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COURT PROCEEDINGS

GENERAL COURT

Action brought on 23 December 2019 — Impera v EUIPO — Euro Games Technology (Flaming Forties)

(Case T-874/19)

(2020/C 129/02)

Language of the case: English

Parties

Applicant: Impera GmbH (Steinhaus, Austria) (represented by: C. Straberger, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Euro Games Technology Ltd (Vranya-Lozen-Triugulnika, Bulgaria)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant before the General Court

Trade mark at issue: Application for European Union word mark Flaming Forties — Application for registration No 16 729 154

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 23 October 2019 in Case R 2304/2018-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— allow the applicant's European Union trade mark application No 16 729 154 in its entirety or in the alternative, remit the proceedings to the Board of Appeal;

— order the other party to the proceedings before EUIPO, if acting as intervener, to pay the applicant's costs;

— order EUIPO, if the other party to the proceedings before EUIPO is not being allocated the costs, to pay the applicant's costs.

Plea in law

— Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 23 December 2019 — Impera v EUIPO — Euro Games Technology (Flaming Forties)

(Case T-875/19)

(2020/C 129/03)

Language of the case: English

Parties

Applicant: Impera GmbH (Steinhaus, Austria) (represented by: C. Straberger, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Euro Games Technology Ltd (Vranya-Lozen-Triugulnika, Bulgaria)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant before the General Court

Trade mark at issue: Application for European Union figurative mark Flaming Forties — Application for registration No 16 761 769

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 23 October 2019 in Case R 2321/2018-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— allow the applicant's European Union trade mark application No 16 761 769 in its entirety or in the alternative, remit the proceedings to the Board of Appeal;

— order the other party to the proceedings before the Board of Appeal, if acting as intervener, to pay the applicant's costs;

— order EUIPO, if the other party to the proceedings before the Board of Appeal is not being allocated to costs, to pay the applicant's costs.

Plea in law

— Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 5 February 2020 — Satabank v ECB

(Case T-72/20)

(2020/C 129/04)

Language of the case: English

Parties

Applicant: Satabank plc (St. Julians, Malta) (represented by: O. Behrends, lawyer)

Defendant: European Central Bank (ECB)

Form of order sought

The applicant claims that the Court should:

— annul the ECB's decision dated 26 November 2019 by which the ECB refuses to grant access to its file;

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the ECB failed to take into account the applicant's primary substantive right of access to its file.

2. Second plea in law, alleging that the ECB decision is based on an unduly narrow interpretation of Article 32(1) of Regulation (EU) No 468/2014 ([1]).

3. Third plea in law, alleging that the ECB decision violated the applicant's right to an adequately reasoned decision.

4. Fourth plea in law, alleging a violation of the applicant's right to be heard.

5. Fifth plea in law, alleging a violation of the principle of legal certainty.

6. Sixth plea in law, alleging a violation of the principle of proportionality.

7. Seventh plea in law, alleging that the ECB violated the *nemo auditur* principle.

8. Eighth plea in law, alleging a violation of the right to an effective remedy pursuant to Article 47 of the Charter on Fundamental Rights of the European Union.

([1]) Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (OJ 2014 L 141, p. 1).

Action brought on 10 February 2020 — Ascenza Agro and Afrasa v Commission

(Case T-77/20)

(2020/C 129/05)

Language of the case: English

Parties

Applicants: Ascenza Agro, SA (Setúbal, Portugal) and Afrasa, SA (Paterna-Valencia, Spain) (represented by: K. Van Maldegem and P. Sellar, lawyers and V. McElwee, Solicitor)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— declare the application admissible and well-founded;

— annul the contested act ([1]); and

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

Pleas in law and main arguments

In support of the action, the applicants rely on nine pleas in law.

1. First plea in law, alleging infringement of an essential procedural requirement since the defendant failed to comply with all the mandatory requirements set out in Commission Implementing Regulation No 844/2012 ([2]) (Articles 12 and 13) and adopted the contested act on the basis of an incomplete risk assessment. This means that the contested act is not supported by the full, legally required scientific basis.

2. Second plea in law, alleging infringement of the principle of transparency vis-à-vis the first applicant since at no time during the renewal process, the first applicant received indication that there were concerns other than those commented during the public consultation period or raised in EFSA's Article 13(3) request for additional information.

3. Third plea in law, alleging infringement of an essential procedural requirement as the bases of the contested act are two EFSA Statements, opposed to a standard EFSA Peer Review Report and that the first applicant was not able to provide scientific comments that could address the defendant's concerns.

4. Fourth plea in law, alleging infringement of the precautionary principle: the contested act is underpinned by the precautionary principle, which, for the substance chlorpyrifos-methyl, was unlawfully applied because the first applicant had submitted a relevant data set that, after having been assessed, showed negative results, therefore exhausting the requirements of the precautionary principle. In addition, the precautionary principle can only be applied when a risk assessment is conducted and concluded. In the present case, however, the risk assessment was not completed and the precautionary principle itself formed the basis of the risk assessment conclusion.

5. Fifth plea in law, alleging manifest error of assessment since the defendant took into account an irrelevant factor to adopt the contested act. The latter was adopted following the regulatory committee procedure, requiring a qualified majority vote within the SCoPAFF. Because of the impending exit of the UK from the EU ('Brexit'), the UK representative did not participate in the 6 December 2019 SCoPAFF meeting and, instead, gave a proxy vote to Finland. The UK representative did not participate because the UK Government announced, at the end of August 2019, a new policy regarding the country's attendance to the meetings of the EU Scientific Committees. That Finland — and by extension the defendant — took into account the Brexit-motivated policy means that an irrelevant factor was taken into account in the adoption of the contested act.

6. Sixth plea in law, alleging infringement of the principle of sound administration: the defendant and EFSA perceived that the chlorpyrifos-methyl could present health concerns and, for that purpose, they organised an expert meeting, after which the Rapporteur Member State was asked to carry out a further literature search to confirm those concerns. That search led to a decision being taken on the basis of non-compliant studies and without providing the first applicant an opportunity to make its views known.

7. Seventh plea in law, alleging that the conclusion on genotoxicity is unstainable as a matter of law: the defendant reached the conclusion that chlorpyrifos-methyl showed a potential for genotoxicity based on an unlawful misapplication of the read-across and the weight of evidence approaches.

8. Eighth plea in law, alleging that the conclusion on developmental neurotixicity is unsustainable as a matter of law: the defendant identified concerns related to the developmental neurotoxicity of chlorpyrifos-mehtyl based on a read-across from chlorpyrifos-ethyl and organophosphates substances to chlopyrifos-methyl without providing any indication as to how and why that read-across was scientifically and legally appropriate.

9. Ninth plea in law, alleging infringement of the rules on classification as toxic to reproductive toxicity, Category 1B: the defendant infringed the rules laid down in Regulation (EC) 1272/2008 ([3]) when it indicated that the classification of chlorpyrifos-methyl as toxic for reproduction category 1B may be appropriate. That opinion was indeed based on an unlawful and not substantiated application of read-across.

([1]) Commission Implementing Regulation (EU) 2020/17 of 10 January 2020 concerning the non-renewal of the approval of the active substance chlorpyrifos-methyl, in accordance with Regulation (EC) No 107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011 (OJ 2020 L 7, p. 11).

([2]) Commission Implementing Regulation (EU) No 844/2012 of 18 September 2012 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market (OJ 2012 L 252, p. 26).

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

Action brought on 12 February 2020 — AI v ECDC

(Case T-79/20)

(2020/C 129/06)

Language of the case: English

Parties

Applicant: AI (represented by: L. Levi and A. Champetier, lawyers)

Defendant: European Centre for Disease Prevention and Control (ECDC)

Form of order sought

The applicant claims that the Court should:

— annul the decision dated 5 April 2019 rejecting his request for assistance of 10 April 2018;

— annul, if need be, the decision dated 4 November 2019 rejecting his complaint dated 5 July 2019;

— order financial compensation which can be evaluated, ex aequo et bono, as the sum of EUR 75 000;

— order the reimbursement of his legal costs incurred.

Pleas in law and main arguments

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

1. First plea in law, alleging violation of the duty to state reasons and the right to be heard.

2. Second plea in law, alleging manifest error of assessment and a breach of Article 24 of the Staff Regulations.

3. Third plea in law, alleging violation of the duty of care.

Action brought on 19 February 2020 — Kazembe Musonda v Council

(Case T-95/20)

(2020/C 129/07)

Language of the case: French

Parties

Applicant: Jean-Claude Kazembe Musonda (Lubumbashi, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf and A. Guillerme, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2019/2109 of 9 December 2019, in so far as the applicant's name is maintained at No 9 in Annex II to Decision 2010/788/CFSP;

— annul Council Implementing Regulation (EU) 2019/2101 of 9 December 2019, in so far as the applicant's name is maintained at No 9 in Annex Ia to Regulation (EC) No 1183/2005;

— rule that the provisions of Article 3(2)(b) of Decision 2010/788/CFSP and Article 2b(1)(b) of Regulation (EC) [No 1183/2005] are unlawful;

— order the Council to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the rights of the defence, including breach of the obligation to state reasons justifying the measures and ensuring effective judicial protection, and breach of the right to be heard.

2. Second plea in law, alleging a manifest error of assessment as regards the involvement of the applicant in acts constituting serious human rights violations in the Democratic Republic of the Congo.

3. Third plea in law, alleging infringement of the right to privacy, the presumption of innocence and the principle of proportionality.

4. Fourth plea in law, alleging that the provisions of Article 3(2)(b) of Council Decision 2010/788/CFSP of 20 December 2010 concerning restrictive measures against the Democratic Republic of the Congo and repealing Common Position 2008/369/CFSP (OJ 2010 L 336, p. 30) and of Article 2b(1)(b) of Council Regulation (EC) No 1183/2005 of 18 July 2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo (OJ 2005 L 193, p. 1) are inapplicable. In that regard, the applicant submits that the legal criterion, as defined in those articles, on which the inclusion of his name on the lists at issue is based, infringes the principle of foreseeability of EU acts and the principle of proportionality in so far as it confers arbitrary and discretionary power on the Council.

Action brought on 19 February 2020 — Kande Mupompa v Council

(Case T-97/20)

(2020/C 129/08)

Language of the case: French

Parties

Applicant: Alex Kande Mupompa (Kinshasha, Congo) (represented by: T. Bontinck, P. De Wolf and A. Guillerme, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2019/2109 of 9 December 2019, in so far as the applicant's name is maintained at No 8 in Annex II to Decision 2010/788/CFSP;

— annul Council Implementing Regulation (EU) 2019/2101 of 9 December 2019, in so far as the applicant's name is maintained at No 8 in Annex Ia to Regulation (EC) No 1183/2005;

— rule that the provisions of Article 3(2)(b) of Decision 2010/788/CFSP and Article 2b(1)(b) of Regulation (EC) [No 1183/2005] are unlawful;

— order the Council to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law which are, in essence, identical or similar to those raised in Case T-95/20, *Kazembe Musonda* v *Council*.

Action brought on 19 February 2020 — Golvabia Innovation v EUIPO (MaxWear)

(Case T-99/20)

(2020/C 129/09)

Language of the case: Swedish

Parties

Applicant: Golvabia Innovation (Anderstorp, Sweden) (represented by: D. Thorbjörnsson, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for registration of EU word mark MaxWear — Application for registration No 17 953 494

Contested decision: Decision of the First Board of Appeal of EUIPO of 19 December 2019 in Case R 888/2019-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— grant registration of the trade mark 'MaxWear' for the goods sought, and

— order EUIPO to pay the costs.

Plea in law

— Infringement of Article 7(1)(b) and 7(2) of Regulation 2017/1001 of the European Parliament and of the Council.

Action brought on 19 February 2020 — Ilunga Luyoyo v Council

(Case T-101/20)

(2020/C 129/10)

Language of the case: French

Parties

Applicant: Ferdinand Ilunga Luyoyo (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf and A. Guillerme, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2019/2109 of 9 December 2019, in so far as the applicant's name is maintained at No 3 in Annex II to Decision 2010/788/CFSP;

— annul Council Implementing Regulation (EU) 2019/2101 of 9 December 2019, in so far as the applicant's name is maintained at No 3 in Annex Ia to Regulation (EC) No 1183/2005;

— rule that the provisions of Article 3(2)(b) of Decision 2010/788/CFSP and Article 2b(1)(b) of Regulation (EC) [No 1183/2005] are unlawful;

— order the Council to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law which are, in essence, identical or similar to those raised in Case T-95/20, *Kazembe Musonda* v *Council*.

Action brought on 19 February 2020 — Kampete v Council

(Case T-102/20)

(2020/C 129/11)

Language of the case: French

Parties

Applicant: Ilunga Kampete (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf and A. Guillerme, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2019/2109 of 9 December 2019, in so far as the applicant's name is maintained at No 1 in Annex II to Decision 2010/788/CFSP;

— annul Council Implementing Regulation (EU) 2019/2101 of 9 December 2019, in so far as the applicant's name is maintained at No 1 in Annex Ia to Regulation (EC) No 1183/2005;

— rule that the provisions of Article 3(2)(b) of Decision 2010/788/CFSP and Article 2b(1)(b) of Regulation (EC) [No 1183/2005] are unlawful;

— order the Council to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law which are, in essence, identical or similar to those raised in Case T-95/20, *Kazembe Musonda* v *Council*.

Action brought on 19 February 2020 — Mutondo v Council

(Case T-103/20)

(2020/C 129/12)

Language of the case: French

Parties

Applicant: Kalev Mutondo (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf and A. Guillerme, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2019/2109 of 9 December 2019, in so far as the applicant's name is maintained at No 12 in Annex II to Decision 2010/788/CFSP;

— annul Council Implementing Regulation (EU) 2019/2101 of 9 December 2019, in so far as the applicant's name is maintained at No 12 in Annex Ia to Regulation (EC) No 1183/2005;

— rule that the provisions of Article 3(2)(b) of Decision 2010/788/CFSP and Article 2b(1)(b) of Regulation (EC) [No 1183/2005] are unlawful;

— order the Council to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law which are, in essence, identical or similar to those raised in Case T-95/20, *Kazembe Musonda* v *Council*.

Action brought on 19 February 2020 — Ramazani Shadary v Council

(Case T-104/20)

(2020/C 129/13)

Language of the case: French

Parties

Applicant: Emmanuel Ramazani Shadary (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf and A. Guillerme, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2019/2109 of 9 December 2019, in so far as the applicant's name is maintained at No 11 in Annex II to Decision 2010/788/CFSP;

— annul Council Implementing Regulation (EU) 2019/2101 of 9 December 2019, in so far as the applicant's name is maintained at No 11 in Annex Ia to Regulation (EC) No 1183/2005;

— rule that the provisions of Article 3(2)(b) of Decision 2010/788/CFSP and Article 2b(1)(b) of Regulation (EC) [No 1183/2005] are unlawful;

— order the Council to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law which are, in essence, identical or similar to those raised in Case T-95/20, *Kazembe Musonda* v *Council*.

Action brought on 19 February 2020 — Ruhorimbere v Council

(Case T-105/20)

(2020/C 129/14)

Language of the case: French

Parties

Applicant: Éric Ruhorimbere (Mbuji-Mayi, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf and A. Guillerme, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2019/2109 of 9 December 2019, in so far as the applicant's name is maintained at No 10 in Annex II to Decision 2010/788/CFSP;

— annul Council Implementing Regulation (EU) 2019/2101 of 9 December 2019, in so far as the applicant's name is maintained at No 10 in Annex Ia to Regulation (EC) No 1183/2005;

— rule that the provisions of Article 3(2)(b) of Decision 2010/788/CFSP and Article 2b(1)(b) of Regulation (EC) [No 1183/2005] are unlawful;

— order the Council to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law which are, in essence, identical or similar to those raised in Case T-95/20, *Kazembe Musonda* v *Council*.

Action brought on 19 February 2020 — Amisi Kumba v Council

(Case T-106/20)

(2020/C 129/15)

Language of the case: French

Parties

Applicant: Gabriel Amisi Kumba (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf and A. Guillerme, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2019/2109 of 9 December 2019, in so far as the applicant's name is maintained at No 2 in Annex II to Decision 2010/788/CFSP;

— annul Council Implementing Regulation (EU) 2019/2101 of 9 December 2019, in so far as the applicant's name is maintained at No 2 in Annex Ia to Regulation (EC) No 1183/2005;

— rule that the provisions of Article 3(2)(b) of Decision 2010/788/CFSP and Article 2b(1)(b) of Regulation (EC) [No 1183/2005] are unlawful;

— order the Council to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law which are, in essence, identical or similar to those raised in Case T-95/20, *Kazembe Musonda* v *Council*.

Action brought on 19 February 2020 — Boshab v Council

(Case T-107/20)

(2020/C 129/16)

Language of the case: French

Parties

Applicant: Évariste Boshab (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf and A. Guillerme, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2019/2109 of 9 December 2019, in so far as the applicant's name is maintained at No 7 in Annex II to Decision 2010/788/CFSP;

— annul Council Implementing Regulation (EU) 2019/2101 of 9 December 2019, in so far as the applicant's name is maintained at No 7 in Annex Ia to Regulation (EC) No 1183/2005;

— rule that the provisions of Article 3(2)(b) of Decision 2010/788/CFSP and Article 2b(1)(b) of Regulation (EC) [No 1183/2005] are unlawful;

— order the Council to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law which are, in essence, identical or similar to those raised in Case T-95/20, *Kazembe Musonda* v *Council*.

Action brought on 19 February 2020 — Kahimbi Kasagwe v Council

(Case T-108/20)

(2020/C 129/17)

Language of the case: French

Parties

Applicant: Delphin Kahimbi Kasagwe (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf and A. Guillerme, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2019/2109 of 9 December 2019, in so far as the applicant's name is maintained at No 6 in Annex II to Decision 2010/788/CFSP;

— annul Council Implementing Regulation (EU) 2019/2101 of 9 December 2019, in so far as the applicant's name is maintained at No 6 in Annex Ia to Regulation (EC) No 1183/2005;

— rule that the provisions of Article 3(2)(b) of Decision 2010/788/CFSP and Article 2b(1)(b) of Regulation (EC) [No 1183/2005] are unlawful;

— order the Council to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law which are, in essence, identical or similar to those raised in Case T-95/20, *Kazembe Musonda* v *Council*.

Action brought on 19 February 2020 — Numbi v Council

(Case T-109/20)

(2020/C 129/18)

Language of the case: French

Parties

Applicant: John Numbi (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf and A. Guillerme, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2019/2109 of 9 December 2019, in so far as the applicant's name is maintained at No 5 in Annex II to Decision 2010/788/CFSP;

— annul Council Implementing Regulation (EU) 2019/2101 of 9 December 2019, in so far as the applicant's name is maintained at No 5 in Annex Ia to Regulation (EC) No 1183/2005;

— rule that the provisions of Article 3(2)(b) of Decision 2010/788/CFSP and Article 2b(1)(b) of Regulation (EC) [No 1183/2005] are unlawful;

— order the Council to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law which are, in essence, identical or similar to those raised in Case T-95/20, *Kazembe Musonda* v *Council*.

Action brought on 19 February 2020 — Kanyama v Council

(Case T-110/20)

(2020/C 129/19)

Language of the case: French

Parties

Applicant: Célestin Kanyama (Kinshasa, Democratic Republic of the Congo) (represented by: T. Bontinck, P. De Wolf and A. Guillerme, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision (CFSP) 2019/2109 of 9 December 2019, in so far as the applicant's name is maintained at No 4 in Annex II to Decision 2010/788/CFSP;

— annul Council Implementing Regulation (EU) 2019/2101 of 9 December 2019, in so far as the applicant's name is maintained at No 4 in Annex Ia to Regulation (EC) No 1183/2005;

— rule that the provisions of Article 3(2)(b) of Decision 2010/788/CFSP and Article 2b(1)(b) of Regulation (EC) [No 1183/2005] are unlawful;

— order the Council to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law which are, in essence, identical or similar to those raised in Case T-95/20, *Kazembe Musonda* v *Council*.

Action brought on 19 February 2020 — PT Wilmar Bioenergi Indonesia and Others v Commission

(Case T-111/20)

(2020/C 129/20)

Language of the case: English

Parties

Applicants: PT Wilmar Bioenergi Indonesia (Medan, Indonesia), PT Wilmar Nabati Indonesia (Medan), PT Multi Nabati Sulawesi (Sulawesi Utara, Indonesia) (represented by: P. Vander Schueren and E. Gergondet, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission Implementing Regulation (EU) No 2019/2092 of 28 November 2019 imposing a definitive countervailing duty on imports of biodiesel originating in Indonesia ([1]), as far as it applies to the applicants;

— order the defendant to pay the costs incurred by the applicants in relation to these proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the European Commission acted in breach of Articles 3(1)(a), 3(1)(a)(i), 3(2) and 7(2)(a) of Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ('basic Regulation') and committed manifest errors of assessment by considering that payments received from the Oil Palm Plantation Fund constituted a countervailable subsidy and by failing to adjust the benefit allegedly received by the applicants for the discounts, as well as transportation and credit costs that were incurred to obtain the alleged subsidies.

2. Second plea in law, alleging that the defendant acted in breach of Articles 3(1)(a)(iv), 3(1)(b), 3(2), 6(d) and 28(5) of the basic Regulation and committed manifest errors of assessment, by concluding to the existence of a government support for the provision of crude palm oil for less than adequate remuneration.

3. Third plea in law, alleging that the defendant committed a manifest error of assessment and acted in breach of Article 8 (8) of the basic Regulation, by concluding that the Union industry was under a threat of material injury.

4. Fourth plea in law, alleging that the defendant acted in breach of Articles 8(5) and 8(6) of the basic Regulation and committed manifest errors of assessment, by concluding that imports from Indonesia were threatening to cause injury to the Union industry and ignoring the impact of imports from Argentina.

(1) OJ 2019 L 317, p. 42.

Action brought on 20 February 2020 — BSEF v Commission

(Case T-113/20)

(2020/C 129/21)

Language of the case: English

Parties

Applicant: Bromine Science Environnemental Forum (BSEF) (Brussels, Belgium) (represented by: R. Cana, E. Mullier and H. Widemann, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission Regulation (EU) 2019/2021 of 1 October 2019 laying down ecodesign requirements for electronic displays pursuant to Directive 2009/125/EC of the European Parliament and of the Council, amending Commission Regulation (EC) No 1275/2008 and repealing Commission Regulation (EC) No 642/2009, insofar as it bans halogenated flame retardants;

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

Pleas in law and main arguments

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

1. First plea in law, alleging that in adopting the Contested Regulation, the Commission breached Article 1(4) and Article 15(2)(c)(i) of the Ecodesign Directive (1), acted ultra vires and exceeded the limits of its competence, as well as prevented the *effet utile* of other EU law measures.

2. Second plea in law, alleging that the Commission breached the applicant's rights of defence by banning the halogenated flame retardants for use in electronic displays through the Contested Regulation.

3. Third plea in law, alleging that the Commission manifestly erred in its assessment and failed to take all information into account, breached Article 15(1) of the Ecodesign Directive and failed in its duty to undertake an appropriate impact assessment when banning halogenated flame retardants under the Contested Regulation.

4. Fourth plea in law, alleging that the Contested Regulation breaches the principle of legal certainty in that the applicant is placed in a position of unacceptable legal uncertainty.

5. Fifth plea in law, alleging that the Contested Regulation breaches the principle of proportionality in that the ban on halogenated flame retardants exceeds the limits of what is appropriate, is not necessary to achieve the objectives pursued and is not the least onerous measure to which the Commission could have had recourse.

6. Sixth plea in law, alleging that the Contested Regulation breaches the principle of equal treatment in that the ban on halogenated flame retardants is discriminatory vis-à-vis other categories of products and vis-à-vis other substances.

7. Seventh plea in law, alleging that in adopting the Contested Regulation, the Commission breached Article 15(1) of the Ecodesign Directive and Article 5a(1) to (4) and Article 7 and 8 of Decision 1999/468/EC ([2]) and acted ultra vires.

([1]) Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products, OJ 2009, L 285, p. 10.

([2]) Council Decision of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission, OJ 1999, L 184, p. 23.

Action brought on 19 February 2020 — Alvargonzález Ramos v EUIPO — Ursus-3 Capital, A.V. (URSUS Kapital)

(Case T-114/20)

(2020/C 129/22)

Language in which the application was lodged: Spanish

Parties

Applicant: Pablo Erik Alvargonzález Ramos (Madrid, Spain) (represented by: E. Sugrañes Coca, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Ursus-3 Capital, A.V., SA (Madrid, Spain)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant before the General Court

Trade mark at issue: Figurative mark URSUS Kapital — European Union trade mark No 5 641 303

Procedure before EUIPO: Proceedings for a declaration of invalidity

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 10 December 2019 in Case R 711/202019-5

Form of order sought

The applicant claims that the Court should:

— deliver a judgment amending the contested decision and dismissing the application for a declaration of invalidity for non-use brought against the registered European Union trade mark No 5 641 303 URSUS Kapital (figurative) in relation to 'financial affairs' in Class 36 and declare that trade mark No 5 641 303 has been genuinely used for 'financial affairs';

— in the alternative, deliver a judgment which, in addition to amending the contested decision, dismissing the application for a declaration of invalidity for non-use brought against the registered European Union trade mark No 5 641 303 URSUS Kapital (figurative) in relation to 'financial affairs' in Class 36, declares that trade mark No 5 641 303 has been genuinely used at least for 'financial affairs, namely investment services, investment of funds, investment analysis, investment management and administration, investment advice and real estate investment services'.

— in the alternative, annul the contested decision;

— order EUIPO to pay the costs of these proceedings.

Pleas in law

Infringement of Articles 18 and 58 Regulation (EU) 2017/1001 of the European Parliament and of the Council and Article 10 of Commission Delegated Regulation (EU) 2018/625.

Action brought on 20 February 2020 — Puigdemont i Casamajó and Comín i Oliveres v Parliament

(Case T-115/20)

(2020/C 129/23)

Language of the case: English

Parties

Applicants: Carles Puigdemont i Casamajó (Waterloo, Belgium), Antoni Comín i Oliveres (Waterloo) (represented by: P. Bekaert, G. Boye and S. Bekaert, lawyers and B. Emmerson, QC)

Defendant: European Parliament

Form of order sought

The applicants claim that the Court should:

— annul the decision of the President of the European Parliament, as reflected in his letter of 10 December 2019, not to announce in Parliament and refer to the committee responsible the request for the defence of the immunity of the applicants lodged by Ms. Diana Riba i Giner on their behalf on 10 October 2019 pursuant to Rule 7(1) and (2) and Rule 9(1) of the Rules of Procedure of the European Parliament;

— order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicants rely on one plea in law, alleging that the President of the European Parliament's decision not to announce the request for the defence of the immunity of the applicants in Parliament and refer it to the committee responsible infringed Rule 9(1) of the Rules of Procedure of the European Parliament, in connection with Article 343 of the Treaty on the Functioning of the European Union, Articles 9 and 18 of Protocol (No 7) on the Privileges and Immunities of the European Union [1], Articles 6, 39(2), 41 and 45 of the Charter of Fundamental Rights, Article 2(1) of the Statute of Members of the European Parliament [2] and Rule 5(2) of the Rules of Procedure of the European Parliament.

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[1] OJ 2012 C 326, p. 266.

[2] Decision of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament (2005/684/EC, Euratom), OJ 2005 L 262, p. 1.

Action brought on 20 February 2020 — Società agricola Vivai Maiorana and Others v Commission

(Case T-116/20)

(2020/C 129/24)

Language of the case: Italian

Parties

Applicants: Società agricola Vivai Maiorana Ss (Curinga, Italy), Confederazione Italiana Agricoltori — CIA (Rome, Italy), MIVA — Moltiplicatori Italiani Viticoli Associati (Faenza, Italy) (represented by: E. Scoccini and G. Scoccini, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul the following parts of Annex IV to Commission Implementing Regulation (EU) 2019/2072 of 28 November 2019: Part A (fodder plant seed), Part B (cereal seed), Part C (vine), Part F (vegetable seed), Part I (vegetable planting) and Part J (fruit plants);

— declare Articles 36 and 37(2) of Regulation (EU) 2016/2031, and point (3) of Section 4 of Annex I thereto, invalid.

Pleas in law and main arguments

The present action has been brought against Parts A (fodder plant seed), B (cereal seed), C (vine), F (vegetable seed), I (vegetable planting) and J (fruit plants) of Annex IV to Commission Implementing Regulation (EU) 2019/2072 of 28 November 2019 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants, and repealing Commission Regulation (EC) No 690/2008 and amending Commission Implementing Regulation (EU) 2018/2019 (OJ 2019 L 319, p. 1).

In support of the action, the applicants rely on four pleas in law.

1. First plea in law, alleging infringement of Article 36(e) and (f) of Regulation (EU) 2016/2031, failure to comply with the principle of proportionality and a failure to state adequate reasons

   — The applicants claim in this regard that the 0 % threshold for the presence of Union regulated non-quarantine pests ('RNQPs') on native plants for planting established by the Commission in Annex IV to Regulation (EU) 2019/2072 was set without appropriate verification that the presence of the RNQPs has an unacceptable economic impact and that feasible and effective measures are available to prevent their presence, as required by Article 36(e) and (f) of Regulation (EU) 2016/2031.

2. Second plea in law, alleging infringement of the FAO International Treaty on Plant Generic Resources for Food and Agriculture (ITPGRFA)

   — The applicants claim in this regard that the introduction of the 0 % threshold for RNQPs present on native plant resources infringes Article 9 of the FAO International Treaty on Plant Generic Resources for Food and Agriculture (ITPGRFA), to which the European Union and the individual countries of the European Union are signatories.

3. Third plea in law, alleging infringement of Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ 2018 L 150, p. 1)

   — The applicants claim in this regard that the procedure for selecting and standardising plant varieties resulting from the application of the thresholds for the RNQPs expressly infringes the provisions of Regulation (EU) 2018/848.

4. Fourth plea in law, alleging incompatibility with the EU's agricultural policy

— The applicants claim in this regard that the introduction of thresholds for the RNQPs is inconsistent with the agricultural policy of the European Union and in particular with:

— Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992 L 206, p. 7);

— Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ 2012 L 343, p. 1);

— Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ 2013 L 347, p. 487);

— Article 8 of Commission Delegated Regulation (EU) No 807/2014 of 11 March 2014 supplementing Regulation (EU) No 1305/2013 on support for rural development (OJ 2014 L 227, p. 1).

Action brought on 21 February 2020 — El Corte Inglés v EUIPO — MKR Design (Panthé)

(Case T-117/20)

(2020/C 129/25)

Language of the case: English

Parties

Applicant: El Corte Inglés, SA (Madrid, Spain) (represented by: J. Rivas Zurdo, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: MKR Design Srl (Milan, Italy)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union figurative mark Panthé — Application for registration No 16 366 461

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 5 December 2019 in Case R 378/2019-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order the party or parties opposing this action to pay the costs.

Plea in law

— Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 21 February 2020 — Voco v EUIPO (Shape of packaging)

(Case T-118/20)

(2020/C 129/26)

Language of the case: German

Parties

Applicant: Voco GmbH (Cuxhaven, Germany) (represented by: C. Spintig and S. Pietzcker, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for a three-dimensional EU trade mark (Shape of packaging) — Application for Registration No 17 959 421

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 4 December 2019 in Case R 978/2019-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs of the proceedings, including those of the applicant.

Plea in law

— Infringement of Article 7(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council

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Action brought on 21 February 2020 — IP v Commission

(Case T-121/20)

(2020/C 129/27)

Language of the case: French

Parties

Applicant: IP (represented by: L. Levi and S. Rodrigues, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare the action admissible and therefore well founded;

and consequently,

— annul the contested decisions;

— order the defendant to pay all the costs.

Pleas in law and main arguments

In support of the action against the Commission's decision of 21 August 2019 imposing on him the disciplinary penalty of termination without notice of his employment contract, the applicant relies on three pleas in law.

1. First plea in law, alleging infringement of the principle of good administration and the duty to state reasons. In that respect the applicant claims, inter alia, that he was not treated fairly by the Commission which did not comply with its obligation for due diligence or its duty of care. In the applicant's submission, the Commission should have obtained information about the outcome of the criminal proceedings which concluded with the proceedings being discontinued and passed that outcome on to the Disciplinary Board in order for the board to take it into account in its decision.

2. Second plea in law, alleging the unlawfulness of the preparatory measures taken for the contested decision and manifest errors of assessment committed by the Commission. The applicant submits, inter alia, that the unlawfulness of both preparatory measures taken for the contested decision renders that decision unlawful.

3. Third plea in law, alleging infringement of Article 10 of Annex X to the Staff Regulations of Officials of the European Union on the ground that, first, all of the specific circumstances of the applicant's file were not examined and, secondly, the criteria used to determine the penalty were assessed incorrectly or given disproportionate weight.

Action brought on 20 February 2020 — Sciessent v Commission

(Case T-122/20)

(2020/C 129/28)

Language of the case: English

Parties

Applicant: Sciessent LLC (Beverly, Massachusetts, United States) (represented by: K. Van Maldegem and P. Sellar, lawyers, and V. McElwee, Solicitor)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Implementing Decision (EU) 2019/1960 of 26 November 2019 not approving silver zeolite as an existing active substance for use in biocidal products product-types 2 and 7 ([1]);

— order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of a rule of law relating to the application of the Treaties and of Articles 4 and 19 of Regulation (EU) No 528/2012 ([2]).

   — The defendant, relying upon the Biocidal Products Committee (BPC) opinions on the approval of the active substance silver zeolite for product-types 2 and 7, reached the conclusions that the substance could not be approved on the grounds that sufficient efficacy had not been demonstrated. However, in the applicant's view, the efficacy assessment was wrongly undertaken by reference to the article in which silver zeolite is used. The efficacy of the substance, silver zeolite, has been demonstrated by the applicant in accordance with the applicable law. The defendant, in its evaluation of, and conclusion on, the efficacy of the substance, has misinterpreted and misapplied the relevant law.

2. Second plea in law, alleging lack of competence — infringement of Article 290 TFEU and Articles 4 and 19 of Regulation (EU) No 528/2012.

— The reason for the non-approval of silver zeolite under the contested act is the alleged insufficient efficacy of the treated article in which it is used. However, the applicant maintains that the only criteria that the defendant could lawfully take into account are limited to those listed in Articles 4 and 19 of Regulation (EU) No 528/2012. Those criteria do not include the efficacy of the treated article whose assessment is otherwise left to the secondary, subsequent stage of biocidal product authorisation at the Member State level. In light of the fact that precisely that assessment has been undertaken by the defendant to justify the non-approval of silver zeolite, meaning that the defendant has gone far beyond what it is delegated to do under Regulation (EU) No 528/2012, the defendant breached Article 290 of the Treaties and Articles 4 and 19 of that Regulation.

3. Third plea in law, alleging infringement of a rule of law relating to the application of the Treaties — principle of non-discrimination.]

— The applicant's substance has been treated differently from other substances used for the same product-types 2 and 7, without the defendant justifying objectively why silver zeolite should be treated any differently from the other substances, which were all subject to the same rules of assessment under Regulation (EU) No 528/2012 (and Directive 98/8/EC ([3])) for the same product-types.

4. Fourth plea in law, alleging infringement of a rule of law relating to the application of the Treaties — principle of legal certainty.

— The defendant issued an open letter to the Chair of the BPC, which was designed to set straight how the law on efficacy assessment and treated articles under Regulation (EU) No 528/2012 was to be interpreted and applied. Whilst the law was clear, that letter reconfirmed that requiring the demonstration of the benefits of the treated articles does not fall within the scope of Regulation (EU) No 528/2012. The applicant relied upon the content of that letter, which confirmed the clarity of the law, and had legitimate expectations regarding the approval of the substance. As a result, the contested act appears to have infringed the principles of legitimate expectation and legal certainty

([1]) OJ 2019 L 306, p. 42
([2]) Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ 2012 L 167, p. 1).
([3]) Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market (OJ 1998 L 123, p. 1).

Action brought on 27 February 2020 — Autoridad Portuaria de Bilboa v Commission

(Case T-126/20)

(2020/C 129/29)

Language of the case: Spanish

Parties

Applicant: Autoridad Portuaria de Bilboa (Spain) (represented by: D. Sarmiento Ramírez-Escudero and X. Codina García-Andrade, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— as its main claim, declare the contested decision null and void;

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

Pleas in law and main arguments

The present action is brought against the decision of the European Commission of 8 January 2019 (C (2018) 8676 final, on the taxation of ports in Spain and against the decisions of the European Commission C (2019) 1765 final of 7 March 2019 and C (2019) 8068 final of 15 November 2019 ('the contested decisions').

In support of the action, the applicant relies on five plea(s) in law.

1. First plea in law, alleging infringement of Article 107(1) TFEU, in so far as the tax exemption does not constitute an advantage.

   In support of the first plea in law, the applicant claims that the tax exemption measures which are the subject of the contested decisions do not constitute an economic advantage, while the abolition of that exemption imposes an economic burden on the Port Authority given it continuing obligation to finance investments in the public interest from its resources.

2. Second plea in law, alleging infringement of Article 107(1) TFEU, together with Article 296 TFEU and Article 41 of the Charter of Fundamental Rights of the European Union, in so far as the Commission, when examining the existence of an advantage, failed to carry out a complete analysis of the available data.

   In support of the second plea in law, the applicant claims that the European Commission, when evaluating whether the exemption measures which are the subject of the contested decisions constitute an advantage, failed to carry out a comprehensive analysis of the data supplied during the proceedings by the Port Authority.

3. Third plea in law, alleging infringement of Article 107(1) TFEU, in so far as the tax exemption does not distort or threaten to distort competition or affect trade between Member States.

   In support of the third plea in law, the applicant submits that the exemption measures which are the subject of the contested decisions do not improve the competitive position of the Port Authorities and therefore, it is impossible for competition to affect trade between Member States. Therefore, it does not constitute State aid within the meaning of Article 107 TFEU.

4. Fourth plea in law, alleging infringement of Article 107(1) TFEU, in so far as the tax exemption is not selective.

   In support of the fourth plea in law, the applicant claims that the exemption measures which are the subject of the exemption measures are not selective since they do not constitute an exception to the reference system, therefore such measure do not constitute State aid for the purposes of Article 107 TFEU.

5. Fifth plea in law, in the alternative, alleging that the tax exemptions at issue, even if they constitute State aid, are compatible with the internal market.

   In support of the fifth plea in law, pleaded in the alternative, the applicant claims that, even if the tax exemptions which are the subject of the contested decisions were to be considered State aid, they constitute aid which is compatible with the internal market.

Action brought on 27 February 2020 — Collibra v EUIPO — Dietrich (COLLIBRA)

(Case T-128/20)

(2020/C 129/30)

Language of the case: English

Parties

Applicant: Collibra (Brussels, Belgium) (represented by: A. Renck, A. Bothe, lawyers and I. Junkar, Solicitor)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Hans Dietrich (Starnberg, Germany)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant before the General Court

Trade mark at issue: Application for European Union word mark COLLIBRA — Application for registration No 16 787 772

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 13 December 2019 in Case R 737/2019-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order that the costs of the proceedings be borne by the defendant and by the other party to the proceedings before the Board of Appeal if it joins as intervener.

Pleas in law

— Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 94(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 27 February 2020 — Collibra v EUIPO — Dietrich (collibra)

(Case T-129/20)

(2020/C 129/31)

Language of the case: English

Parties

Applicant: Collibra (Brussels, Belgium) (represented by: A. Renck, A. Bothe, lawyers and I. Junkar, Solicitor)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Hans Dietrich (Starnberg, Germany)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant before the General Court

Trade mark at issue: Application for European Union figurative mark collibra — Application for registration No 16 787 889

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 13 December 2019 in Case R 738/2019-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order that the costs of the proceedings be borne by the defendant and by the other party to the proceedings before the Board of Appeal if it joins as intervener.

Pleas in law

— Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 94(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 2 March 2020 — PT Ciliandra Perkasa v Commission

(Case T-138/20)

(2020/C 129/32)

Language of the case: English

Parties

Applicant: PT Ciliandra Perkasa (West Jakarta, Indonesia) (represented by: F. Graafsma, J. Cornelis and E. Rogiest, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Implementing Regulation (EU) 2019/2092 of 28 November 2019 imposing a definitive countervailing duty on imports of biodiesel originating in Indonesia;

— order the Commission to pay the applicant's costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission violated Articles 8(1) and 8(2) of Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ('basic Regulation') in determining price undercutting as it failed to examine all the relevant evidence and failed to establish price undercutting for the product as a whole.

2. Second plea in law, alleging that the Commission also violated Article 8(5) of the basic Regulation because it based its causation analysis on an erroneous finding of price undercutting.

3. Third plea in law, alleging that the Commission committed a manifest error of assessment and breached Article 3 of the basic Regulation in finding, on the one hand, that payments by the Oil Palm Plantation Fund ('OPPF') are to be qualified as grants instead of payments for purchases of biodiesel and, on the other hand, that the OPPF payments confer a benefit to biodiesel producers, since the Commission (i) relied on a manifestly erroneous counterfactual and (ii) failed to find that the benefit, if any, was passed through to biodiesel blenders.

4. Fourth plea in law, alleging that the Commission committed a manifest error of assessment and breached Article 7 of the basic Regulation in calculating the amount of the benefit under the OPPF scheme.

5. Fifth plea in law, alleging that the Commission violated Articles 8(1) and 8(8) of the basic Regulation by failing to base its threat of injury determination on positive evidence and an objective examination of all the relevant factors.

6. Sixth plea in law, alleging that the Commission breached the applicant's rights of defense by including certain essential considerations with respect to the undercutting analysis in the Contested Regulation only, thereby depriving the applicant from commenting on this issue.

Action brought on 2 March 2020 — PT Pelita Agung Agrindustri and PT Permata Hijau Palm Oleo v Commission

(Case T-143/20)

(2020/C 129/33)

Language of the case: English

Parties

Applicants: PT Pelita Agung Agrindustri (Medan, Indonesia), PT Permata Hijau Palm Oleo (Medan) (represented by: F. Graafsma, J. Cornelis and E. Rogiest, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission Implementing Regulation (EU) 2019/2092 of 28 November 2019 imposing a definitive countervailing duty on imports of biodiesel originating in Indonesia insofar as the applicants are concerned;

— order the Commission to pay the applicants' costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission violated Articles 8(1) and 8(2) of Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ('basic Regulation') in determining price undercutting as it (1) failed to examine all the relevant evidence and (2) failed to establish price undercutting for the product as a whole;

2. Second plea in law, alleging that the Commission also violated Article 8(5) of the basic Regulation because it based its causation analysis on an erroneous finding of price undercutting;

3. Third plea in law, alleging that the Commission committed a manifest error of assessment and breached Article 3 of the basic Regulation in finding that the government of Indonesia has entrusted or directed CPO suppliers to provide their goods for less than adequate remuneration, that it has provided income or price support to CPO suppliers and that a benefit has thereby been conferred.

4. Fourth plea in law, alleging that the Commission committed a manifest error of assessment and breached Article 3 of the basic Regulation in finding that, on the one hand, payments by the Oil Palm Plantation Fund ('OPPF') can be qualified as grants instead of payment for purchases of biodiesel, and on the other hand, that the OPPF payments confer a benefit to biodiesel producers, since the Commission relied on manifestly erroneous counterfactual, and failed to find that the benefit, if any, was passed through to biodiesel blenders.

5. Fifth plea in law, alleging that the Commission committed a manifest error of assessment and breached Article 7 of the basic Regulation in calculating the amount of the benefit under the OPPF scheme;

6. Sixth plea in law, alleging that the Commission violated Articles 8(1) and 8(8) of the basic Regulation by failing to base its threat of injury determination on positive evidence and an objective examination of all the relevant factors;

7. Seventh plea in law, alleging that the Commission breached the applicants' rights of defense by including certain essential considerations with respect to the undercutting analysis in the Contested Regulation only, thereby depriving the applicants from commenting on this issue.

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