 20 April 2011 on the measures implemented by Denmark (C 2/03) for TV2/Danmark in that the European Commission held that the advertising revenue for the years 1995 and 1996 paid to TV2/Danmark through the TV2 Fund constituted State aid;*

2. *Dismisses the appeal for the remainder;*

3. *Dismisses the action brought by TV2/Danmark A/S seeking the annulment of Decision 2011/839;*

4. *Orders TV2/Danmark A/S to bear its own costs and to pay one half of the costs incurred by Viasat Broadcasting UK Ltd in relation to this appeal as well as all the costs incurred by the latter at first instance;*

5. *Orders Viasat Broadcasting UK Ltd to bear one half of its own costs in relation to this appeal;*

6. *Orders the European Commission and the Kingdom of Denmark to bear their own costs.*

([1]) OJ C 222, 20.6.2016.

Judgment of the Court (Fifth Chamber) of 9 November 2017 (request for a preliminary ruling from the Augstākā tiesa — Latvia) — Valsts ieņēmumu dienests v 'LS Customs Services' SIA

(Case C-46/16) ([1])

(Reference for a preliminary ruling — Customs union — Regulation (EEC) No 2913/92 — Community Customs Code — Non-Community goods — External Community customs transit procedure — Unlawful removal from customs supervision of goods liable to import duties — Determination of the customs value — Article 29(1) — Conditions for the application of the transaction value method — Articles 30 and 31 — Choice of the method for determining the customs value — Obligation imposed upon the customs authorities to state reasons for the chosen method)

(2018/C 005/07)

Language of the case: Latvian

Referring court

Augstākā tiesa

Parties to the main proceedings

Applicant: Valsts ieņēmumu dienests

Defendant: 'LS Customs Services' SIA

Operative part of the judgment

1. *Article 29(1) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, as amended by Regulation (EC) No 955/1999 of the European Parliament and of the Council of 13 April 1999, must be interpreted as meaning that the method for determining customs value laid down by that provision is not applicable to goods that were not sold for export to the European Union.*

2. *Article 31 of Regulation No 2913/92, as amended by Regulation No 955/1999, read in conjunction with Article 6(3) of that regulation, as amended, must be interpreted as meaning that the customs authorities are obliged to state, in their decision fixing the amount of import duties due, the reasons leading them to set aside the methods for determining customs value set out in Articles 29 and 30 of that regulation, as amended, before they could decide to apply the method laid down in Article 31 of that regulation, as amended, and the data on the basis of which the customs value of the goods was calculated, in order to enable the person concerned to assess whether that decision is well founded and to decide in full knowledge of the circumstances whether it is worthwhile for him to bring an action against it. It is for the Member States, exercising their procedural autonomy, to regulate the consequences of a failure by the customs authorities to fulfil their obligation to state reasons and to determine whether and to what extent such a failure may be remedied in the course of legal proceedings, subject to observance of the principles of equivalence and effectiveness.*

3. *Article 30(2)(a) of Regulation No 2913/92, as amended by Regulation No 955/1999, must be interpreted as meaning that, before it can set aside the method for determining customs value laid down by that provision, the competent authority is not required to ask the producer to provide it with the information necessary for the application of that method. That authority is, however, required to consult all the information sources and databases available to it. It must also allow the economic operators concerned to provide it with any information which may contribute to determining the customs value of the goods pursuant to that provision.*

4. *Article 30(2) of Regulation No 2913/92, as amended by Regulation No 955/1999, must be interpreted as meaning that the customs authorities are not required to state reasons why the methods set out in subparagraphs (c) and (d) of that provision are not to be applied, if they determine the customs value of the goods on the basis of the transaction value of similar goods in accordance with Article 151(3) of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Regulation No 2913/92, as amended by Commission Regulation (EC) No 1762/95 of 19 July 1995.*

(1) OJ C 111, 29.3.2016

Judgment of the Court (Ninth Chamber) of 9 November 2017 — SolarWorld AG v Brandoni solare SpA, Solaria Energia y Medio Ambiente, SA, Council of the European Union, European Commission, China Chamber of Commerce for Import and Export of Machinery and Electronic Products (CCCME)

(Case C-204/16 P) (1)

(Appeal — Dumping — Implementing Regulation (EU) No 1238/2013 — Article 3 — Imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from China — Definitive anti-dumping duty — Exemption of imports covered by an accepted undertaking — Severability)

(2018/C 005/08)

Language of the case: English

Parties

Appellant: SolarWorld AG (represented by: L. Ruessmann, avocat, J. Beck, Solicitor)

Other parties to the proceedings: Brandoni solare SpA, Solaria Energia y Medio Ambiente, SA (represented by: L. Ruessmann, avocat, and M. J. Beck, Solicitor), Council of the European Union (represented by: H. Marcos Fraile, acting as Agent, and N. Tuominen, Avocată), European Commission (represented by: A. Demeneix, T. Maxian Rusche and J.-F. Brakeland, acting as Agents), China Chamber of Commerce for Import and Export of Machinery and Electronic Products (CCCME) (represented by: J.-F. Bellis and A. Scalini, avocats, F. Di Gianni, avvocato)

Operative part of the judgment

The Court:

1) *Dismisses the appeal;*

2) *Orders SolarWorld AG to pay the costs incurred by the Council of the European Union;*

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

(1) OJ C 232, 27.06.2016.

Judgment of the Court (Ninth Chamber) of 9 November 2017 — SolarWorld AG v Brandoni solare SpA, Solaria Energia y Medio Ambiente, SA, Council of the European Union, European Commission, China Chamber of Commerce for Import and Export of Machinery and Electronic Products (CCCME)

(Case C-205/16 P) (1)

(Appeal — Subsidies — Implementing Regulation (EU) No 1239/2013 — Article 2 — Imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from China — Definitive countervailing duty — Exemption of imports covered by an accepted undertaking — Severability)

(2018/C 005/09)

Language of the case: English

Parties

Appellant: SolarWorld AG (represented by: L. Ruessmann, avocat, J. Beck, Solicitor)

Other parties to the proceedings: Brandoni solare SpA, Solaria Energia y Medio Ambiente, SA (represented by: L. Ruessmann, avocat, and M. J. Beck, Solicitor), Council of the European Union (represented by: H. Marcos Fraile, acting as Agent, and N. Tuominen, Avocată), European Commission (represented by: A. Demeneix, T. Maxian Rusche and J.-F. Brakeland, acting as Agents), China Chamber of Commerce for Import and Export of Machinery and Electronic Products (CCCME) (represented by: J.-F. Bellis and A. Scalini, avocats, F. Di Gianni, avvocato)

Operative part of the judgment

The Court:

1) *Dismisses the appeal;*

2) *Orders SolarWorld AG to pay the costs incurred by the Council of the European Union;*

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

([1]) OJ C 232, 27.06.2016.

Judgment of the Court (Third Chamber) of 9 November 2017 (request for a preliminary ruling from the Efeteio Athinon (Greece)) — European Commission v Dimos Zagoriou

(Case C-217/16) ([1])

(Reference for a preliminary ruling — Enforceable decision of the European Commission ordering the recovery of sums paid — Article 299 TFEU — Enforcement — Implementing measures — Identification of the competent national court to hear disputes regarding enforcement — Identification of the person on whom the pecuniary obligation rests — Conditions for application of the national procedural rules — Procedural autonomy of the Member States — Principles of equivalence and effectiveness)

(2018/C 005/10)

Language of the case: Greek

Referring court

Efeteio Athinon (Greece)

Parties to the main proceedings

Applicant: European Commission

Defendant: Dimos Zagoriou

Operative part of the judgment

1. *Article 299 TFEU must be interpreted as not determining the choice of the national competent court to hear actions connected with the enforcement of enforceable European Commission acts which impose a pecuniary obligation on persons other than States, in accordance with that article, that determination being a matter for national law by virtue of the principle of procedural autonomy, provided that that determination does not undermine the application and effectiveness of EU law.*

   It is for the national court to determine whether the application of the national procedural rules to actions concerning the enforcement of acts covered by Article 299 TFEU is made in a non-discriminatory manner compared to the procedures for deciding national disputes of the same type and in accordance with procedural rules which do not make the recovery of the sums referred to in those acts more difficult than in comparable cases involving the application of the corresponding national provisions.

2. *Article 299 TFEU and Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments, Council Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments and Council Regulation (EEC) No 4256/88 of 19 December 1988, laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Agricultural Guidance and Guarantee Fund (EAGGF) Guidance Section must be interpreted as meaning that they do not define, in circumstances such as those at issue in the main proceedings, the persons against whom enforcement may be pursued by virtue of an enforceable decision of the Commission ordering the recovery of sums paid.*

It is for the national court to define those persons, in compliance with the principles of equivalence and effectiveness.

([1]) OJ C 222, 20.6.2016.

Judgment of the Court (Tenth Chamber) of 9 November 2017 (reference for a preliminary ruling from the Gerechtshof Arnhem-Leeuwaarden — Netherlands) — Jan Theodorus Arts v Veevoederbedrijf Alpuro BV

(Case C-227/16) ([1])

(Reference for a preliminary ruling — Agriculture — Common agricultural policy — Regulation (EC) No 73/2009 — Single payment scheme — Veal farmer who concluded an integration contract — Contractual term under which the single payment is payable to the integration undertaking — Whether permissible)

(2018/C 005/11)

Language of the case: Dutch

Referring court

Gerechtshof Arnhem-Leeuwaarden

Parties to the main proceedings

Applicant: Jan Theodorus Arts

Defendant: Veevoederbedrijf Alpuro BV

Operative part of the judgment

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, must be interpreted as not precluding a contractual term under which the amount of aid which a veal farmer is entitled to claim under the single payment scheme is payable to an integration undertaking in the case where the transfer of that aid takes place within the context of reciprocal benefits and obligations negotiated between the parties to the contract.

([1]) OJ C 279, 01.08.2016.

Judgment of the Court (Third Chamber) of 9 November 2017 (request for a preliminary ruling from the Curtea de Apel Cluj — Romania) — Teodor Ispas, Anduța Ispas v Direcția Generală a Finanțelor Publice Cluj

(Case C-298/16) ([1])

(Reference for a preliminary ruling — General principles of EU law — Right to good administration and rights of the defence — National tax rules providing for the right to be heard and the right to be informed during an administrative tax procedure — Decision to levy value added tax issued by the national tax authorities without giving the taxpayer access to the information and the documents upon which that decision was based)

(2018/C 005/12)

Language of the case: Romanian

Referring court

Curtea de Apel Cluj

Parties to the main proceedings

Applicants: Teodor Ispas, Anduța Ispas

Defendant: Direcția Generală a Finanțelor Publice Cluj

Operative part of the judgment

The general principle of EU law of respect for the rights of the defence must be interpreted as a requirement that, in national administrative procedures of inspection and establishment of the basis for the assessment of value added tax, an individual is to have the opportunity to have communicated to him, at his request, the information and documents in the administrative file and considered by the public authority when it adopted its decision, unless objectives of public interest warrant restricting access to that information and those documents.

([1]) OJ C 314, 29.08.2016.

Judgment of the Court (Second Chamber) of 9 November 2017 (reference for a preliminary ruling from the Tribunal da Relação do Porto — Portugal) — António Fernando Maio Marques da Rosa v Varzim Sol — Turismo, Jogo e Animação, SA

(Case C-306/16) ([1])

(Reference for a preliminary ruling — Protection of the safety and health of workers — Directive 2003/88/EC — Article 5 — Weekly rest period — National legislation providing for at least one rest day per seven-day period — Periods of more than six consecutive working days)

(2018/C 005/13)

Language of the case: Portuguese

Referring court

Tribunal da Relação do Porto

Parties to the main proceedings

Applicant: António Fernando Maio Marques da Rosa

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

Operative part of the judgment

Article 5 of Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time, as amended by Directive 2000/34/EC of the European Parliament and of the Council of 22 June 2000 and the first paragraph of Article 5 of Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time must be interpreted as not requiring the minimum uninterrupted weekly rest period of 24 hours to which a worker is entitled to be provided no later than the day following a period of six consecutive working days, but requires that rest period to be provided within each seven-day period.

([1]) OJ C 326, 5.9.2016.

Judgment of the Court (First Chamber) of 9 November 2017 — HX v Council of the European Union

(Case C-423/16 P) ([1])

(Appeal — Common foreign and security policy — Restrictive measures against the Syrian Arab Republic — Restrictive measures against a person listed in an annex to a decision — Extension of the validity of that decision during proceedings before the General Court of the European Union — Request to modify the application in the course of the hearing and not by a separate document — Article 86 of the Rules of Procedure of the General Court — Bulgarian language version — Annulment by the General Court of the original decision placing the person concerned on the list of persons subject to restrictive measures — Expiry of the extension decision — Continuation of the interest in bringing legal proceedings in relation to the modification of the application)

(2018/C 005/14)

Language of the case: Bulgarian

Parties

Appellant: HX (represented by: S. Koev, advokat)

Other party to the proceedings: Council of the European Union (represented by: I. Gurov and S. Kyriakopoulou, acting as Agents)

Operative part:

The Court (First Chamber) hereby:

1) *Sets aside paragraph 2 of the operative part of the judgment of the General Court of the European Union of 2 June 2016, HX v Council (T-723/14, EU:T:2016:332);*

2) *Declares that there is no longer a need to adjudicate on the request to modify the application submitted by HX before the General Court of the European Union;*

3) *Orders the Council of the European Union to pay its own costs and the costs incurred by HX both at first instance and in the present appeal.*

([1]) OJ C 350, 26.09.2016

Judgment of the Court (Sixth Chamber) of 9 November 2017 — European Commission v Hellenic Republic

(Case C-481/16) ([1])

(Failure of a Member State to fulfil obligations — State aid — Aid declared unlawful and incompatible with the internal market — Obligation to recover — Obligation to provide information — Non-implementation — Pleas in defence — Absolute impossibility of implementation)

(2018/C 005/15)

Language of the case: Greek

Parties

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

Defendant: Hellenic Republic (represented by: K. Boskovits and V. Karra, acting as Agents)

Operative part of the judgment

The Court:

1. *Declares that, by failing to take within the prescribed period all the measures necessary to ensure implementation of Commission Decision 2014/539/EU of 27 March 2014 on State aid SA.34572 (13/C ex 13/NN) implemented by Greece for Larco General Mining & Metallurgical Company SA, and by failing to inform the European Commission of the measures taken pursuant to that decision, the Hellenic Republic has failed to fulfil its obligations under Articles 3 to 5 of that decision and the FEU Treaty;*

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

([1]) OJ C 383, 17.10.2016

Judgment of the Court (Sixth Chamber) of 9 November 2017 (reference for a preliminary ruling from the Naczelny Sąd Administracyjny — Poland) — AZ v Minister Finansów

(Case C-499/16) ([1])

(Reference for a preliminary ruling — Taxation — Value added tax (VAT) — Directive 2006/112/EC — Article 98 — Discretion of the Member States to apply a reduced rate to certain supplies of goods and services — Annexe III, point 1 — Foodstuffs — Pastry goods and cakes — Best-before date or use-by date — Principle of fiscal neutrality)

(2018/C 005/16)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Applicant: AZ

Defendant: Minister Finansów

Operative part of the judgment

Article 98 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that it does not preclude — provided that the principle of fiscal neutrality is complied with, which is for the referring court to ascertain — national legislation, such as that at issue in the main proceedings, which makes the application of the reduced VAT rate to fresh pastry goods and cakes depend solely on the criterion of their 'best-before date' or their 'use-by date'.

([1]) OJ C 22, 23.1.2017.

Judgment of the Court (Sixth Chamber) of 9 November 2017 (reference for a preliminary ruling from the Administrativen sad Sofia-grad — Bulgaria) — 'Wind Inovation 1' EOOD, in liquidation v Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' — Sofia

(Case C-552/16) ([1])

(Reference for a preliminary ruling — Taxation — Common system of value added tax — Directive 2006/112/EC — Dissolution of a company resulting in its removal from the value added tax (VAT) register — Obligation to calculate VAT on available assets and to pay the VAT calculated to the State — Maintenance or amendment of the law existing on the date of accession to the European Union — Second paragraph of Article 176 — Effect on the right to deduct — Article 168)

(2018/C 005/17)

Language of the case: Bulgarian

Referring court

Administrativen sad Sofia-grad

Parties to the main proceedings

Applicant: 'Wind Inovation 1' EOOD, in liquidation

Defendant: Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' — Sofia

Operative part of the judgment

1. *Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as not precluding national legislation pursuant to which the compulsory removal from the value added tax (VAT) register of a company whose dissolution has been ordered by court decision results in the obligation to calculate the input VAT due or paid on the available assets on the date of the dissolution of that company and to pay it to the State, on condition that that company no longer carries out economic transactions as from its dissolution.*

2. *Directive 2006/112, in particular Article 168 thereof, must be interpreted as precluding national legislation, such as that at issue in the main proceedings, pursuant to which the compulsory removal from the VAT register of a company whose dissolution has been ordered by court decision results, even where that company continues to carry out economic transactions whilst being placed under liquidation, in the obligation to calculate the input VAT due or paid on the available assets on the date of that dissolution and to pay it to the State and which, therefore, makes the right to deduct subject to compliance with that obligation.*

([1]) OJ C 22, 23.01.2017.

Judgment of the Court (First Chamber) of 9 November 2017 (request for a preliminary ruling from the Cour de cassation — France) — Tünkers France, Tünkers Maschinenbau GmbH v Expert France

(Case C-641/16) ([1])

(Reference for a preliminary ruling — Insolvency proceedings — Regulation (EC) No 1346/2000 — Court having jurisdiction — Action for unfair competition brought in the context of insolvency proceedings — Action brought by a company having its registered office in another Member State against the assignee of part of the business of a company subject to insolvency proceedings — Action not part of the proceedings or action deriving directly from those proceedings and closely connected with them)

(2018/C 005/18)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicants: Tünkers France, Tünkers Maschinenbau GmbH

Defendant: Expert France

Operative part of the judgment

Article 3(1) of Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings must be interpreted as meaning that an action for damages for unfair competition by which the assignee of part of the business acquired in the course of insolvency proceedings is accused of misrepresenting itself as being the exclusive distributor of articles manufactured by the debtor does not fall within the jurisdiction of the court which opened the insolvency proceedings.

([1]) OJ C 70, 6.3.2017.

Order of the Court (Third Chamber) of 26 October 2017 — (request for a preliminary ruling from the Nederlandstalige rechtbank van eerste aanleg Brussel — Belgium) — Criminal proceedings against Wamo BVBA, Luc Cecile Jozef Van Mol

(Case C-356/16) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Directive 2005/29/EC — Unfair commercial practices — National legislation prohibiting the advertising of procedures relating to plastic surgery or non-surgical plastic medicine)

(2018/C 005/19)

Language of the case: Dutch

Referring court

Nederlandstalige rechtbank van eerste aanleg Brussel

Parties in the criminal proceedings in the main proceedings

Wamo BVBA, Luc Cecile Jozef Van Mol

Operative part of the order

Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('the Unfair Commercial Practices Directive') must be interpreted as not precluding a provision of national law, such as that at issue in the main proceedings, which protects public health and the dignity and integrity of the professions of plastic surgeon and plastic doctor by prohibiting any natural or legal person from disseminating advertising for procedures relating to plastic surgery or non-surgical plastic medicine.

([1]) OJ C 335, 12.9.2016.

Order of the Court (Sixth Chamber) of 24 October 2017 — (request for a preliminary ruling from the Cour d'appel de Colmar — France) — Criminal proceedings against Belu Dienstleistung GmbH & Co KG and Stefan Nikless

(Case C-474/16) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Identical questions referred for a preliminary ruling — Coordination of social security systems — Regulation (EC) No 883/2004 — Applicable legislation — A1 certificate — Probative value)

(2018/C 005/20)

Language of the case: French

Referring court

Cour d'appel de Colmar

Parties to the criminal proceedings in the main proceedings

Belu Dienstleistung GmbH & Co KG, Stefan Nikless

Interveners: Syndicat Prism'emploi, Union départementale CGT du Bas-Rhin and Union de recouvrement des cotisations de sécurité sociale et d'allocations familiales d'Alsace (Urssaf), assuming the rights of the Urssaf du Bas-Rhin

Operative part of the order

Article 19 of 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 must be interpreted as meaning that an A1 certificate, issued by the institution designated by the competent authority of a Member State under Article 12(1) and (2) of Regulation (EC) No 883/2004 of the Parliament and of the Council of 29 April 2004 on the coordination of social security systems, is binding on both the social security institutions of the Member State in which the work is carried out and the courts of that Member State, even where it is found by those courts that the conditions under which the worker concerned carries out his activities clearly do not come within the material scope of that provision of Regulation No 883/2004.

([1]) OJ C 441, 28.11.2016.

Order of the Court (Eighth Chamber) of 24 October 2017 (requests for a preliminary ruling from the Tribunale Amministrativo Regionale per il Lazio — Italy) — Hitachi Rail Italy Investments Srl (C-655/16), Finmeccanica SpA (C-656/16) v Commissione Nazionale per le Società e la Borsa (Consob)

(Joined Cases C-655/16 and C-656/16) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Company law — Directive 2004/25/EC — Takeover bids — Second subparagraph of Article 5(4) — Possibility of changing the price of the offer in specific circumstances and in line with clearly determined criteria — National legislation providing an option for the supervisory authority to increase a takeover bid in the event of collusion between the offeror and the seller)

(2018/C 005/21)

Language of the cases: Italian

Referring court

Tribunale Amministrativo Regionale per il Lazio

Parties to the main proceedings

Applicants: Hitachi Rail Italy Investments Srl (C-655/16), Finmeccanica SpA (C-656/16)

Defendant: Commissione Nazionale per le Società e la Borsa (Consob)

Interveners: Amber Capital Italia Sgr SpA, Amber Capital Uk Llp, Bluebell Partners Limited, Elliot International Lp, The Liverpool Limited Partnership, Elliot Associates L.P.

Operative part of the order

The second subparagraph of Article 5(4) of Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which allows a national supervisory authority to adjust upwards the price of a takeover bid in the event of 'collusion', without setting out the specific conduct that characterises that notion, on condition that the interpretation of that notion can be deduced in a sufficiently clear, precise and foreseeable manner from that legislation, using methods of interpretation recognised by national law.

([1]) OJ C 121, 18.04.2017.

Order of the Court (Eighth Chamber) of 26 October 2017 (request for a preliminary ruling from the Tribunal Judicial da Comarca de Braga — Portugal) — Caixa Económica Montepio Geral v Carlos Samuel Pimenta Marinho and Others

(Case C-333/17) ([1])

(Reference for a preliminary ruling — Charter of Fundamental Rights of the European Union — Articles 21 and 38 — Non-discrimination — Consumer protection — Contract for a bank loan — Question which does not concern a rule of EU law other than those contained in the Charter of Fundamental Rights — Manifest lack of jurisdiction of the Court)

(2018/C 005/22)

Language of the case: Portuguese

Referring court

Tribunal Judicial da Comarca de Braga

Parties to the main proceedings

Applicant: Caixa Económica Montepio Geral

Defendants: Carlos Samuel Pimenta Marinho, Maria de Lurdes Coelho Pimenta Marinho, Daniel Pimenta Marinho, Vera da Conceição Pimenta Marinho

Operative part of the order

The Court of Justice of the European Union manifestly lacks jurisdiction to answer the question referred by the Tribunal Judicial da Comarca de Braga (District Court, Braga, Portugal) by decision of 29 March 2017.

([1]) OJ C 256, 07.08.2017

Request for a preliminary ruling from the Landgericht Frankfurt am Main (Germany) lodged on 18 August 2017 — Thomas Krauss v TUIfly GmbH

(Case C-500/17)

(2018/C 005/23)

Language of the case: German

Referring court

Landgericht Frankfurt am Main

Parties to the main proceedings

Applicant: Thomas Krauss

Defendant: TUIfly GmbH

By order of 28 September 2017, the Court removed the case from its Register.

Appeal brought on 24 August 2017 by Uniwersytet Wrocławski against the order of the General Court (Eighth Chamber) made on 13 June 2017 in Case T-137/16, Uniwersytet Wrocławski v Research Executive Agency (REA)

(Case C-515/17 P)

(2018/C 005/24)

Language of the case: Polish

Parties

Appellant: Uniwersytet Wrocławski (represented by: A. Krawczyk-Giehsmann and K. Szarek, adwokaci)

Other party to the proceedings: Research Executive Agency (REA)

Form of order sought

The appellant claims that the Court should:

— set aside the order under appeal;

— declare that the action was properly brought;

— order the other party to the proceedings to pay all of the costs.

Grounds of appeal and main arguments

The first ground of appeal alleges infringement of Article 19 of the Statute of the Court of Justice of the European Union. That ground is based on the submission that the interpretation given by the General Court regarding the application of that provision is flawed and contrary to the principles of proportionality and subsidiarity, in so far as it does not take into consideration the fact that the legal relationship indicated between the legal adviser (*radca prawny*) and the university is based on the independence and equality of the parties, and that, by its very nature, the profession of legal adviser in the Polish legal system is characterised by independence and an absence of subordination in relation to third parties and is also a profession of public trust.

The second ground of appeal alleges that the General Court infringed Article 119 of the Rules of Procedure of 23 April 2015. That ground is based on the submission that the General Court did not properly set out the reasons for its decision, because, in the grounds of the order under appeal, it provided an abstract statement and failed to link the view expressed to the facts of the present case, thereby significantly limiting the possibility for the appellant to put forward a proper defence.

Request for a preliminary ruling from the Pécsi Közigazgatási és Munkaügyi Bíróság (Hungary) lodged on 22 September 2017 — Alekszij Torubarov v Bevándorlási és Menekültügyi Hivatal

(Case C-556/17)

(2018/C 005/25)

Language of the case: Hungarian

Referring court

Pécsi Közigazgatási és Munkaügyi Bíróság

Parties to the main proceedings

Applicant: Alekszij Torubarov

Defendant: Bevándorlási és Menekültügyi Hivatal

Question referred

Is Article 46(3) of Directive 2013/32/EU ([1]) of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union, to be interpreted as meaning that the Hungarian courts have the power to amend administrative decisions of the competent asylum authority refusing international protection, and also to grant such protection?

([1]) OJ 2013, L 180, p. 60.

Appeal brought on 22 September 2017 by the Republic of Poland against the order of the General Court (Eighth Chamber) of 13 June 2017 in Case T-137/16, Uniwersytet Wrocławski v Research Executive Agency (REA)

(Case C-561/17 P)

(2018/C 005/26)

Language of the case: Polish

Parties

Appellant: Republic of Poland (represented by: B. Majczyna, acting as Agent)

Other parties to the proceedings: Uniwersytet Wrocławski, Research Executive Agency (REA)

Form of order sought

The appellant claims that the Court should:

— set aside in its entirety the order of the General Court of the European Union (Eighth Chamber) of 13 June 2017 in Case T-137/16, *Uniwersytet Wrocławski* v *Research Executive Agency (REA)*;

— refer the case back to the General Court for reconsideration;

— order that each party is to bear its own costs;

— assign the case to the Grand Chamber, in accordance with the third paragraph of Article 16 of the Statute of the Court of Justice of the European Union.

Grounds of appeal and main arguments

First, the Republic of Poland alleges that the order under appeal infringes the third and fourth paragraphs of Article 19 of the Statute by reason of an incorrect interpretation of that article. The order under appeal, it submits, is based on case-law of the Courts of the European Union according to which the requirement for an independent lawyer, derived from Article 19 of the Statute, is necessarily connected with the absence of any employment relationship whatsoever between that lawyer and his client. In the Republic of Poland's view, that case-law is fundamentally flawed and should be amended.

Moreover, the order under appeal, while being based on the existing case-law of the Courts of the European Union, at the same time goes beyond the limits established by that case-law. Thus, in the order under appeal the requirement of independence has been linked not only to the absence of any employment relationship, but also to the absence of any civil-law relationship and to the absence of any risk that the lawyer's professional environment might influence the legal opinion which he expresses.

The result of such an approach is a far-reaching restriction of the right of parties to defend themselves before the Courts of the European Union. Moreover, that restriction is based on extremely vague and discretionary criteria which lack any clear basis in EU law and do not serve any conceivable purpose.

Second, the Republic of Poland argues that the order under appeal infringes the principle of legal certainty. The order under appeal introduces a new, indeterminate condition for the independence of legal representatives, namely that there must be no risk of influence from a legal representative's professional environment; however, it provides no guidance as to how that risk might be assessed. As a result, the party concerned is not in a position to determine whether the legal representative whom it has selected satisfies the condition relating to independence and whether its action will be deemed admissible.

Third, the Republic of Poland alleges that the order under appeal lacks sufficient grounds for making it possible to understand why the General Court found that the legal representative does not meet the requirement for independence and why it dismissed the application signed by him.

In particular, the General Court failed to explain why a relationship such as that between the Uniwersytet Wrocławski and its legal representative had to be treated as equivalent to an employment relationship notwithstanding the absence of subordination. Furthermore, the General Court failed to explain on what general grounds it took into consideration circumstances other than those relating to the legal assistance provided by that legal representative. The General Court also failed to explain how the concept of professional environment should be understood in the case of a civil-law contract and what type of influence that environment might exert on that legal representative. Moreover, it is not apparent from the order under appeal what type of risk is involved with that type of contract and what constitutes the limitation of independence by reason of which it was necessary to exclude the legal representative.

Appeal brought on 4 October 2017 by ADR Center SpA against the judgment of the General Court (First Chamber, Extended Composition) delivered on 20 July 2017 in Case T-644/14: ADR Center SpA v European Commission

(Case C-584/17 P)

(2018/C 005/27)

Language of the case: English

Parties

Appellant: ADR Center SpA (represented by: A. Guillerme, avocate, T. Bontinck, avocat)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court of 20 July 2017, ADR v Commission (T-644/14);

— annul Commission Decision C(2014) 4485 final of 27 June 2014 concerning the recovery of part of the financial contribution paid to the applicant;

— pass final judgment on the dispute, allowing the claims submitted by the applicant at first instance;

— order the Commission to pay the costs of the present proceedings, including the costs of the applicants before this Court and before the General Court.

Pleas in law and main arguments

1) The General Court erred in law in interpreting the EU principle governing European Union financial aid, according to which the Union can subsidise only expenses which have actually been incurred.

The applicant considers that the EU General Court applied a particularly strict interpretation of this principle which is inconsistent with previous case law of the Court and with the European legislator's will.

2) The General Court committed an error of law in interpreting article 299 TFEU, article 79 of the EU Financial Regulation ([1]), article 47 of the EU Charter of fundamental rights and the ECJ's case law.

The applicant considers that the General Court wrongly interpreted articles 299 TFEU and article 79 § 2 of the Financial Regulation as conferring power on the Commission to adopt an enforceable recovery order in contractual matters. Moreover, the contested judgment is inconsistent with the Court of Justice's Lito Maieftiko Gynaikologiko kai Cheirourgiko Kentro AE / Commission case law. Finally, the effectiveness of the action based on article 272 TFEU is drastically reduced for the grant beneficiary, as the European Commission can decide to take action for enforced recovery before the final judgment of the competent Court.

([1]) Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ 2012, L 298, p. 1).

Request for a preliminary ruling from the Raad van State (Netherlands) lodged on 6 October 2017 — Staatssecretaris van Veiligheid en Justitie, I., D.

(Case C-586/17)

(2018/C 005/28)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Appellants: Staatssecretaris van Veiligheid en Justitie, I.

Other party: D.

Questions referred

1. (a) Does Article 46(3) of Directive 2013/32/EU ([1]) of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) …, read in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union, preclude a system under which the administrative court of first instance in asylum cases may not, in principle, take into account a ground for asylum first put forward by a foreign national in the judicial proceedings before it when assessing that action?

   (b) Does it matter in this regard whether a *de facto* new ground for asylum is put forward, that is to say, a ground for applying for international protection based on facts and circumstances which arose after the decision of the determining authority on the application for international protection, or whether it is a ground for asylum which was initially withheld, that is to say, a ground for applying for international protection which is based on facts and circumstances which arose before the decision of the determining authority on the application for international protection and which the foreign national knew about but was at fault for not disclosing in the administrative phase?

   (c) Does it matter in this regard whether the ground for asylum is put forward in the framework of judicial proceedings before the administrative court of first instance in asylum cases challenging a decision of the determining authority on a first application or on a subsequent application for international protection?

2. If Question 1(a) is answered in the affirmative, does EU law then also preclude an administrative court of first instance in asylum cases from choosing to refer the examination of a ground for asylum first put forward in the judicial proceedings before it for a fresh procedure before the determining authority, in order thereby to safeguard the due process of law in the judicial proceedings or to prevent those proceedings from being unduly delayed?

([1]) OJ 2013 L 180, p. 60.

Appeal brought on 9 October 2017 by the Kingdom of Spain against the judgment of the General Court (Sixth Chamber) delivered on 20 July 2017 in Case T-143/15 Kingdom of Spain v European Commission

(Case C-588/17 P)

(2018/C 005/29)

Language of the case: Spanish

Parties

Appellant: Kingdom of Spain (represented by: M. J. García-Valdecasas Dorrego, Agent)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— uphold its appeal and set aside, in part, the judgment of the General Court delivered on 20 July 2017 in Case T-143/15, *Kingdom of Spain* v *European Commission* (EU:T:2017:534), in so far as it concerns the financial correction imposed on the Kingdom of Spain excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2015 L 16, p. 33), corresponding to 'natural handicaps' and 'agri-environmental measures' in the Rural Development Program of the Autonomous Community of Castille and León, **as regards the amount corresponding to the share of the aid granted in respect of areas with 'natural handicaps', which amounts to EUR 1 793 798,22**; and

— annul, in the new judgment to be delivered, the Commission Implementing Decision of 16 January 2015, in so far it relates to the financial correction imposed on the Kingdom of Spain excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2015 L 16, p. 33), corresponding to **'natural handicaps' and 'agri-environmental measures' in the Rural Development Program of the Autonomous Community of Castile and León, as regards the amount corresponding to the share of the aid granted in respect of areas with 'natural handicaps', which amounts to EUR 1 793 798,22**.

Pleas in law and main arguments

1. Manifest distortion of the facts

There is a manifest distortion of the facts since (i) as the Kingdom of Spain submitted in its application and proved, an agreement was reached before the Conciliation Body concerning the base on which the financial correction should be applied and (ii) the Kingdom of Spain demonstrated how forage areas with no animals could be included in the scope of the measures at issue and, therefore, could be affected by the corrections imposed by the Commission.

2. Error of law concerning the extent of the value of the agreements of the Conciliation Body, which entails a manifest breach of the principle of sound administration and sincere cooperation

The General Court erred in law in that it disregarded the value and the effectiveness of partial agreements reached between the Commission and a Member State before the Conciliation Body. In addition, that error of law entails a manifest breach of the principle of sound administration and sincere cooperation since the General Court's reasoning makes it legitimate for an authority to disregard, unilaterally, and without giving any explanation, the agreements which it reaches with a Member State in a conciliation procedure which was legally designed precisely to enable the Commission and the Member States to reach an agreement.

3. Error of law in that the General Court failed to state adequate reasons for the judgment under appeal

The General Court did not rule on point III.2.3 of the application, in which the appellant argued that the Commission had infringed Article 31(2) of Regulation 1290/2005, ([1]) as well as the principle of proportionality, since the base which the Commission took into account in order to apply the financial correction included beneficiaries of the aid granted in respect of areas with 'handicaps' which did not contain forage areas.

4. Error of law concerning the scope of Article 31(2) of Regulation No 1290/2005 and the judicial review of the principle of proportionality, and breach of the principle of sound administration of justice

The General Court did not carry out the judicial review incumbent upon it by virtue of Article 31(2) of Regulation No 1290/2005 and the principle of proportionality, and which consists in determining whether the State fulfilled the obligation to show that the Commission erred as regards the financial consequences to be attached to that infringement. Nor did it examine the information adduced by the Kingdom of Spain demonstrating the Commission's error.

Moreover, the General Court's reasoning entails a breach of the principle of the sound administration of justice since it disregards the fact that the Kingdom of Spain determined the number of farms subject to the obligation to count livestock, and since it deviates from the subject-matter of the dispute as defined by the parties.

(1) Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (no longer in force) (OJ 2005, L 209, p. 1).

Action brought on 16 October 2017 — European Commission v Kingdom of Spain

(Case C-599/17)

(2018/C 005/30)

Language of the case: Spanish

Parties

Applicant: European Commission (represented by: J. Rius and T. Scharf, acting as Agents)

Defendant: Kingdom of Spain

Form of order sought

The applicant claims that the Court should:

— declare that, by failing to adopt, before 3 July 2016, the laws, regulatory and administrative provisions necessary to comply with Commission Implementing Directive (EU) 2015/2392 of 17 December 2015 on Regulation (EU) No 596/2014 of the European Parliament and of the Council (1) as regards reporting to competent authorities of actual or potential infringements of that Regulation, (2) or, in any event, by failing to notify those provisions to the Commission, the Kingdom of Spain has failed to fulfil its obligations under Article 13(1) of that Directive;

— order the Kingdom of Spain to pay the costs.

Pleas in law and main arguments

The period prescribed for the transposition of Commission Implementing Directive (EU) 2015/2392 into national law expired on 3 July 2016.

(1) Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ 2014, L 173, p. 1).

(2) OJ 2015, L 332, p. 126.

Request for a preliminary ruling from the Högsta förvaltningsdomstolen (Sweden) lodged on 24 October 2017 — Skatteverket v Memira Holding AB

(Case C-607/17)

(2018/C 005/31)

Language of the case: Swedish

Referring court

Högsta förvaltningsdomstolen

Parties to the main proceedings

Applicant: Skatteverket

Defendant: Memira Holding AB

Questions referred

1. Must account be taken, in the assessment of whether a loss in a subsidiary in another Member State is definitive within the meaning given in, inter alia, the case of *A*, and the parent company may thus deduct the loss on the basis of Article 49 TFEU, of the fact that, under the rules of the subsidiary's State, there are restrictions on the possibility for parties other than the party itself which made the loss to deduct the loss?
2. If a restriction such as that referred to in question 1 must be taken into consideration, must account then be taken of whether, in the case in question, there actually is another party in the subsidiary's State which could have deducted the losses if that were permitted there?

Request for a preliminary ruling from the Högsta förvaltningsdomstolen (Sweden) lodged on 24 October 2017 — Skatteverket v Holmen AB

(Case C-608/17)

(2018/C 005/32)

Language of the case: Swedish

Referring court

Högsta förvaltningsdomstolen

Parties to the main proceedings

Applicant: Skatteverket

Defendant: Holmen AB

Questions referred

1. In order for a parent company in one Member State to have the right — which follows from, inter alia, the case of *Marks & Spencer* — on the basis of Article 49 TFEU to deduct definitive losses in a subsidiary in another Member State, is it necessary that the subsidiary be directly owned by the parent company?
2. Is that part of a loss which, as a result of the rules in the subsidiary's State, it has not been possible set off against profits which were made there in a particular year, but instead could be carried over so that they could potentially be deducted in a future year, also to be regarded as definitive?
3. In the assessment of whether a loss is definitive, must account be taken of the fact that, under the rules in the subsidiary's State, the possibility for parties other than the party making the loss itself to deduct the loss is restricted?
4. If account is to be taken of a restriction such as that referred to in question 3, must regard be had to the extent to which the restriction has in fact led to it not being possible to set off any part of the losses against profits made by another party?

GENERAL COURT

Judgment of the General Court of 16 November 2017 — USFSPEI v Parliament and Council

(Case T-75/14) ([1])

(Action for annulment — Time limit for bringing proceedings — Inadmissibility — Non-contractual liability — Reform of the Staff Regulations and of the CEOS — Regulation (EU, Euratom) No 1023/2013 — Irregularities during the procedure for the adoption of the acts — Failure to consult the Staff Regulations Committee and the staff unions — Sufficiently serious breach of a rule of law intended to confer rights on individuals)

(2018/C 005/33)

Language of the case: French

Parties

Applicant: Union syndicale fédérale de services publics européens et internationaux (USFSPEI) (Brussels, Belgium) (represented initially by: J.-N. Louis and D. de Abreu Caldas and subsequently by: J.-N. Louis, lawyers)

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

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

Re:

Firstly, application on the basis of Article 263 TFEU seeking the annulment of Article 1(27), (32), (46), (61), (64)(b), (65)(b) and (67)(d) of Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union (OJ 2013 L 287, p. 15) and, secondly, application on the basis of Article 268 TFEU seeking compensation for the loss which the applicant allegedly suffered following the adoption of Regulation No 1023/2013 in breach of the agreement on the 2004 Reform, of Articles 12 and 27 of the Charter of Fundamental Rights of the European Union, of Article 10 of the Staff Regulations and of the consultation procedure provided for in the Council Decision of 23 June 1981.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Union syndicale fédérale de services publics européens et internationaux (USFSPEI) to bear its own costs and to pay the costs incurred by the European Parliament and the Council of the European Union;*

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

([1]) OJ C 194, 24.6.2014.

Judgment of the General Court of 14 November 2017 — Alfamicro v Commission

(Case T-831/14) ([1])

(Arbitration clause — Grant agreement concluded under the Competitiveness and Innovation Framework Programme (CIP) (2007-2013) — Audit report — Eligible costs — Reimbursement of amounts paid — Proportionality — Legitimate expectations — Legal certainty — Principle of good administration — Obligation to state reasons — Amendment of the form of order sought in the course of the proceedings — Set-off of claims — Counterclaim — Default interest)

(2018/C 005/34)

Language of the case: Portuguese

Parties

Applicant: Alfamicro — Sistemas de computadores, Sociedade Unipessoal, Lda. (Cascais, Portugal) (represented by: initially, G. Gentil Anastácio, D. Pirra Xarepe and L. Rodrigues Carvalho, and subsequently G. Gentil Anastácio and D. Pirra Xarepe, lawyers)

Defendant: European Commission (represented by: J. Estrada de Solà and P. Guerra e Andrade, acting as Agents)

Re:

First, application based on Article 272 TFEU and seeking, in essence, a declaration that the debt claimed by the Commission against the applicant under Grant Agreement No 238882 on the EU financing of the 'Save Energy' project, concluded under the Competitiveness and Innovation Framework Programme (2007-2013) established by Decision No 1639/2006/EC of the European Parliament and of the Council of 24 October 2006 (OJ 2006 L 310, p. 15) is non-existent, and, secondly, counterclaim seeking, in essence, an order that the applicant repay the subsidy wrongly paid under that grant agreement.

Operative part of the judgment

The Court:

1. *Dismisses the action brought by Alfamicro — Sistemas de computadores, Sociedade Unipessoal, Lda;*

2. *Orders Alfamicro — Sistemas de computadores, Sociedade Unipessoal to pay to the European Commission the sum of EUR 277 849,93, increased by default interest at the rate of EUR 26,88 per day with effect from 20 June 2015;*

3. *Orders Alfamicro — Sistemas de computadores, Sociedade Unipessoal to pay the costs.*

([1]) OJ C 73, 2.3.2015.

Judgment of the General Court of 10 November 2017 — Icap and Others v Commission

(Case T-180/15) ([1])

(Competition — Agreements, decisions and concerted practices — Yen interest rate derivatives sector — Decision finding six infringements of Article 101 TFEU and Article 53 of the EEA Agreement — Manipulation of the JPY LIBOR and Euroyen TIBOR interbank reference rates — Restriction of competition by object — Participation of a broker in the infringements — 'Hybrid' settlement procedure — Principle of the presumption of innocence — Principle of sound administration — Fines — Basic amount — Exceptional adjustment — Article 23(2) of Regulation (EC) No 1/2003 — Obligation to state reasons)

(2018/C 005/35)

Language of the case: English

Parties

Applicants: Icap plc (London, United Kingdom), Icap Management Services Ltd (London) and Icap New Zealand Ltd (Wellington, New Zealand) (represented by: C. Riis-Madsen and S. Frank, lawyers)

Defendant: European Commission (represented by: V. Bottka, B. Mongin and J. Norris-Usher, acting as Agents)

Re:

Action brought under Article 263 TFEU for annulment of Commission Decision C(2015) 432 final of 4 February 2015 relating to proceedings under Article 101 TFEU and Article 53 of the EEA Agreement (Case AT.39861 — Yen Interest Rate Derivatives), and, in the alternative, for a reduction in the amount of the fines imposed on the applicants in that decision.

Operative part of the judgment

The Court:

1. *Annuls Article 1(a) of European Commission Decision C(2015) 432 final of 4 February 2015 relating to proceedings under Article 101 TFEU and Article 53 of the EEA Agreement (Case AT.39861 — Yen Interest Rate Derivatives), inasmuch as it relates to the period after 22 August 2007;*

2. *Annuls Article 1(b) of Decision C(2015) 432 final;*

3. *Annuls Article 1(d) of Decision C(2015) 432 final inasmuch as it relates to the period from 5 March to 27 April 2010;*

4. *Annuls Article 1(e) of Decision C(2015) 432 final inasmuch as it relates to the period prior to 18 May 2010;*

5. *Annuls Article 1(f) of Decision C(2015) 432 final inasmuch as it relates to the period prior to 18 May 2010;*

6. *Annuls Article 2 of Decision C(2015) 432 final;*

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

8. *Orders Icap plc, Icap Management Services Ltd and Icap New Zealand Ltd to bear one quarter of their own costs;*

9. *Orders the Commission to bear its own costs and to pay three quarters of the costs of Icap, Icap Management Services and Icap New Zealand.*

([1]) OJ C 245, 27.7.2015.

Judgment of the General Court of 16 November 2017 — European Dynamics Luxembourg and Others v EBA

(Case T-229/15) ([1])

(Public service contracts — Tendering procedure — Provision of interim staff for IT services — Rejection of a tenderer's bid — Obligation to state reasons — Manifest error of assessment)

(2018/C 005/36)

Language of the case: Greek

Parties

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

Defendant: European Banking Authority (EBA) (represented by: J. Overett Somnier, J. Mifsud and S. Giordano, acting as Agents, assisted by H.-G. Kamann and A. Dritsa, lawyers)

Re:

First, an action under Article 263 TFEU seeking annulment of the decision of the EBA of 2 March 2015 rejecting the applicants' tender submitted in response to the restricted tendering procedure EBA/2014/06/OPS/SER/RT with respect to Lot 1, titled 'Supply of interim staff: Supply of interim staff for Information Technology' and, second, an action under Article 268 TFEU seeking compensation for harm that the applicants allegedly suffered following that decision as a result of the loss of opportunity to be ranked in first place in the cascade the contract award procedure at issue, amounting to EUR 300 000, together with interest

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders European Dynamics Luxembourg SA, Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE and European Dynamics Belgium SA to pay the costs.*

([1]) OJ C 262, 10.8.2015

Order of the General Court of 8 November 2017 — Klymenko v Council

(Case T-245/15) ([1])

(Common foreign and security policy — Restrictive measures taken in view of the situation in Ukraine — Freezing of funds — List of persons, entities and bodies subject to the freezing of funds and economic resources — Maintenance of the applicant's name on the list — Duty to state reasons — Legal basis — Manifest error of assessment — Rights of defence — Right to property — Right to reputation — Proportionality — Protection of fundamental rights equivalent to that guaranteed in the European Union — Plea of illegality)

(2018/C 005/37)

Language of the case: English

Parties

Applicant: Oleksandr Viktorovych Klymenko (Moscow, Russia) (represented initially by B. Kennelly QC, J. Pobjoy, Barrister, and R. Gherson, Solicitor, subsequently by B. Kennelly, J. Pobjoy, R. Gherson and T. Garner, Solicitor, and lastly by M. Phelippeau, lawyer)

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

Re:

APPLICATION under Article 263 TFEU seeking the annulment of (i) Council Decision (CFSP) 2015/364 of 5 March 2015 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2015, L 62, p. 25) and Council Implementing Regulation (EU) 2015/357 of 5 March 2015 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2015, L 62, p. 1); (ii) Council Decision (CFSP) 2016/318 of 4 March 2016 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2016 L 60, p. 76) and Council Implementing Regulation (EU) 2016/311 of 4 March 2016 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2016 L 60, p. 1), and (iii) Council Decision (CFSP) 2017/381 of 3 March 2017 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2017 L 58, p. 34) and Council Implementing Regulation (EU) 2017/374 of 3 March 2017 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2017 L 58, p. 1), in so far as the applicant's name was retained on the list of persons, entities and bodies subject to those restrictive measures.

Operative part of the order

The Court:

1. *Dismisses the action;*

2. *Orders Mr Oleksandr Viktorovych Klymenko to pay the costs.*

(1) OJ C 302, 14.9.2015.

Judgment of the General Court of 8 November 2017 — Ivanyushchenko v Council

(Case T-246/15) (1)

(Common foreign and security policy — Restrictive measures taken in view of the situation in Ukraine — Freezing of funds — List of persons, entities and bodies subject to the freezing of funds and economic resources — Maintenance of the applicant's name on the list — Manifest error of assessment)

(2018/C 005/38)

Language of the case: English

Parties

Applicant: Yuriy Volodymyrovych Ivanyushchenko (Yenakievo, Ukraine), (represented by: B. Kennelly QC, J. Pobjoy, Barrister, R. Gherson and T. Garner, Solicitors)

Defendant: Council of the European Union (represented initially by J.-P. Hix and N. Rouam, and subsequently by J.-P. Hix and P. Mahnič Bruni, acting as Agents)

Re:

APPLICATION under Article 263 TFEU seeking the annulment of (i) Council Decision (CFSP) 2015/364 of 5 March 2015 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2015 L 62, p. 25) and Council Implementing Regulation (EU) 2015/357 of 5 March 2015 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2015 L 62, p. 1), and (ii) Council Decision (CFSP) 2016/318 of 4 March 2016 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2016 L 60, p. 76) and Council Implementing Regulation (EU) 2016/311 of 4 March 2016 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ 2016 L 60, p. 1), in so far as the applicant's name was maintained on the list of persons, entities and bodies subject to those restrictive measures.

Operative part of the judgment

The Court:

1. *Annuls Council Decision (CFSP) 2015/364 of 5 March 2015 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine and Council Implementing Regulation (EU) 2015/357 of 5 March 2015 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine in so far as they apply to the applicant;*

2. *Annuls Council Decision (CFSP) 2016/318 of 4 March 2016 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine and Council Implementing Regulation (EU) 2015/311 of 4 March 2016 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine in so far as they apply to the applicant;*

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

(1) OJ C 236, 20.7.2015.

Judgment of the General Court of of 17 November 2017 — Gmina Miasto Gdynia and Port Lotniczy Gdynia Kosakowo v Commission

(Case T-263/15) (1)

(State aid — Airport infrastructure — Public finance granted by the municipalities of Gdynia and Kosakowo in favour of the Gdynia-Kosakowo airport — Decision declaring the aid incompatible with the internal market and ordering its recovery — Withdrawal of a decision — Failure to re-open the formal investigation procedure — Change in the legal regime — Procedural rights of interested parties — Infringement of essential procedural requirements)

(2018/C 005/39)

Language of the case: Polish

Parties

Applicants: Gmina Miasto Gdynia (Gdynia, Poland) (represented by: T. Koncewicz, K. Gruszecka-Spychała and M. Le Berre, lawyers), Port Lotniczy Gdynia Kosakowo sp. z o.o., (Gdynia) (represented by P. K. Rosiak, lawyer)

Defendant: European Commission (represented by: K. Herrmann and S. Noë, Agents)

Intervener in support of the applicant: Republic of Poland (represented by B. Majczyna, M. Rzotkiewicz and E. Gromnicka, Agents)

Re:

Action brought under Article 263 TFEU and seeking the annulment of Articles 2 to 5 Commission Decision (EU) 2015/1586 of 26 February 2015 on measure SA.35388 (13/C) (ex 13/NN and ex 12/N) — Poland — Setting up the Gdynia-Kosakowo Airport (OJ 2015 L 250, p. 165)

Operative part of the judgment

The Court:

1. *Annuls Articles 2 to 5 of Commission Decision (EU) 2015/1586 of 26 February 2015 on the measure SA.35388 (13/C) (ex 13/NN and ex 12/N) — Poland — Setting up the Gdynia-Kosakowo airport;*

2. *Orders the European Commission to bear its own costs and those incurred by Gmina Miasto Gdynia and Port Lotniczy Gdynia Kosakowo sp. zo.o.*

3. *Orders the Republic of Poland to bear its own costs.*

(1) OJ C 254, 3.8.2015.

Judgment of the General Court of 10 November 2017 — Jema Energy v Joint Undertaking Fusion for Energy

(Case T-668/15) ([1])

(Public supply contracts — Call for tenders — Supply of the Acceleration Grid Power Supply Conversion System — Rejection of a submitted tender — Transparency — Legal certainty — Equal treatment — Proportionality)

(2018/C 005/40)

Language of the case: Spanish

Parties

Applicant: Jema Energy, SA (Lasarte-Oria, Spain) (represented by: N. Rey Rey, lawyer)

Defendant: European Joint Undertaking for ITER and the Development of Fusion Energy (represented by: R. Hanak, G. Poszler and S. Bernal Blanco, acting as Agents, and by P. Wytinck and B. Hoorelbeke, lawyers)

Re:

Application based on Article 263 TFEU and seeking, inter alia, annulment of the decision of the European Joint Undertaking for ITER and the Development of Fusion Energy of 21 September 2015, taken in the context of the tendering procedure F4E-OPE-278, rejecting the applicant's tender for Lot No 1 concerning the Acceleration Grid Power Supply Conversion System (AGPS-CS).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Jema Energy, SA to pay the costs.*

([1]) OJ C 27, 25.1.2016.

Judgment of the General Court of 14 November 2017 — Claranet Europe v EUIPO — Claro (claranet)

(Case T-129/16) ([1])

(EU trade mark — Opposition proceedings — Application for the EU figurative mark claranet — Earlier Benelux word mark CLARO — Relative ground for refusal — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

(2018/C 005/41)

Language of the case: English

Parties

Applicant: Claranet Europe Ltd (St Helier, Jersey) (represented by: G. Crown, D. Farnsworth and O. Fairhurst, Solicitors, and A. Bryson, Barrister)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Claro SA (São Paulo, Brazil)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 26 January 2016 (Case R 803/2015-4), relating to opposition proceedings between Claro and Claranet Europe.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Claranet Europe Ltd to bear its own costs and to pay those incurred by the European Union Intellectual Property Office (EUIPO).*

([1]) OJ C 175, 17.5.2016.

Judgment of the General Court of 8 November 2017 — Pempe v EUIPO — Marshall Amplification (THOMAS MARSHALL GARMENTS OF LEGENDS)

(Case T-271/16) ([1])

(EU trade mark — Opposition proceedings — Application for the EU figurative mark THOMAS MARSHALL GARMENTS OF LEGENDS — Earlier EU word and figurative marks MARSHALL and Marshall AMPLIFICATION — Article 42(2) and (3) of Regulation (EC) No 207/2009 (now Article 47(2) and (3) of Regulation (EU) 2017/1001) — Admissibility of the request for proof of the earlier marks' genuine use — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

(2018/C 005/42)

Language of the case: English

Parties

Applicant: Yusuf Pempe (Créteil, France) (represented by: A. Vivès-Albertini, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Marshall Amplification plc (Milton Keynes, United Kingdom)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 16 March 2016 (Case R 376/2015-5), relating to opposition proceedings between Marshall Amplification and Mr Pempe.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Yusuf Pempe to pay the costs.*

([1]) OJ C 251, 11.07.2016.

Judgment of the General Court of 16 November 2017 — Carrera Brands v EUIPO — Autec (Carrera)

(Case T-419/16) ([1])

(EU trade mark — Revocation proceedings — EU word mark Carrera — Article 56(1)(a) of Regulation (EC) No 207/2009 (now Article 63(1)(a) of Regulation (EU) 2017/1001) — Admissibility of the application for revocation — Non-challenge agreement — Decisions of the national courts — Abuse of rights — Rule 20(7)(c) of Regulation (EC) No 2868/95 (now Article 71(1)(a) of Delegated Regulation (EU) 2017/1430) — Application for suspension of the proceedings before EUIPO)

(2018/C 005/43)

Language of the case: German

Parties

Applicant: Carrera Brands Ltd (Hong Kong, China) (represented by: C. Markowsky, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Autec AG (Nuremberg, Germany) (represented by: C. Früchtl, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 6 June 2016 (Case R 278/2015-4), relating to revocation proceedings between Autec and Carrera Brands.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Carrera Brands Ltd to pay the costs.*

([1]) OJ C 343, 19.9.2016.

Judgment of the General Court of 16 November 2017 — Galletas Gullón v EUIPO — HUG (GULLON DARVIDA)

(Case T-456/16) ([1])

(EU trade mark — Opposition proceedings — Application for the EU word mark GULLON DARVIDA — Earlier international and national word marks DAR VIDA — Documents produced for the first time before the Board of Appeal — Discretion granted by Article 76(2) of Regulation (EC) No 207/2009 (now Article 95(2) of Regulation (EU) 2017/1001) — Rule 19(1) and Rule 20(1) of Regulation (EC) No 2868/95 (now Article 7(1) and Article 8(1) and (7) of Delegated Regulation (EU) 2017/1430) — Rule 50(1) of Regulation No 2868/95 — Relative ground for refusal — Article 8(1)(b) of Regulation No 207/2009 (now Article 8(1)(b) of Regulation 2017/1001) — Likelihood of confusion)

(2018/C 005/44)

Language of the case: English

Parties

Applicant: Galletas Gullón, SA (Aguilar de Campoo, Spain) (represented by: I. Escudero Pérez, lawyer)

Defendant: European Union Intellectual Property Office (represented by: E. Zaera Cuadrado, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Hug AG (Malters, Switzerland) (represented by: A. Renck and J. Schmitt, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 13 June 2016 (Case R 773/2015-4) relating to opposition proceedings between Hug and Galletas Gullón.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Galletas Gullón, SA to bear its own costs and to pay those incurred by the European Union Intellectual Property Office (EUIPO) and by Hug AG.*

([1]) OJ C 383, 17.10.2016.

Judgment of the General Court of 16 November 2017 — Acquafarm v Commission

(Case T-458/16) ([1])

(Non-contractual liability — Fisheries — Operational programme financed by the European Union — EU rules prohibiting imports of crustaceans from Australia — Sufficiently serious breach of a rule of law conferring rights on individuals — Omission to act — Legitimate expectations)

(2018/C 005/45)

Language of the case: Spanish

Parties

Applicant: Acquafarm, SL (Huelva, Spain) (represented by: A. Pérez Moreno, lawyer)

Defendant: European Commission (represented by: P. Arenas, I. Galindo Martín and F. Moro, Agents)

Re:

Action under Article 268 TFEU claiming compensation for the injury allegedly suffered by the applicant as a result of the impossibility of completing an aquaculture project involving crustaceans from Australia and co-financed on the basis of Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund (OJ 2006 L 223, p. 1) by reason of the ban on importing those crustaceans in accordance with the provisions of Commission Regulation (EC) No 1251/2008 of 12 December 2008 implementing Council Directive 2006/88/EC as regards conditions and certification requirements for the placing on the market and the import into the Community of aquaculture animals and products thereof and laying down a list of vector species (OJ 2008 L 337, p. 41).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Acquafarm, SL to bear its own costs and to pay those incurred by the European Commission.*

([1]) OJ C 419, 14.11.2016.

Judgment of the General Court of 17 November 2017 — Teeäär v ECB

(Case T-555/16) ([1])

(Civil service — ECB Staff — Career transition Support — Lack of competence of the author of an act adversely affecting a party — Rules of sound administration in the management of staff — Material and non-material damage)

(2018/C 005/46)

Language of the case: English

Parties

Applicant: Raivo Teeäär (Tallinn, Estonia) (represented by: initially, L. Levi and M. Vandenbussche, and subsequently, L. Levi, lawyers)

Defendant: European Central Bank (ECB) (represented by: F. Malfrère and K. Kaiser, acting as Agents, and by B. Wägenbaur, lawyer)

Re:

Application based on Article 270 TFEU and seeking, first, annulment of the ECB's decision of 18 August 2014 rejecting the applicant's application for career transition support and, secondly, compensation in respect of the material and non-material harm allegedly suffered by the applicant

Operative part of the judgment

The Court:

1. *Annuls the decision of the European Central Bank (ECB) of 18 August 2014 rejecting Mr Raivo Teeäär's application for the career transition support put in place by that institution;*

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

3. *Orders the ECB to pay the costs.*

([1]) OJ C 279, 24.8.2015 (case initially registered before the Civil Service Tribunal of the European Union under number F-86/15 and transferred to the General Court of the European Union on 1.9.2016).

Judgment of the General Court of 14 November 2017 — Vincenti v EUIPO

(Case T-586/16) ([1])

(Civil service — Officials — Promotion — 2015 promotion exercise — Lack of staff reports as a result of sick leave — General provisions for implementing Article 45 of the Staff Regulations)

(2018/C 005/47)

Language of the case: English

Parties

Applicant: Guillaume Vincenti (Alicante, Spain) (represented by: H. Tettenborn, lawyer)

Defendant: European Union Intellectual Property Office (represented by: K. Tóth and A. Lukošiūtė, acting as Agents)

Re:

Application under Article 270 TFEU seeking annulment of the decision of EUIPO of 24 July 2015 not to promote the applicant to the next grade (AST 8) in the 2015 promotion procedure by not including his name on the list of officials promoted in the 2015 promotion exercise.

Operative part of the judgment

The Court:

1. *Annuls the decision of the European Union Intellectual Property Office (EUIPO) of 24 July 2015 establishing the list of officials promoted in the 2015 promotion exercise in so far as Mr Guillaume Vincenti was not taken into consideration for the 2015 promotion exercise;*

2. *Orders EUIPO to pay the costs.*

([1]) OJ C 191, 30.5.2016 (Case initially registered before the European Union Civil Service Tribunal as Case F-16/16 and transferred to the General Court of the European Union on 1 September 2016).

Judgment of the General Court of 14 November 2017 — De Meyer and Others v Commission

(Case T-667/16 P) ([1])

(Appeal — Civil service — Officials — Promotion — 2014 promotion exercise — List of officials proposed for promotion by the Directors-General and heads of service — Omission of the appellants' names — Obligation to state reasons — No error of law — No distortion of the evidence — Application for the recusal of a judge)

(2018/C 005/48)

Language of the case: English

Parties

Appellants: Pieter De Meyer (Brussels, Belgium) and the other appellants whose names appear in the annex to the judgment (represented by R. Rata, lawyer)

Other party to the proceedings: European Commission (represented initially by G. Berscheid, C. Berardis-Kayser and A.-A. Gilly, and subsequently by G. Berscheid, G. Gattinara and C. Berardis-Kayser, acting as Agents)

Re:

APPEAL brought against the judgment of the European Union Civil Service Tribunal (Single Judge) of 20 July 2016, *Adriaen and Others* v *Commission* (F-113/15, EU:F:2016:162), and seeking to have that judgment set aside.

Operative part of the judgment

The Court:

1. *Dismisses the appeal.*

2. *Orders Mr Pieter De Meyer and the other officials whose names appear in the annex to bear their own costs and to pay those incurred by the European Commission in the present appeal proceedings.*

([1]) OJ C 441, 28.11.2016.

Judgment of the General Court of 14 November 2017 — HL v Commission

(Case T-668/16 P) ([1])

(Appeal — Civil service — Officials — Promotion — 2014 promotion exercise — List of officials proposed for promotion by the Directors-General and heads of service — Omission of the appellant's name — Obligation to state reasons — No error of law — No distortion of the evidence — Application for the recusal of a judge)

(2018/C 005/49)

Language of the case: English

Parties

Appellant: HL (represented by: R. Rata, lawyer)

Other party to the proceedings: European Commission (represented by: initially by G. Berscheid, C. Berardis-Kayser and A.-A. Gilly, and subsequently by Berscheid, G. Gattinara and Berardis-Kayser, Agents,)

Re:

Appeal brought against the judgment of the European Union Civil Service Tribunal (Single Judge) of 20 July 2016, *HL* v *Commission* (F-112/15, EU:F:2016:161), and seeking to have that judgment set aside

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

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

([1]) OJ C 441, 28.11.2016.

Judgment of the General Court of 17 November 2017 — Ciarko v EUIPO — Maan (cooker hood)

(Case T-684/16) ([1])

(Community design — Invalidity proceedings — Registered Community design representing a cooker hood — Earlier Community design — Ground for invalidity — Lack of individual character — Informed user — Degree of freedom of the designer — No different overall impression — Article 6 and Article 25(1)(b) of Regulation (EC) No 6/2002)

(2018/C 005/50)

Language of the case: Polish

Parties

Applicant: Ciarko spółka z ograniczoną odpowiedzialnością sp.k.(Sanok, Poland) (represented by: M. Żabińska, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Maan sp. z o.o. (Grójec, Poland)

Re:

Action brought against the decision of the Third Board of Appeal of EUIPO of 13 July 2016 (Case R 1212/2015-3) concerning invalidity proceedings between Maan and Ciarko spółka z ograniczoną odpowiedzialnością.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Ciarko spółka z ograniczoną odpowiedzialnością sp.k. to bear its own costs and to pay those incurred by the European Union Intellectual Property Office (EUIPO);*

3. *Orders Maan sp. z o.o. to bear its own costs.*

(1) OJ C 410, 7.11.2016.

Judgment of the General Court of 16 November 2017 — Mapei v EUIPO — Steenfabrieken Vandersanden (zerø)

(Case T-722/16) (1)

(EU trademark — Opposition proceedings — Application for the EU figurative mark zerø — Earlier EU word mark ZERO — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

(2018/C 005/51)

Language of the case: French

Parties

Applicant: Mapei SpA (Milan, Italy) (represented by: F. Caricato, then M. Fazzini, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Steenfabrieken Vandersanden NV (Bilzen, Belgium) (represented by: J. Muyldermans and P. Maeyaert, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 21 July 2016 (Case R 2371/2015-1), relating to opposition proceedings between Steenfabrieken Vandersanden and Mapei.

Operative part of the judgment

The Court:

1. *dismisses the action;*

2. *orders Mapei SpA to pay the costs.*

(1) OJ C 462, 12.12.2016

Judgment of the General Court of 16 November 2017 — Mapei v EUIPO — Steenfabrieken Vandersanden (RE-CONzerø)

(Case T-723/16) ([1])

(EU trade mark — Opposition proceedings — Application for EU figurative mark RE-CONzerø — Earlier EU word mark ZERO — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001) — Obligation to state reasons — Article 75 of Regulation No 207/2009 (now Article 94 of Regulation 2017/1001))

(2018/C 005/52)

Language of the case: French

Parties

Applicant: Mapei SpA (Milan, Italy) (represented by: initially, F. Caricato and, subsequently, M. Fazzini, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Steenfabrieken Vandersanden NV (Bilzen, Belgium) (represented by: J. Muyldermans and P. Maeyaert, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 21 July 2016 (Case R 2374/2015-1), relating to opposition proceedings between Steenfabrieken Vandersanden and Mapei.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mapei SpA to pay the costs.*

([1]) OJ C 462, 12.12.2016.

Judgment of the General Court of 16 November 2017 — Nanogate v EUIPO (metals)

(Case T-767/16) ([1])

(European Union trade mark — Application for EU figurative mark metals — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 207/2009 (now Article 7(1)(c) of Regulation (EU) 2017/1001))

(2018/C 005/53)

Language of the case: German

Parties

Applicant: Nanogate AG (Quierschied, Germany) (represented by: A. Theis, lawyer)

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

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 29 August 2016 (Case R 2361/2015-5) concerning an application for registration of figurative sign metals as an EU trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

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

([1]) OJ C 475, 19.12.2016.

Judgment of the General Court of 17 November 2017 — Endoceutics v EUIPO — Merck (FEMIBION)

(Case T-802/16) ([1])

(EU trade mark — Revocation proceedings — EU word mark FEMIBION — Partial revocation — Article 51(1)(a) of Regulation (EC) No 207/2009 (now Article 58(1)(a) of Regulation (EU) 2017/1001) — Proof of genuine use of the mark — Classification of the goods in respect of which genuine use has been shown)

(2018/C 005/54)

Language of the case: English

Parties

Applicant: Endoceutics, Inc. (Quebec, Canada) (represented by: M. Wahlin, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Merck KGaA (Darmstadt, Germany) (represented by: M. Best, U. Pfleghar and S. Schäffner, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 14 July 2016 (Case R 1608/2015-1), concerning revocation proceedings between Endoceutics and Merck.

Operative part of the judgment

The Court:

1. *Annuls the decision of the First Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 14 July 2016 (Case R 1608/2015-1), in so far as it maintained registration of the EU trade mark for 'pharmaceutical preparations for immune system support, for menopause, for menstruation, for treatment and management of pregnancy, for the prevention, treatment and management of stress, for the prevention, treatment and management of stress [caused by] ill-balanced or deficient nutrition';*

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

3. *Orders Merck KGaA to pay, in addition to its own costs, half of the costs incurred by Endoceutics Inc. before the General Court and the costs incurred by Endoceutics before the Board of Appeal;*

4. *Orders Endoceutics to bear half of its own costs;*

5. *Orders EUIPO to bear its own costs.*

([1]) OJ C 22, 23.1.2017.

Order of the General Court of 18 October 2017 — United Parcel Service v Commission

(Case T-194/13 OST) ([1])

(Article 165 of the Rules of Procedure — Failure to adjudicate — Intervention in support of the unsuccessful party — Costs associated with the intervention — Amendment of the form of order sought in the course of proceeding)

(2018/C 005/55)

Language of the case: English

Parties

Applicant: United Parcel Service Inc. (Atlanta, Georgia, United States) (represented initially by A. Ryan, B. Graham, Solicitors, W. Knibbeler and P. Stamou, lawyers, and subsequently by A. Ryan, W. Knibbeler, P. Stamou, A. Pliego Selie, F. Hoseinian and P. van den Berg, lawyers)

Defendant: European Commission (represented initially by T. Christoforou, N. Khan, A. Biolan, N. von Lingen and H. Leupold, and subsequently by T. Christoforou, N. Khan, A. Biolan, and H. Leupold, acting as Agents)

Intervener in support of the defendant: FedEx Corp. (Memphis, Tennessee, United States) (represented initially by F. Carlin, Barrister, G. Bushell, Solicitor, and Q. Azau, lawyer, and subsequently by F. Carlin, G. Bushell and N. Niejahr, lawyers)

Re:

APPLICATION pursuant to Article 165 of the Rules of Procedure of the General Court.

Operative part of the order

1. *Paragraph 223 of the judgment of 7 March 2017, United Parcel Service v Commission, T-194/13, EU:T:2017:144 is amended as follows: 'Under Article 134(1) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Furthermore, under Article 134(2) of the Rules of Procedure, where there is more than one unsuccessful party the Court is to decide how the costs are to be shared. Since the Commission and the intervener have been unsuccessful, first, the Commission must be ordered to bear its own costs and to pay those incurred by the applicant, except the costs in connection with the intervention. Secondly, the intervener must be ordered to bear, in addition to its own costs, the applicant's costs in connection with its intervention'.*

2. *Paragraph 2 of the operative part of the judgment of 7 March 2017, United Parcel Service v Commission, T-194/13, EU:T:2017:144 is amended as follows: 'The European Commission shall pay, in addition to its own costs, those of United Parcel Service, Inc., except the costs in connection with the intervention'.*

3. *Paragraph 3 of the operative part of the judgment of 7 March 2017, United Parcel Service v Commission, T-194/13, EU:T:2017:144 is amended as follows: 'FedEx Corp. shall pay, in addition to its own costs, the costs of United Parcel Service, Inc., in connection with its intervention'.*

4. *United Parcel Service, Inc., the Commission and FedEx shall bear their own costs in connection with the present case.*

([1]) OJ C 147, 25.5.213.

Order of the General Court of 25 October 2017 — Novartis Europharm v Commission

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

(Medicinal products for human use — Marketing authorisation for the medicinal product Zoledronic acid Teva Generics — Zoledronic acid — Period of protection of the medicinal product Aclasta containing the active substance zoledronic acid — Withdrawal of the contested measure — No need to adjudicate)

(2018/C 005/56)

Language of the case: English

Parties

Applicant: Novartis Europharm Ltd (Camberley, United Kingdom) (represented by: C. Schoonderbeek, lawyer)

Defendant: European Commission (represented by: A. Sipos and M. Wilderspin, Agents)

Re:

Action brought under Article 263 TFEU seeking annulment of Commission Implementing Decision C(2014) 2155 final of 27 March 2014 granting a marketing authorisation to Teva Generics BV for the medicinal product for human use Zoledronic acid Teva Generics — Zoledronic Acid under Article 3 of Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency (OJ 2004 L 136, p. 1).

Operative part of the order

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

2. *There is no longer any need to adjudicate on Teva BV's application for leave to intervene.*

3. *Each party shall bear its own costs.*

([1]) OJ C 388, 3.11.2014.

Order of the General Court of 26 October 2017 — Federcaccia della Regione Liguria and Others v Commission

(Case T-570/15) ([1])

(Environment — Conservation of wild birds — Species which may be hunted — Conditions to be complied with by national laws on hunting — Harmonisation of the criteria for the application of Article 7(4) of Directive 2009/147/EC — Closed period of hunting in Liguria)

(2018/C 005/57)

Language of the case: Italian

Parties

Applicants: Federcaccia della Regione Liguria (Genoa, Italy) and the ten other applicants whose names are set out in the annex to the order (represented by: A. Bruni, P. Balletti and A. Mozzati, lawyers)

Defendant: European Commission (represented by: G. Gattinara and C. Hermes, acting as Agents)

Re:

Application based on Article 265 TFEU seeking a declaration that the Commission unlawfully failed to update certain Italian data in the document on key concepts, established by the ORNIS Committee, which is provided for by Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ 2010 L 20, p. 7); application based on Article 263 TFEU seeking annulment of the Commission's letter of 6 October 2014 stating that the extension in Italy of the hunting season for certain species of bird is incompatible with EU law; and application based on Article 268 TFEU seeking compensation for damage allegedly suffered by the applicants as a result of the Commission's failure to update the Italian data.

Operative part of the order

1. *The action is dismissed.*

2. *Federcaccia della Regione Liguria and the other applicants whose names are set out in the annex shall pay the costs.*

([1]) OJ C 381, 16.11.2015.

Order of the General Court of 23 October 2017 — Karp v Parliament

(Case T-833/16) ([1])

(Action for annulment and for damages — Civil service — Members of the contract staff — Classification — Article 90(2) of the Staff Regulations — Act not open to challenge — Preparatory act — Premature complaint — Failure to follow the pre-litigation procedure — Inadmissibility)

(2018/C 005/58)

Language of the case: English

Parties

Applicant: Kevin Karp (Brussels, Belgium) (represented by N. Lambers and R. Ben Ammar, lawyers)

Defendant: European Parliament (represented by Í. Ní Riagáin Düro and M. Windisch, acting as Agents)

Re:

ACTION brought under Article 270 TFEU, seeking, first, annulment of the Parliament's decisions classifying the applicant in function group I, grade 1, under the contract as an accredited parliamentary assistant concluded on 25 February 2015, and in function group II, grade 4, step 1, under the contract of employment as contract agent concluded on 12 May 2016 and, secondly, seeking compensation for the damages allegedly suffered by the applicant as a result of those classifications.

Operative part of the order

1. The request for an expedited procedure is dismissed as manifestly inadmissible.

2. The action is dismissed as inadmissible.

3. Mr Kevin Karp is ordered to pay the costs

([1]) OJ C 46, 13.2.2017.

Action brought on 9 September 2017 — de la Fuente Martín and Others v SRB

(Case T-619/17)

(2018/C 005/59)

Language of the case: Spanish

Parties

Applicants: Juan Antonio de la Fuente Martín (Madrid, Spain) and 525 other applicants (represented by: M. Durán Muñoz and M. Duran Campos, lawyers)

Defendant: Single Resolution Board

Form of order sought

The applicants claim that the General Court should:

— Annul the resolution or decision of the Single Resolution Board, adopted at its expanded executive session of 7 June 2017 (Decision SRB/EES/2017/08), published partially and incompletely on 12 July 2017 adopting the resolution scheme regarding the institution Banco Popular Español, S.A., thereby depriving it of effect and repealing it, and order the return to shareholders and owners of capital instruments of their respective shares and capital instruments of that bank and, consequently, reinstate their rights in full.

— Alternatively, declare that SRB's contested decision has caused harm to Banco Popular Español, S.A. shareholders and bond holders — harm in respect of which SRB is under an obligation to pay compensation, in accordance with Article 87 of Regulation No 806/2014 of 15 July 2014 — and order SRB and, consequently, the European Union to pay compensation to the applicants in an amount equivalent to the financial value of the shares and capital instruments which were held by the applicants the day before the adoption of the contested decision or, where appropriate, in the alternative, in an amount equivalent to the financial value those shares and instruments would have maintained had the financial institution been subject to an ordinary insolvency procedure at the time of the adoption of the contested 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 26 September 2017 — Relea Álvarez and Others v SRB

(Case T-653/17)

(2018/C 005/60)

Language of the case: Spanish

Parties

Applicants: María Jesús Relea Álvarez (Madrid, Spain) and 20 other applicants (represented by: M. Gómez de Liaño Botella, V. Hernández-Talavera Martin, M. Gómez de Liaño Botella, F. Azpeitia Gamazo and L. Lopez Álvarez, lawyers)

Defendant: Single Resolution Board

Form of order sought

The applicants claim that the General Court should:

— Annul the contested decision;

— Declare that the EU has incurred financial liability for the damage caused and order the SRM fund to pay an amount corresponding to the value of the capital instruments before the implementation of the resolution mechanism, or in the alternative, the value of those instruments according to expert valuation carried out by an independent party, in accordance with Article 340, on the basis of which the applicants bring, in addition to the annulment proceedings, an action for damages;

— Order SRB to pay the cost of these proceedings pursuant to Article 132 et seq. of the Rules of Procedure of the General Court.

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 29 September 2017 — NeoCell v EUIPO (BIOACTIVE NEOCELL COLLAGEN)

(Case T-666/17)

(2018/C 005/61)

Language of the case: English

Parties

Applicant: NeoCell Holding Company LLC (Sunrise, Florida, United States) (represented by: M. Edenborough, QC)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: International registration designating the European Union in respect of the word mark 'BIOACTIVE NEOCELL COLLAGEN' — International registration No 1 298 829 designating the European Union

Contested decision: Decision of the Second Board of Appeal of EUIPO of 18 July 2017 in Case R 147/2017-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— in the alternative, alter the contested decision to state that the application possesses sufficient distinctive character that no objection to its registration may be raised under Article 7(1)(b) or (c) of the Regulation;

— order the defendant to pay to the application the applicant's costs of and occasioned by this appeal.

Plea in law

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

Action brought on 5 October 2017 — Vendrell Marti v SRB

(Case T-687/17)

(2018/C 005/62)

Language of the case: Spanish

Parties

Applicant: Pedro Vendrell Marti (Madrid, Spain) (represented by: E. Martínez Martínez and C. López-Mélida de Ramón, lawyers)

Defendant: Single Resolution Board

Form of order sought

The applicant claims that the General Court should:

— Annul the decision of the Single Resolution Board (SRB/EES/2017/08) and the independent expert's valuation on which it is based in accordance with Article 20(15) of Regulation No 806/2014;

— 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 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 5 October 2017 — Uluru and Others v Commission and SRB

(Case T-690/17)

(2018/C 005/63)

Language of the case: Spanish

Parties

Applicants: Uluru, SL (Madrid, Spain), Juan Adolfo Álvarez Lorenzana (Santo Domingo, Dominican Republic) and Raquel Fortet Rodríguez (Madrid) (represented by: B. Cremades Roman, J. Orts Castro, J. López Useros, S. Cajal Martín, P. Marrodán Lázaro, lawyers)

Defendants: European Commission and Single Resolution Board

Form of order sought

The applicants claim that the General Court should:

— Annul SRB's decision SRB/EES/2017/08 and Commission Decision (EU) 2017/1246, both adopted on 7 June 2017 and, consequently, (i) order SRB and the European Commission to reinstate in favour of the applicants their investments in Banco Popular in the terms set out in the application or, (ii) in the alternative, order SRB and the European Commission to pay damages to the applicants on grounds of non-contractual liability in the terms set out in the application;

— Order SRB and the European Commission to pay damages to the applicants on grounds of non-contractual liability in the terms set out in the application;

— Declare the valuation carried out by SRB's independent expert invalid and, following the calculation of the net value of the assets of Banco Popular, order SRB and the European Commission to pay compensation to the applicants in the terms set out in the present application;

— Order SRB and the European Commission to pay the costs of the present proceedings;

— Order that all the sums awarded to the applicants accrue compensatory interest as of 23 May 2017 (or, in the alternative, as of 7 June 2017) up to the date of the judgment and, additionally, default interest as of the date of the judgment, except for the costs resulting from the present proceedings, which will only accrue default interest as of the date of the judgment; and

— Award to the applicants any additional remedy that it considers appropriate in law.

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 October 2017 — De Longhi Benelux v EUIPO (COOKING CHEF GOURMET)

(Case T-697/17)

(2018/C 005/64)

Language of the case: English

Parties

Applicant: De Longhi Benelux SA (Luxembourg, Luxembourg) (represented by: M. Arnott, A. Nicholls, solicitors and G. Hollingworth, barrister)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: EU word mark 'COOKING CHEF GOURMET' — Application for registration No 15 549 637

Contested decision: Decision of the First Board of Appeal of EUIPO of 24 July 2017 in Case R 231/2017-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— the Office shall bear its own costs of the proceedings before the Office and General Court and pay those of the Applicant.

Plea in law

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

Action brought on 5 October 2017 — Traviacar and Others v SRB

(Case T-700/17)

(2018/C 005/65)

Language of the case: Spanish

Parties

Applicants: Traviacar, S.L. (O Carballiño, Spain) and 96 other applicants (represented by: P. Rúa Sobrino, lawyer)

Defendant: Single Resolution Board

Form of order sought

The applicants claim that the General Court should:

— Annul the decision of the Single Resolution Board (SRB/EES/2017/08) and the independent expert's valuation on which it is based in accordance with Article 20(15) of Regulation No 806/2014;

— 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 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 5 October 2017 — OCU v SRB

(Case T-701/17)

(2018/C 005/66)

Language of the case: Spanish

Parties

Applicant: Organización de Consumidores y Usuarios (OCU) (Madrid, Spain) (represented by: E. Martínez Martínez and C. López-Mélida de Ramón, lawyers)

Defendant: Single Resolution Board

Form of order sought

The applicant claims that the General Court should:

— Annul the decision of the Single Resolution Board (SRB/EES/2017/08) and the independent expert's valuation on which it is based in accordance with Article 20(15) of Regulation No 806/2014;

— 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 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 October 2017 — UP v Commission

(Case T-706/17)

(2018/C 005/67)

Language of the case: French

Parties

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

Defendant: European Commission

Form of order sought

— Declare the present application admissible and well-founded;

Consequently:

— Annul the decision of 26 April in which DG HR opposed the applicant's application for part-time work for medical reasons;

— Annul, if necessary, the decision of 12 July 2017 rejecting the appeal;

— Order the compensation of the applicant's pecuniary and non-pecuniary loss following from those decisions, estimated, subject to re-assessment, at the sum of EUR 8 800;

— Order the defendant to pay all the costs.

Pleas in law and main arguments

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

The first part alleges infringement of the principle of equal treatment and non-discrimination and infringement of the right to be heard, in that the Appointing Authority based its decision on rules showing cases different from the applicant's without having heard her or allowed her to put forward her observations to influence the content of the proposed decision and, in consequence, infringed her rights of the defence.

The second part alleges infringement of the principle of sound administration and the duty of care, and a manifest error of assessment of the facts committed by the Appointing Authority, in that it could have considered the allowances for incapacity for work in the light of the general rules of reimbursement of the Joint Rules. The applicant is of the opinion that there is no statutory provision which prevents those allowances from being accumulated with the income drawn from her professional activity, on the ground that her medical situation and her degree of incapacity do not correspond to the medical invalidity criteria provided for in the Staff Regulations of Officials.

Action brought on 7 November 2017 — Euracoal and Others v Commission

(Case T-739/17)

(2018/C 005/68)

Language of the case: German

Parties

Applicants: Association européenne du charbon et du lignite (Euracoal) (Woluwe-Saint-Pierre, Belgium), Deutscher Braunkohlen-Industrie-Verein e.V. (Cologne, Germany), Lausitz Energie Kraftwerke AG (Cottbus, Germany), Mitteldeutsche Braunkohlengesellschaft mbH (Zeitz, Germany), eins energie in sachsen GmbH & Co. KG (Chemnitz, Germany) (represented by: W. Spieth and N. Hellermann, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission Implementing Decision (EU) 2017/1442 of 31 July 2017 establishing the best available techniques (BAT) conclusions under Directive 2010/75/EU ([1]) of the European Parliament and of the Council on industrial emissions (OJ 2017 L 212, p. 1), to the extent to which, by that decision, BAT associated emissions levels (BAT-AELs) were accepted and set for NO_x emissions (Article 1, Section 2.1.3 of the Annex, Table 3) and mercury emissions (Article 1, Section 2.1.6 of the Annex, Table 7) which result from the combustion of coal and/or lignite;

— in the alternative, annul Implementing Decision (EU) 2017/1442 in its entirety; and

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

Pleas in law and main arguments

In support of the action, the applicants rely on three pleas in law:

1. First plea in law, alleging infringement of essential procedural requirements, breach of superior law and disregard for the limits on conferred powers in connection with the vote in the Article 75 Committee,

The Commission disregarded mandatory time limits under Article 3(3) of Regulation (EU) No 182/2011 ([2]) by introducing an amendment, without setting any deadline, to the draft decision and by bringing about an immediate vote, thereby infringing its obligation under Article 3(4) of Regulation (EU) No 182/2011 to work towards gathering maximum support within the Committee in an objective manner. In addition, the Commission deprived the representatives of the Member States of the possibility properly to adopt a position on the amended draft decision and thereby infringed Article 291(3) TFEU, under which effective supervision of the Commission by the Member States must be ensured. In addition, the Commission, through what was clearly a tactically-motivated approach, abusively and erroneously exercised its position as the chair of the Committee.

2. Second plea in law, alleging infringement of essential procedural requirements, breach of superior law and disregard for the limits on conferred powers on the basis of procedurally-flawed drafting in the context of the so-called Seville Process

In accordance with the requirements laid down in Directive 2010/75/EU and Commission Implementing Decision 2012/119/EU (BAT Guidelines) ([3]), BAT conclusions can be derived solely in accordance with technical standards. That derivation must follow a requirement as to technical content, which excludes political considerations from being taken into account when those conclusions are being determined. In the present case, those requirements were disregarded.

3. Third plea in law, alleging a breach of superior law and disregard for the limits on conferred powers by reason of the content of the disputed BAT conclusions

The substantive determinations, in particular the BAT-AELs for NO_x and mercury, fundamentally disregard the requirement of technical-economic availability which derives directly from Directive 2010/75/EU, and thereby disproportionately burden the installation operators affected by the rules.

That situation inevitably creates the impression that the content of the contested rules was based on political considerations, which are impermissible when BAT conclusions are being drafted. By acting in this way, the Commission once again abused its position and exceeded its powers.

([1]) Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ 2010 L 334, p. 17).

([2]) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ 2011 L 55, p. 13).

([3]) Commission Implementing Decision of 10 February 2012 laying down rules concerning guidance on the collection of data and on the drawing up of BAT reference documents and on their quality assurance referred to in Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (notified under document C(2012) 613) (OJ 2012 L 63, p. 1).

Order of the General Court of 23 October 2017 — 1&1 Telecom v Commission

(Case T-307/15) ([1])

(2018/C 005/69)

Language of the case: English

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

([1]) OJ C 270, 17.8.2015.

Order of the General Court of 7 November 2017 — HO v EEAS

(Case T-595/16) ([1])

(2018/C 005/70)

Language of the case: French

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

([1]) C 251, 11.7.2016 (case initially registered before the European Union Civil Service Tribunal under Case No F-25/16 and transferred to the General Court of the European Union on 1.9.2016).

CORRIGENDA

Corrigendum to the notice to the Official Journal in Case C-448/17

(Official Journal of the European Union C 382 of 13 November 2017)

(2018/C 005/71)

The notice to the OJ in Case C-448/17 EOS KSI Slovensko, s.r.o. v Ján Danko, Margita Jalčová is to be read as follows:

'Request for a preliminary ruling from the Krajský súd v Prešove (Slovakia) lodged on 25 July 2017 — EOS KSI Slovensko, s.r.o. v Ján Danko, Margita Danková

(Case C-448/17)

(2017/C 382/35)

Language of the case: Slovakian

Referring court

Krajský súd v Prešove

Parties to the main proceedings

Applicant: EOS KSI Slovensko, s.r.o.

Defendants: Ján Danko, Margita Danková

Questions referred

1. In the light of the judgment in Case C-470/12 *Pohotovosť*, and the considerations set out by the Court of Justice of the European Union at paragraph 46 of the grounds too, is a legal provision incompatible with the principle of equivalence under EU law when — in the context of the equivalence of the interests protected by law and the protection of consumer rights against unfair contractual terms — it does not permit, without the defendant consumer's consent, a legal person whose activity involves the collective protection of consumers against unfair contractual terms and is designed to achieve the objective set out in Article 7(1) of Directive 93/13/EEC, ([1]) as transposed by Article 53a(1) and (3) of the Civil Code, to participate as another party (intervener) in legal proceedings from the outset and to make effective use, for the consumer's benefit, of the means of action and defence in court proceedings, in order to secure, in the context of such proceedings, protection from the systematic use of unfair contractual terms; whereas, in other circumstances, another party (intervener), intervening in court proceedings in support of the defendant and having an interest in the definition of the substantive (commercial) law that is the object of the proceedings, does not in fact, unlike a consumer protection association, require the consent of the consumer, on whose behalf it is intervening, in order to take part in the proceedings from the outset and effectively exercise the means of defence and action for the defendant's benefit?

2. In the light also of the findings of the Court of Justice in its judgments in Case C-26/13 and Case C-96/14, must the expression "in plain intelligible language" appearing in Article 4(2) of Directive 93/13 be interpreted to the effect that a contractual term may be regarded as not being in plain and intelligible language — with the legal consequence that it is [automatically] subject to judicial review of unfairness — even when the legal institute [body of legal rules governing a specific area of civil law (instrument) which it governs is in itself complicated, it is hard for the average consumer to foresee its legal consequences and in order to understand it professional legal advice is generally necessary, the costs of which are disproportionate to the value of the service which the consumer receives under the agreement?

3. When a court takes a decision on the rights deriving from an agreement concluded with a consumer, asserted against a consumer as defendant, on the sole basis of the applicant's claims, by way of an order for payment [issued] in summary proceedings, and the provision in Article 172(9) of the Code of Civil Procedure precluding the issue of an order for payment if a contract concluded with a consumer contains unfair contractual terms is in no way applied in the proceedings, is it not incompatible with EU law for legislation of a Member State, given the brief period allowed for the lodging of an appeal and the possibility that the consumer may be impossible to find or be inactive, not to make it possible for a consumer protection association, qualified and authorised to pursue the objective under Article 7(1) of Directive 93/13/EEC, as transposed by Article 53a(1) and (2) of the Civil Code, effectively to make use, without the consumer's consent (unless the consumer specifically dissents), of the only opportunity of protecting the consumer, in the form of opposition to the order for payment, in circumstances in which the court fails to fulfil its obligation under Article 172(9) of the Code of Civil Procedure?

4. May it be considered relevant, for the purpose of the answers to the second and third questions, that the [national] legal order does not accord the consumer the right to mandatory legal assistance and that, failing legal representation, his lack of knowledge in that area gives rise to a significant risk that he will fail to perceive the unfairness of the contractual terms and will not even act to enable the intervention on his behalf, in court proceedings, of a consumer protection association, qualified and authorised to pursue the objective under Article 7(1) of Directive 93/13/EEC, as transposed by Article 53a(1) and (2) of the Civil Code?

5. Is it not incompatible with EU law, and the requirement that all the circumstances of the case be assessed, in accordance with Article 4(1) of Directive 93/13/EEC, for legislation, such as that on summary proceedings for the issue of an order for payment (Article 172(1) et seq. of the Slovak Code of Civil Procedure), to permit: (1) the seller or supplier to be given the right to a pecuniary benefit with the effects of a judgment, (2) in the context of summary proceedings, (3) before an administrative officer of the court, (4) solely on the basis of the trader's claims, and (5) without evidence being taken and in circumstances in which (6) the consumer is not represented by a legal professional, (7) and his defence may not be effectively mounted, without his consent, by a consumer protection association, qualified and authorised to pursue the objective under Article 7(1) of Directive 93/13/EEC, as transposed by Article 53a(1) and (2) of the Civil Code?'

([1]) OJ L 1993, L 95 p. 29.

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