Official Journal of the European Union

C 215

English edition

Information and Notices

Volume 63

29 June 2020

Contents

EN

General Court

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COURT OF JUSTICE OF THE EUROPEAN UNION

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

(2020/C 215/01)

Last publication

OJ C 209, 22.6.2020

Past publications

OJ C 201, 15.6.2020

OJ C 191, 8.6.2020

OJ C 175, 25.5.2020

OJ C 162, 11.5.2020

OJ C 161, 11.5.2020

OJ C 137, 27.4.2020

These texts are available on:

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

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Third Chamber) of 11 March 2020 (request for a preliminary ruling from the Fővárosi Törvényszék — Hungary) — Györgyné Lintner v UniCredit Bank Hungary Zrt.

(Case C-511/17) [1]

(Reference for a preliminary ruling — Consumer protection — Directive 93/13/EEC — Unfair terms in consumer contracts — Foreign currency based loan contract — Article 4(1) — Consideration of all the other terms of the contract for the purpose of assessing the unfairness of the contested term — Article 6 (1) — Examination by the national court of its own motion as to whether the clauses in the contract are unfair — Scope)

(2020/C 215/02)

Language of the case: Hungarian

Referring court

Fővárosi Törvényszék

Parties to the main proceedings

Applicant: Györgyné Lintner

Defendant: UniCredit Bank Hungary Zrt.

Operative part of the judgment

1. Article 6(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts must be interpreted as meaning that a national court, hearing an action brought by a consumer seeking to establish the unfair nature of certain terms in a contract that that consumer concluded with a professional, is not required to examine of its own motion and individually all the other contractual terms, which were not challenged by that consumer, in order to ascertain whether they can be considered unfair, but must examine only those terms which are connected to the subject matter of the dispute, as delimited by the parties, where that court has available to it the legal and factual elements necessary for that task, as supplemented, where necessary, by measures of inquiry;

2. Article 4(1) and Article 6(1) of Directive 93/13 must be interpreted as meaning that, while all the other terms of the contract concluded between a professional and that consumer should be taken into consideration in order to assess whether the contractual term forming the basis of a consumer's claim is unfair, taking such terms into account does not entail, as such, an obligation on the national court hearing the case to examine of its own motion whether all those terms are unfair.

[1] OJ C 402, 27.11.2017.

Judgment of the Court (Fifth Chamber) of 11 March 2020 — European Commission v Gmina Miasto Gdynia, Port Lotniczy Gdynia Kosakowo sp. z o.o, Republic of Poland

(Case C-56/18 P) ([1])

(Appeal — State aid — Article 108(2) TFEU — Investment aid — Operating aid — Airport infrastructure — Public funding by the municipalities of Gdynia and Kosakowo for setting up the Gdynia-Kosakowo Airport — Decision of the European Commission — Aid incompatible with the internal market — Order for recovery of the aid — Annulment by the General Court of the European Union — Essential procedural requirement — Procedural rights of the interested parties)

(2020/C 215/03)

Language of the case: Polish

Parties

Appellant: European Commission (represented by: K. Herrmann, D. Recchia and S. Noë, acting as Agents)

Other parties to the proceedings: Gmina Miasto Gdynia, Port Lotniczy Gdynia Kosakowo sp. z o.o (represented by: T. Koncewicz, adwokat, M. Le Berre, avocat, K. Gruszecka Spychała and P. Rosiak, radcowie prawni); Republic of Poland (represented by: B. Majczyna and M. Rzotkiewicz, acting as Agents)

Operative part of the judgment

The Court:

1. Sets aside the judgment of the General Court of the European Union of 17 November 2017, *Gmina Miasto Gdynia and Port Lotniczy Gdynia Kosakowo* v *Commission* (T-263/15);

2. Rejects the third complaint in the sixth plea in law in the action for annulment in so far as that complaint alleges infringement of the procedural rights of the interested parties in the present case based on the fact that they were not given the opportunity to express their views on the relevance of the Commission Communication entitled 'Guidelines on State aid to airports and airlines', before 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 was adopted;

3. Refers the case back to the General Court of the European Union for a ruling, first, on the aspects of third complaint in the sixth plea in law in the action for annulment on which it did not rule in the judgment of the General Court of the European Union of 17 November 2017, *Gmina Miasto Gdynia and Port Lotniczy Gdynia Kosakowo* v *Commission* (T-263/15), and, secondly, for a ruling on the first to fifth pleas in law of that action;

4. Reserves the costs.

([1]) OJ C 152, 30.4.2018.

Judgment of the Court (Fourth Chamber) of 11 March 2020 (request for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — X BV v Staatssecretaris van Financiën

(Case C-160/18) ([1])

(Reference for a preliminary ruling — Customs Union and Common Customs Tariff — Regulation (EC) No 1234/2007 — Regulation (EC) No 1484/95 — Import of frozen poultrymeat originating in Brazil — Post-clearance recovery of additional import duties — Verification mechanism — Method for calculating additional duties)

(2020/C 215/04)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: X BV

Respondent: Staatssecretaris van Financiën

Operative part of the judgment

1. On a proper construction of Article 3(4) of Commission Regulation (EC) No 1484/95 of 28 June 1995 laying down detailed rules for implementing the system of additional import duties and fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and repealing Regulation No 163/67/EEC, as amended by Commission Regulation (EU) No 248/2010 of 24 March 2010, the fact that goods imported into the European Union have been sold at a loss, that is, at a lower price than the CIF import price as set out in the customs declaration, is not in itself sufficient grounds for a finding that the correctness of the CIF import price has not been proved where the importer proves that all the conditions under which the consignment of those goods took place confirm that that price is correct.

2. On a proper construction of Article 3(5) and Article 4 of Regulation No 1484/95, as amended by Regulation No 248/2010, in a situation where an importer has been unable to prove the correctness of the CIF import price set out in the customs declaration, the customs authorities must, in order to apply additional duties, set aside that price and make use of the methods for determining the customs value of imported goods laid down in Articles 29 to 31 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, as amended by Regulation (EC) No 82/97 of the European Parliament and of the Council of 19 December 1996.

([1]) OJ C 182, 28.5.2018.

Judgment of the Court (First Chamber) of 26 March 2020 (request for a preliminary ruling from the Obvodní soud pro Prahu 8 — Czech Republic) — Libuše Králová v Primera Air Scandinavia

(Case C-215/18) ([1])

(Reference for a preliminary ruling — Area of freedom, security and justice — Jurisdiction and the enforcement of judgments in civil and commercial matters — Regulation (EC) No 44/2001 — Article 5(1) — Jurisdiction in matters relating to a contract — Articles 15 to 17 — Jurisdiction over consumer contracts — Regulation (EC) No 261/2004 — Articles 6 and 7 — Right to compensation in the case where a flight is subject to a long delay — Contract for carriage combining travel and accommodation concluded between the passenger and a travel agency — Action for compensation brought against the air carrier which is not a party to that contract — Directive 90/314/EEC — Package travel)

(2020/C 215/05)

Language of the case: Czech

Referring court

Obvodní soud pro Prahu 8

Parties to the main proceedings

Applicant: Libuše Králová

Defendant: Primera Air Scandinavia

Operative part of the judgment

1. Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91, must be interpreted as meaning that a passenger on a flight which has been delayed for three hours or more may bring an action for compensation under Articles 6 and 7 of that regulation against the operating air carrier, even if that passenger and that air carrier have not entered into a contract between them and the flight in question forms part of a package tour covered by Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours.

2. Article 5(1) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that an action for compensation brought pursuant to Regulation No 261/2004 by a passenger against the operating air carrier comes within the concept of 'matters relating to a contract', within the meaning of that provision, even if no contract was concluded between those parties and the flight operated by that air carrier was provided for by a package travel contract, also including accommodation, concluded with a third party.

3. Articles 15 to 17 of Regulation No 44/2001 must be interpreted as meaning that an action for compensation brought by a passenger against the operating air carrier, with which that passenger has not concluded a contract, does not come within the scope of those articles relating to special jurisdiction over consumer contracts.

([1]) OJ C 190, 4.6.2018.

Judgment of the Court (Second Chamber) of 26 March 2020 — Larko Geniki Metalleftiki kai Metallourgiki AE v European Commission

(Case C-244/18 P) ([1])

(Appeal — State aid — Capital injections and State guarantees — Concept of State aid — Concept of 'advantage' — Private operator principle — Private investor test — European Commission's obligation to undertake a diligent and impartial examination — Judicial review — Burden of proof — Concept of 'firm in difficulty' — Guidelines on State aid for rescuing and restructuring — Guarantee Notice — 2011 temporary framework — Amount of aid to be recovered — Duty of the Commission and the General Court of the European Union to state reasons)

(2020/C 215/06)

Language of the case: Greek

Parties

Appellant: Larko Geniki Metalleftiki kai Metallourgiki AE (represented by: I. Drillerakis, E. Rantos, N. Korogiannakis, I. Soufleros, E. Triantafyllou, and G. Psaroudakis, dikigoroi)

Other party to the proceedings: European Commission (represented by: É. Gippini Fournier and A. Bouchagiar, acting as Agents)

Operative part of the judgment

The Court:

1. Sets aside the judgment of the General Court of the European Union of 1 February 2018, *Larko* v *Commission* (T-423/14, EU:T:2018:57), in so far as, by that judgment, the General Court rejected the first part of the first plea in law to the extent that it relates to a guarantee granted in 2008 by the Greek State to Larko Geniki Metalleftiki kai Metallourgiki AE concerning a loan of EUR 30 million granted by ATE Bank to Larko Geniki Metalleftiki kai Metallourgiki AE;

2. Dismisses the appeal as to the remainder;

3. Refers the case back to the General Court of the European Union;

4. Reserves the costs.

(1) OJ C 190, 4.6.2018.

Judgment of the Court (Fourth Chamber) of 11 March 2020 (request for a preliminary ruling from the Rechtbank Amsterdam — Netherlands) — Execution of a European arrest warrant against SF

(Case C-314/18) (1)

(Reference for a preliminary ruling — Judicial cooperation in criminal matters — Framework Decision 2002/584/JHA — European arrest warrant — Article 5(3) — Surrender of the person concerned made subject to a guarantee that that person will be returned to the executing Member State in order to serve there a custodial sentence or a measure involving deprivation of liberty imposed on that person in the issuing Member State — Time of return — Framework Decision 2008/909/JHA — Article 3(3) — Scope — Article 8 — Adaptation of the sentence imposed in the issuing Member State — Article 25 — Enforcement of a sentence under Article 5(3) of Framework Decision 2002/584/JHA)

(2020/C 215/07)

Language of the case: Dutch

Referring court

Rechtbank Amsterdam

Party to the main proceedings

SF

Operative part of the judgment

1. Article 5(3) of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, read in combination with Article 1(3) thereof, as well as with Article 1(a), Article 3(3) and (4) and Article 25 of Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union, as amended by Council Framework Decision 2009/299/JHA of 26 February 2009, must be interpreted as meaning that, when the executing Member State makes the return of a person who, being a national or resident of that Member State, is the subject of a European arrest warrant for the purposes of criminal prosecution, subject to the condition that that person, after being heard, is returned to that Member State in order to serve there the custodial sentence or detention order imposed on him in the issuing Member State, that Member State must return that person as soon as the sentencing decision has become final, unless concrete grounds relating to the rights of defence of the person concerned or to the proper administration of justice make his presence essential in the issuing Member State pending a definitive decision on any procedural step coming within the scope of the criminal proceedings relating to the offence underlying the European arrest warrant.

2. Article 25 of Framework Decision 2008/909, as amended by Framework Decision 2009/299, must be interpreted as meaning that, when the execution of a European arrest warrant issued for the purposes of criminal proceedings is subject to the condition set out in Article 5(3) of Framework Decision 2002/584, as amended by Framework Decision 2009/299, the executing Member State can, in order to enforce the execution of a custodial sentence or a detention order imposed in the issuing Member State on the person concerned, adapt the duration of that sentence or detention only within the strict conditions set out in Article 8(2) of Framework Decision 2008/909, as amended by Framework Decision 2009/299.

(1) OJ C 276, 6.8.2018.

Judgment of the Court (Fourth Chamber) of 26 March 2020 (request for a preliminary ruling from the arbeidshof te Gent — Belgium) — ISS Facility Services NV v Sonia Govaerts, Atalian NV, formerly Euroclean NV

(Case C-344/18) (1)

(Reference for a preliminary ruling — Directive 2001/23/EC — Article 3(1) — Transfers of undertakings — Safeguarding of employees' rights — Public contract for cleaning services — Award of market lots to two new contractors — Re-engagement of a worker assigned to all the market lots)

(2020/C 215/08)

Language of the case: Dutch

Referring court

Arbeidshof te Gent

Parties to the main proceedings

Applicant: ISS Facility Services NV

Defendants: Sonia Govaerts, Atalian NV, formerly Euroclean NV

Operative part of the judgment

Where there is a transfer of undertaking involving a number of transferees, Article 3(1) of Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses must be interpreted as meaning that the rights and obligations arising from a contract of employment are transferred to each of the transferees, in proportion to the tasks performed by the worker concerned, provided that the division of the contract of employment as a result of the transfer is possible and neither causes a worsening of working conditions nor adversely affects the safeguarding of the rights of workers guaranteed by that directive, which it is for the referring court to determine. If such a division were to be impossible to carry out or would adversely affect the rights of that worker, the transferee(s) would be regarded as being responsible for any consequent termination of the employment relationship, under Article 4 of that directive, even if that termination were to be initiated by the worker.

(1) OJ C 294, 20.8.2018.

Judgment of the Court (Third Chamber) of 11 March 2020 (request for a preliminary ruling from the Förvaltningsrätten i Linköping — Sweden) — Baltic Cable AB v Energimarknadsinspektionen

(Case C-454/18) [1]

(Reference for a preliminary ruling — Internal market for electricity — Directive 2009/72/EC — Transmission of electricity — Concept of 'transmission system operator' — Regulation (EC) No 714/2009 — Interconnector — Transmission line connecting the national transmission systems of the Member States — Article 16(6) — Scope — Use of revenues resulting from the allocation of interconnection capacity — Undertaking which merely operates a cross-border high-voltage power line connecting two national transmission networks)

(2020/C 215/09)

Language of the case: Swedish

Referring court

Förvaltningsrätten i Linköping

Parties to the main proceedings

Applicant: Baltic Cable AB

Defendant: Energimarknadsinspektionen

Operative part of the judgment

1. Article 16(6) of Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity, and repealing Regulation (EC) No 1228/2003 must be interpreted as applying to an undertaking which merely operates a cross-border interconnector.

2. Point (b) of the first subparagraph of Article 16(6) of Regulation No 714/2009 must be interpreted as meaning that, when a transmission system operator (TSO) merely operates a cross-border interconnector, the operation and maintenance costs of that interconnector cannot be regarded as network investments to maintain or increase interconnection capacities within the meaning of that provision.

3. The second subparagraph of Article 16(6) of Regulation No 714/2009 must be interpreted as meaning that, when a national regulatory authority applies that provision to a transmission system operator (TSO) that merely operates a cross-border interconnector, it is for that authority to authorise that TSO to use part of its congestion revenues to make a return as well as for the operation and maintenance of the interconnector, in order to prevent it being discriminated against by comparison with the other TSOs concerned and to ensure that it is in a position in which it is able to carry out its activity in financially acceptable conditions, which includes making an appropriate profit.

[1] OJ C 352, 1.10.2018.

Judgment of the Court (Fourth Chamber) of 26 March 2020 (requests for a preliminary ruling from the Fővárosi Törvényszék — Hungary) — Hungeod Közlekedésfejlesztési, Földmérési, Út- és Vasúttervezési Kft. (C-496/18), Sixense Soldata (C-496/18), Budapesti Közlekedési Zrt. (C-496/18 and C-497/18) v Közbeszerzési Hatóság Közbeszerzési Döntőbizottság

(Joined Cases C-496/18 and C-497/18) ([1])

(Reference for a preliminary ruling — Public procurement — Review procedures concerning the award of public supply and public works contracts — Directive 89/665/EEC — Procurement procedures of entities operating in the water, energy, transport and telecommunications sectors — Directive 92/13/EEC — Public procurement — Directives 2014/24/EU and 2014/25/EU — Review of the application of public procurement rules — National legislation which allows certain bodies to initiate a procedure of their own motion where there has been an unlawful amendment to a contract which is in the course of being performed — Time-barring of an authority's right to initiate a procedure of its own motion — Principles of legal certainty and proportionality)

(2020/C 215/10)

Language of the case: Hungarian

Referring court

Fővárosi Törvényszék

Parties to the main proceedings

Applicants: Hungeod Közlekedésfejlesztési, Földmérési, Út- és Vasúttervezési Kft. (C-496/18), Sixense Soldata (C-496/18), Budapesti Közlekedési Zrt. (C-496/18 and C-497/18)

Defendant: Közbeszerzési Hatóság Közbeszerzési Döntőbizottság

Intervener: Közbeszerzési Hatóság Elnöke

Operative part of the judgment

1. Recitals 25 and 27 of Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts, Article 1(1) and (3) of Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts, as amended by Directive 2007/66, Article 1(1) and (3) of Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors, as amended by Directive 2007/66, Article 83 (1) and (2) of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, and Article 99(1) and (2) of Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC must be interpreted as neither requiring Member States to adopt, nor precluding them from adopting, legislation under which a monitoring authority may initiate of its own motion, on grounds of protection of the European Union's financial interests, a review procedure in order to monitor infringements of public procurement rules. However, where provision is made for such a procedure, it falls within the scope of EU law since the public contracts which are the subject of such a review fall within the material scope of the public procurement directives and it must therefore comply with EU law, including its general principles, of which the general principle of legal certainty forms part;

2. The general principle of legal certainty precludes, in a review procedure initiated by a monitoring authority of its own motion on grounds of protection of the European Union's financial interests, new national legislation from providing that, in order to review the legality of amendments to public contracts, such a procedure must be initiated within the limitation period laid down in the new legislation, even though the limitation period provided for by the previous legislation, which was applicable on the date of those amendments, has expired.

(1) OJ C 381, 22.10.2018.

Judgment of the Court (Grand Chamber) of 26 March 2020 (requests for a preliminary ruling from the Sąd Okręgowy w Łodzi and the Sąd Okręgowy w Warszawie — Poland) — Miasto Łowicz v Skarb Państwa — Wojewoda Łódzki (C-558/18) and Prokurator Generalny, represented by the Prokuratura Krajowa, formerly the Prokuratura Okręgowa w Płocku v VX, WW, XV (C-563/18)

(Joined Cases C-558/18 and C-563/18) (1)

(References for a preliminary ruling — Second subparagraph of Article 19(1) TEU — Rule of law — Effective judicial protection in the fields covered by Union law — Principle of judicial independence — Disciplinary regime applicable to national judges — Jurisdiction of the Court — Article 267 TFUE — Admissibility — Interpretation necessary for the referring court to be able to give judgment — Meaning)

(2020/C 215/11)

Language of the case: Polish

Referring court

Sąd Okręgowy w Łodzi, Sąd Okręgowy w Warszawie

Parties to the main proceedings

(Case C-558/18)

Applicant: Miasto Łowicz

Defendant: Skarb Państwa — Wojewoda Łódzki

In the presence of: Prokurator Generalny, represented by the Prokuratura Krajowa, formerly the Prokuratura Regionalna w Łodzi, Rzecznik Praw Obywatelskich

(Case C-563/18)

Applicant: Prokurator Generalny, represented by the Prokuratura Krajowa, formerly the Prokuratura Okręgowa w Płocku

Defendants: VX, WW, XV

Operative part of the judgment

The requests for a preliminary ruling made by the Sąd Okręgowy w Łodzi (Regional Court, Łódź, Poland) and by the Sąd Okręgowy w Warszawie (Regional Court, Warsaw, Poland), by decisions of 31 August 2018 and 4 September 2018, are inadmissible.

(1) OJ C 44, 4.2.2019.

Judgment of the Court (Sixth Chamber) of 12 March 2020 — European Commission v Italian Republic

(Case C-576/18) ([1])

(Failure of a Member State to fulfil obligations — Judgment of the Court establishing a failure to fulfil obligations — Non-compliance — Recovery of unlawful aid granted to the hotel industry in Sardinia — Article 260(2) TFEU — Pecuniary penalties — Penalty payment and lump sum)

(2020/C 215/12)

Language of the case: Italian

Parties

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

Defendant: Italian Republic (represented by: G. Palmieri, F. Varrone and E. Manzo, acting as Agents)

Operative part of the judgment

The Court:

1. Declares that, by failing to take, on the date on which the period prescribed in the letter of formal notice issued on 11 July 2014 by the European Commission, all the measures necessary to comply with the judgment of 29 March 2012, *Commission* v *Italy* (C-243/10, not published, EU:C:2012:182), the Italian Republic has failed to fulfil its obligations under Article 260(1) TFUE.

2. Orders the Italian Republic to pay the European Commission a periodic penalty payment of EUR 80 000 per day from the date of delivery of the present judgement until the date of compliance with the judgment of 29 March 2012, *Commission* v *Italy* (C-243/10, not published, EU:C:2012:182).

3. Orders the Italian Republic to pay to the European Commission a lump sum EUR 7 500 000.

4. Orders the Italian Republic to pay the costs.

([1]) OJ C 399, 5.11.2018.

Judgment of the Court (Ninth Chamber) of 12 March 2020 (request for a preliminary ruling from the Oberlandesgericht Frankfurt am Main — Germany) — Verbraucherzentrale Berlin eV v DB Vertrieb GmbH

(Case C-583/18) ([1])

(Reference for a preliminary ruling — Consumer protection — Directive 2011/83/EU — Scope — Service contract — Article 2(6) — Contract for passenger transport services — Article 3(3)(k) — Cards conferring entitlement to price reductions when passenger transport contracts are subsequently concluded — Online selling of such cards without informing the consumer about the right of withdrawal)

(2020/C 215/13)

Language of the case: German

Referring court

Oberlandesgericht Frankfurt am Main

Parties to the main proceedings

Appellant: Verbraucherzentrale Berlin eV

Respondent: DB Vertrieb GmbH

Operative part of the judgment

1. Article 2(6) of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council, must be interpreted as meaning that the term 'service contract' covers contracts whose object is to entitle the consumer to a price reduction when passenger transport contracts are subsequently concluded;

2. Article 3(3)(k) of Directive 2011/83 must be interpreted as meaning that a contract whose object is to entitle the consumer to a price reduction when passenger transport contracts are subsequently concluded is not covered by the term 'contract for passenger transport services' and, consequently, falls within the scope of that directive, including of its provisions relating to the right of withdrawal.

(1) OJ C 455, 17.12.2018.

Judgment of the Court (Fifth Chamber) of 26 March 2020 (request for a preliminary ruling from the Cour de cassation — France) — AR v Cooper International Spirits LLC, St Dalfour SAS, Établissement Gabriel Boudier SA

(Case C-622/18) (1)

(Reference for a preliminary ruling — Approximation of the laws of the Member States relating to trade marks — Directive 2008/95/EC — Article 5(1)(b) — First subparagraph of Article 10(1) — Article 12 (1) — Revocation of a trade mark for lack of genuine use — Right of the trade mark proprietor to plead infringement of his or her exclusive rights as a result of the use by a third party of an identical or similar sign during the period preceding the date on which the revocation took effect)

(2020/C 215/14)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicant: AR

Defendants: Cooper International Spirits LLC, St Dalfour SAS, Établissement Gabriel Boudier SA

Operative part of the judgment

Article 5(1)(b), the first subparagraph of Article 10(1) and the first subparagraph of Article 12(1) of Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks, read in conjunction with recital 6 thereof, must be interpreted as leaving Member States the option of allowing the proprietor of a trade mark whose rights in that mark have been revoked on expiry of the five-year period from its registration because he or she failed to make genuine use of the mark in the Member State concerned in connection with the goods or services for which it was registered to retain the right to claim compensation for the injury sustained as a result of the use by a third party, before the date on which the revocation took effect, of a similar sign in connection with identical or similar goods or services that is liable to be confused with his or her trade mark.

(1) OJ C 436, 3.12.2018.

Judgment of the Court (Second Chamber) of 12 March 2020 (request for a preliminary ruling from the Juzgado de Instrucción n. 4 de Badalona — Spain) — Criminal proceedings against VW

(Case C-659/18) (1)

(Reference for a preliminary ruling — Judicial cooperation in criminal matters — Directive 2013/48/EU — Article 3(2) — Right of access to a lawyer — Circumstances in which the right of access to a lawyer must be guaranteed — Non-appearance — Derogations from the right of access to a lawyer — Article 47 of the Charter of Fundamental Rights of the European Union — Right to effective judicial protection)

(2020/C 215/15)

Language of the case: Spanish

Referring court

Juzgado de Instrucción n. 4 de Badalona

Party in the main proceedings

VW

Operative part of the judgment

Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty, and in particular Article 3(2) thereof, read in the light of Article 47 of the Charter of Fundamental Rights of the European Union, must be interpreted as precluding national legislation, as interpreted by national case-law, according to which the exercise of the right of access to a lawyer may, at the pre-trial stage, be delayed because the suspect or accused person has failed to appear following a summons to appear before an investigating judge until the national arrest warrant issued against the person concerned has been executed.

(1) OJ C 35, 28.1.2019.

Judgment of the Court (Eighth Chamber) of 12 March 2020 (request for a preliminary ruling from the Cour de cassation — France) — Caisse d'assurance retraite et de la santé au travail d'Alsace-Moselle v SJ, Ministre chargé de la Sécurité sociale

(Case C-769/18) ([1])

(Reference for a preliminary ruling — Social security for migrant workers — Regulation (EC) No 883/2004 — Article 5(b) — Increase in the rate for old-age pensions — Taking into account of the allowance paid in respect of the raising of a disabled child in another Member State — Principle of equal treatment of facts)

(2020/C 215/16)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicant: Caisse d'assurance retraite et de la santé au travail d'Alsace-Moselle

Defendants: SJ, Ministre chargé de la Sécurité sociale

Operative part of the judgment

1. Article 3 of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, as amended by Regulation (EC) No 988/2009 of the European Parliament and of the Council of 16 September 2009, must be interpreted as meaning that the assistance for integration of mentally disabled children and young people, provided for in Paragraph 35a of Book VIII, of the Sozialgesetzbuch (German Social Code), does not constitute a benefit within the meaning of Article 3 and, therefore, does not fall within the material scope of that regulation.

2. Article 5 of Regulation No 883/2004, as amended by Regulation No 988/2009, must be interpreted as meaning that:

— the child-rearing allowance for a disabled child, provided for in Article L. 541-1 of the Code de la sécurité sociale (French Social Security Code), and the assistance for integration of mentally disabled children and young people, provided for in Paragraph 35a of Book VIII of the German Social Code, cannot be considered to be benefits of an equivalent nature, for the purposes of Article 5(a);

— the principle of equal treatment of facts enshrined in Article 5(b) applies in circumstances such as those at issue in the main proceedings. It is therefore for the competent French authorities to ascertain whether, in the present case, it is established that the fact required for the purposes of that provision has occurred. In that connection, those authorities must take into account similar facts occurring in Germany as though they had taken place on their own territory.

([1]) OJ C 54, 11.2.2019.

Judgment of the Court (First Chamber) of 26 March 2020 (request for a preliminary ruling from the Sąd Rejonowy w Siemianowicach Śląskich — Poland) — Mikrokasa S.A. and Revenue Niestandaryzowany Sekurytyzacyjny Fundusz Inwestycyjny Zamknięty v XO

(Case C-779/18) ([1])

(Reference for a preliminary ruling — Consumer protection — Credit agreements for consumers — Directive 2008/48/EC — Article 3(g), Article 10(2) and Article 22(1) — Level of harmonisation — Concept of 'non-interest credit costs' — Directive 93/13/EEC — Article 1(2) — Unfair terms in consumer contracts — Ceiling value for the total non-interest credit costs — Contractual terms reflecting mandatory statutory or regulatory provisions — Not included)

(2020/C 215/17)

Language of the case: Polish

Referring court

Sąd Rejonowy w Siemianowicach Śląskich

Parties to the main proceedings

Applicants: Mikrokasa S.A. and Revenue Niestandaryzowany Sekurytyzacyjny Fundusz Inwestycyjny Zamknięty

Defendant: XO

Operative part of the judgment

1. Article 3(g), Article 10(2) and Article 22(1) of Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC must be interpreted as not precluding a provision of national legislation which lays down a calculation method regarding the maximum amount of non-interest credit costs that may be imposed on the consumer, provided that that provision does not introduce additional information obligations regarding those non-interest credit costs which go beyond those laid down in Article 10(2) of that directive.

2. Article 1(2) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts must be interpreted as meaning that a contractual term which establishes non-interest credit costs in accordance with the ceiling value set by a provision of national legislation, without necessarily taking the costs actually incurred into account, does not fall outside the scope of that directive.

([1]) OJ C 164, 13.5.2019.

Judgment of the Court (Eighth Chamber) of 12 March 2020 (request for a preliminary ruling from the Helsingin hovioikeus — Finland) — A and Others v Finnair Oyj

(Case C-832/18) ([1])

(Reference for a preliminary ruling — Air transport — Regulation (EC) No 261/2004 — Articles 5 and 7 — Right to compensation in the event of delay or cancellation of a flight — Entitlement to compensation more than once in the event of a delay or cancellation not only of the original reservation, but also of the subsequent reservation made in the context of a re-routing — Scope — Exemption from the obligation to pay compensation — Concept of 'extraordinary circumstances' — 'On condition' part — Technical shortcomings inherent in aircraft maintenance)

(2020/C 215/18)

Language of the case: Finnish

Referring court

Helsingin hovioikeus

Parties to the main proceedings

Applicants: A and Others

Defendant: Finnair Oyj

Operative part of the judgment

1. Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91, and in particular Article 7(1) thereof, must be interpreted as meaning that an air passenger who has received compensation for the cancellation of a flight and has accepted the re-routing flight offered to him is entitled to compensation for the delay of the re-routing flight, where that delay is such as to give rise to entitlement to compensation and the air carrier of the re-routing flight is the same as that of the cancelled flight;

2. Article 5(3) of Regulation No 261/2004 must be interpreted as meaning that an air carrier may not rely, for the purposes of being released from its obligation to pay compensation, on 'extraordinary circumstances', within the meaning of that provision, arising from the failure of a so-called 'on condition' part, that is to say, a part which is replaced only when it becomes defective, even though it permanently stocks a spare part, except where such a failure constitutes an event which, by its nature or origin, is not inherent in the normal exercise of the activity of the air carrier concerned and is outside its actual control, which it is for the referring court to ascertain, it being considered, however, that, in so far as that failure is, in principle, intrinsically linked to the operating system of the aircraft, it must not be regarded as such an event.

([1]) OJ C 93, 11.3.2019.

Judgment of the Court (First Chamber) of 26 March 2020 (request for a preliminary ruling from the Riigikohus — Estonia) — Criminal procedure against A.P.

(Case C-2/19) ([1])

(Reference for a preliminary ruling — Framework Decision 2008/947/JHA — Mutual recognition of judgments and probation decisions — Scope — Judgment imposing a suspended custodial sentence — Probation measure — Obligation not to commit a new criminal offence — Obligation prescribed by law)

(2020/C 215/19)

Language of the case: Estonian

Referring court

Riigikohus

Party to the criminal procedure in the main proceedings

A.P.

Operative part of the judgment

Article 1(2) of Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions, read in conjunction with Article 4(1)(d) thereof, must be interpreted as meaning that recognition of a judgment that has imposed a custodial sentence whose execution is suspended subject to the sole condition that a legal obligation not to commit a new criminal offence during a probation period be complied with falls within the scope of that framework decision, provided that that legal obligation results from that judgment or from a probation decision taken on the basis of that judgment, a matter which is for the referring court to establish.

([1]) OJ C 93, 11.3.2019.

Judgment of the Court (Sixth Chamber) of 26 March 2020 (request for a preliminary ruling from the Landgericht Saarbrücken — Germany) — JC v Kreissparkasse Saarlouis

(Case C-66/19) ([1])

(Reference for a preliminary ruling — Consumer protection — Directive 2008/48/EC — Credit agreements for consumers — Right of withdrawal — Time limit for the exercise of that right — Requirements concerning the information to be included in a credit agreement — Information notice merely referring to a series of national provisions)

(2020/C 215/20)

Language of the case: German

Referring court

Landgericht Saarbrücken

Parties to the main proceedings

Applicant: JC

Defendant: Kreissparkasse Saarlouis

Operative part of the judgment

1. Article 10(2)(p) of Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC must be interpreted as meaning that the information to be specified, in a clear and concise manner, in a credit agreement in accordance with that provision includes information on how the period of withdrawal, provided for in the second subparagraph of Article 14(1) of that directive, is to be calculated.

2. Article 10(2)(p) of Directive 2008/48 must be interpreted as precluding a credit agreement from making reference, as regards the information referred to in Article 10 of that directive, to a provision of national law which itself refers to other legislative provisions of the Member State in question.

(1) OJ C 139, 15.4.2019.

Judgment of the Court (Seventh Chamber) of 11 March 2020 (request for a preliminary ruling from the Corte suprema di cassazione — Italy) — San Domenico Vetraria SpA v Agenzia delle Entrate

(Case C-94/19) (1)

(Reference for a preliminary ruling — Taxation — Value added tax (VAT) — Sixth Council Directive 77/388/EEC — Articles 2 and 6 — Scope — Taxable transactions — Services supplied for consideration — Secondment of staff by a parent company to its subsidiary — Reimbursement by the subsidiary limited to the costs incurred)

(2020/C 215/21)

Language of the case: Italian

Referring court

Corte suprema di cassazione

Parties to the main proceedings

Applicant: San Domenico Vetraria SpA

Defendant: Agenzia delle Entrate

Supported by: Ministero dell'Economia e delle Finanze

Operative part of the judgment

Article 2, point 1, of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment must be interpreted as precluding national legislation under which the lending or secondment of staff of a parent company to its subsidiary, carried out in return for only the reimbursement of the related costs, is irrelevant for the purposes of VAT, provided that the amounts paid by the subsidiary to the parent company, on the one hand, and that lending or secondment, on the other, are interdependent.

(1) OJ C 182, 27.5.2019.

Judgment of the Court (Seventh Chamber) of 26 March 2020 (request for a preliminary ruling from the First-tier Tribunal (Tax Chamber) — United Kingdom) — Pfizer Consumer Healthcare Ltd v Commissioners for Her Majesty's Revenue and Customs

(Case C-182/19) ([1])

(Reference for a preliminary ruling — Common Customs Tariff — Combined Nomenclature — Tariff classification — Heading 3005 and heading 3824 — Self-heating patches and belts to relieve pain — Implementing Regulation (EU) 2016/1140 — Invalidity)

(2020/C 215/22)

Language of the case: English

Referring court

First-tier Tribunal (Tax Chamber)

Parties to the main proceedings

Applicant: Pfizer Consumer Healthcare Ltd

Defendant: Commissioners for Her Majesty's Revenue and Customs

Operative part of the judgment

Commission Implementing Regulation (EU) 2016/1140 of 8 July 2016 concerning the classification of certain goods in the Combined Nomenclature is invalid.

([1]) OJ C 172, 20.5.2019.

Judgment of the Court (Seventh Chamber) of 11 March 2020 (request for a preliminary ruling from the Gerechtshof Amsterdam — Netherlands) — Rensen Shipbuilding BV

(Case C-192/19) ([1])

(Reference for a preliminary ruling — Common Customs Tariff — Combined Nomenclature — Tariff classification — Heading 8901 — Ship hulls — Maritime navigation — Vessels, designed as seagoing — Meaning)

(2020/C 215/23)

Language of the case: Dutch

Referring court

Gerechtshof Amsterdam

Parties to the main proceedings

Applicant: Rensen Shipbuilding BV

Defendant: Inspecteur van de Belastingdienst/Douane district Rotterdam

Operative part of the judgment

Additional note 1 to Chapter 89 of the Combined Nomenclature in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, in the version resulting from Commission Regulation (EC) No 1031/2008 of 19 September 2008, must be interpreted as meaning that vessels which, because of the properties inherent in their construction, are able to sail only about 21 nautical miles off the coast in the event of bad weather do not come within the concept of 'vessels, designed as seagoing' in that Additional note.

([1]) OJ C 164, 13.5.2019.

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 4 March 2020 — Ferrari SpA v Mansory Design & Holding GmbH, WH

(Case C-123/20)

(2020/C 215/24)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Ferrari SpA

Defendants: Mansory Design & Holding GmbH, WH

Questions referred

1. Can unregistered Community designs in individual parts of a product arise as a result of disclosure of an overall image of a product in accordance with Article 11(1) and the first sentence of Article 11(2) of Regulation (EC) No 6/2002? ([1])

2. If Question 1 is answered in the affirmative:

   What legal criterion is to be applied for the purpose of assessing individual character in accordance with Article 4(2)(b) and Article 6(1) of Regulation (EC) No 6/2002 when determining the overall impression of a component part which — as in the case of a part of a vehicle's bodywork, for example — is to be incorporated into a complex product? In particular, can the criterion be whether the appearance of the component part, as viewed by an informed user, is not completely lost in the appearance of the complex product, but rather displays a certain autonomy and consistency of form such that it is possible to identify an aesthetic overall impression which is independent of the overall form?

([1]) Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs (OJ 2002 L 3, p. 1).

Request for a preliminary ruling from the Verwaltungsgericht Berlin (Germany) lodged on 6 March 2020 — ExxonMobil Production Deutschland GmbH v Bundesrepublik Deutschland, represented by the Umweltbundesamt

(Case C-126/20)

(2020/C 215/25)

Language of the case: German

Referring court

Verwaltungsgericht Berlin

Parties to the main proceedings

Applicant: ExxonMobil Production Deutschland GmbH

Defendant: Bundesrepublik Deutschland, represented by the Umweltbundesamt

Questions referred

1. Does the CO_2 released into the atmosphere as part of the processing of natural gas (in the form of sour gas) in the 'Claus process', by means of the CO_2 inherent in natural gas being separated from the gas mixture, constitute an emission which, for the purposes of the first sentence of Article 3(h) of Commission Decision 2011/278/EU, ([1]) occurs as a result of the process referred to in Article 3(h)(v)?

2. For the purposes of the first sentence of Article 3(h) of Commission Decision 2011/278/EU, can CO_2 emissions occur 'as a result of' a process in which the CO_2 inherent in the raw material is released into the atmosphere, even though the process taking place does not give rise to additional CO_2, or does that provision make it mandatory for the CO_2 released into the atmosphere to occur for the first time as a result of that process?

3. Is a carbon-containing raw material 'used' within the meaning of Article 3(h)(v) of Commission Decision 2011/278/EU where, in the 'Claus process', the naturally occurring natural gas is used to produce sulphur and, in the course of that procedure, the CO_2 inherent in the natural gas is released into the atmosphere, even though the CO_2 inherent in the natural gas does not play a part in the chemical reaction taking place in that process, or does the term 'use' make it mandatory for the carbon to play a part in, or indeed be essential to, the chemical reaction taking place?

4. If Questions 1 to 3 are answered in the affirmative:

   On the basis of which benchmark is the allocation of free emission allowances to be carried out where an installation subject to the emission trading scheme satisfies both the defining conditions of a heat benchmark sub-installation and the defining conditions of a process emissions sub-installation? Does entitlement to an allocation on the basis of the heat benchmark take priority over entitlement to an allocation for process emissions or does entitlement to an allocation for process emissions take precedence over the heat benchmark and the fuel benchmark because it is more specific to the case in question?

5. If Questions 1 to 4 are answered in the affirmative:

   Can entitlements to a further free allocation of emission allowances for the third trading period be met after the end of the third trading period with allowances of the fourth trading period where the existence of the allowance entitlement is established by a court only after expiry of the third trading period, or do allowance entitlements that have not yet been met lapse on expiry of the third trading period?

([1]) Commission Decision of 27 April 2011 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (OJ 2011 L 130, p. 1).

Request for a preliminary ruling from the Zalaegerszegi Járásbíróság (Hungary) lodged on 12 March 2020 — Proceedings against LU

(Case C-136/20)

(2020/C 215/26)

Language of the case: Hungarian

Referring court

Zalaegerszegi Járásbíróság

Party to the main proceedings

LU

Questions referred

1. Must the rule laid down in Article 5(1) of Council Framework Decision 2005/214/JHA ([1]) on the application of the principle of mutual recognition to financial penalties be interpreted as meaning that, where the issuing Member State indicates one of the types of conduct listed in that provision, the authority of the executing Member State has no additional discretion to refuse execution and must execute the [decision imposing the penalty]?

2. If that question is answered in the negative, can the authority of the executing Member State argue that the conduct indicated in the decision of the issuing Member State does not correspond to the conduct described in the list?

([1]) OJ 2005 L 76, p. 16.

Request for a preliminary ruling from the Landgericht Hamburg (Germany) lodged on 23 March 2020 — Novartis Pharma GmbH v Abacus Medicine A/S

(Case C-147/20)

(2020/C 215/27)

Language of the case: German

Referring court

Landgericht Hamburg

Parties to the main proceedings

Applicant: Novartis Pharma GmbH

Defendant: Abacus Medicine A/S

Questions referred

1. Can it lead to an artificial partitioning of the markets within the meaning of the case-law of the Court of Justice if the safety features of original outer wrapping/original packaging which are provided for under Article 54(o) and Article 47a of Directive 2001/83/EC ([1]) can, in the event that the parallel trader retains that original packaging, be replaced in compliance with Article 47a(1)(b) of that directive only in such a way that visible traces of opening remain after the originally existing safety features have been partly or fully removed and/or covered?

2. Is it of significance for answering the first question whether the traces of opening become visible only when the medicinal product has been thoroughly inspected by wholesalers and/or persons authorised or entitled to supply medicinal products to the public, such as pharmacies, in fulfilment of their obligation under Articles 10, 24 and 30 of Regulation (EU) 2016/161, ([2]) or may be overlooked in a superficial inspection?

3. Is it of significance for answering the first question whether the signs of opening become visible only when the packaging of a medicinal product is opened, for example by the patient?

4. Is Article 5(3) of Regulation (EU) 2016/161 to be interpreted as meaning that the barcode containing the unique identifier within the meaning of Article 3(2)(a) of that regulation must be printed directly on the packaging, so that Article 5(3) is not complied with if a parallel trader affixes the unique identifier to the original outer packaging using an additional external sticker?

([1]) Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ 2001 L 311, p. 67).

([2]) Commission Delegated Regulation (EU) 2016/161 of 2 October 2015 supplementing Directive 2001/83/EC of the European Parliament and of the Council by laying down detailed rules for the safety features appearing on the packaging of medicinal products for human use (OJ 2016 L 32, p. 1).

Appeal brought on 27 March 2020 by the Republic of Lithuania against the judgment delivered by the General Court (Second Chamber) on 22 January 2020 in Case T-19/18 *Lithuania* v *Commission*

(Case C-153/20 P)

(2020/C 215/28)

Language of the case: Lithuanian

Parties

Appellant: Republic of Lithuania (represented by: R. Dzikovič, K. Dieninis)

Other parties to the proceedings: European Commission, Czech Republic

Form of order sought

— set aside the judgment of the General Court of 22 January 2020 in Case T-19/18 *Lithuania* v *Commission*, EU:T:2020:4, by which it dismissed the Republic of Lithuanian's action of 19 January 2018 for annulment of Commission Implementing Decision (EU) 2017/2014 of 8 November 2017 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD);

— refer the case back to the General Court or itself decide the case on the grounds set out in the appeal and give final judgment on the annulment of Commission Implementing Decision (EU) 2017/2014 of 8 November 2017 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD);

— order the European Commission to pay the costs.

Pleas in law and main arguments

The Republic of Lithuania requests the Court to set aside the judgment of the General Court in Case T-19/18 ('the judgment under appeal') and relies upon the following pleas in law:

(1) misinterpretation of Article 24(1) of Regulation No 65/2011 ([1]) and failure to comply with the duty to state reasons for a judgment because the General Court, when ruling in paragraphs 61 to 80 of the judgment under appeal on the *criteria applied in order to determine whether applicants had the status of SMEs*, did not clearly and unambiguously substantiate the grounds for its judgment;

(2) infringement of Article 256(2) TFEU and the principle of legal certainty, because in paragraphs 81 to 90 of the judgment under appeal the General Court ruled on the *effectiveness of the monitoring of high-risk projects* in a manner contrary to the Court of Justice in previous similar cases, and erroneous assessment of the evidence, because in paragraphs 88 to 92 of the judgment under appeal it failed to establish the facts correctly;

(3) misinterpretation of Article 26 of Regulation No 65/2011 and distortion of the clear sense of the evidence because the General Court, when ruling in paragraphs 178 to 188 of the judgment under appeal on the *quality criteria for on-the-spot checks*, set out contradictory grounds, thereby unjustifiably broadening Article 26 of Regulation No 65/2011, and in paragraphs 181 and 191 of the judgment under appeal it erred in assessing the evidence;

(4) infringement of Articles 263 and 256 TFEU and erroneous assessment of the evidence because in paragraphs 195 to 212 of the judgment under appeal the General Court did not verify whether the Commission's information concerning the *inadequacy of the checks on project expenditure* was accurate reliable and consistent, and that is a defect in the review of the legality of the Commission's decision.

([1]) Commission Regulation (EU) No 65/2011 of 27 January 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures (OJ 2011 L 25, p. 8).

Reference for a preliminary ruling from the Supreme Court of the United Kingdom made on 6 April 2020 — Zipvit Ltd v Commissioners for Her Majesty's Revenue & Customs

(Case C-156/20)

(2020/C 215/29)

Language of the case: English

Referring court

Supreme Court of the United Kingdom

Parties to the main proceedings

Appellant: Zipvit Ltd

Respondent: Commissioners for Her Majesty's Revenue & Customs

Questions referred

1. Where (i) a tax authority, the supplier and the trader who is a taxable person misinterpret European VAT legislation and treat a supply, which is taxable at the standard rate, as exempt from VAT, (ii) the contract between the supplier and the trader stated that the price for the supply was exclusive of VAT and provided that if VAT were due the trader should bear the cost of it, (iii) the supplier never claims and can no longer claim the additional VAT due from the trader, and (iv) the tax authority cannot or can no longer (through the operation of limitation) claim from the supplier the VAT which should have been paid, is the effect of the Directive ([1]) that the price actually paid is the combination of a net chargeable amount plus VAT thereon so that the trader can claim to deduct input tax under article 168(a) of the Directive as VAT which was in fact 'paid' in respect of that supply?

2. Alternatively, in those circumstances can the trader claim to deduct input tax under article 168(a) of the Directive as VAT which was 'due' in respect of that supply?

3. Where a tax authority, the supplier and the trader who is a taxable person misinterpret European VAT legislation and treat a supply, which is taxable at the standard rate, as exempt from VAT, with the result that the trader is unable to produce to the tax authority a VAT invoice which complies with article 226(9) and (10) of the Directive in respect of the supply made to it, is the trader entitled to claim to deduct input tax under article 168(a) of the Directive?

4. In answering questions 1 to 3:

   a) is it relevant to investigate whether the supplier would have a defence, whether based on legitimate expectation or otherwise, arising under national law or EU law, to any attempt by the tax authority to issue an assessment requiring it to account for a sum representing VAT in respect of the supply?

   b) is it relevant that the trader knew at the same time as the tax authority and the supplier that the supply was not in fact exempt, or had the same means of knowledge as them, and could have offered to pay the VAT which was due in respect of the supply (as calculated by reference to the commercial price of the supply) so that it could be passed on to the tax authority, but omitted to do so?

([1]) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006, L 347, p. 1).

GENERAL COURT

Judgment of the General Court of 13 May 2020 — Volotea v Commission

(Case T-607/17) ([1])

(State aid — Aviation sector — Aid granted by Italy to Sardinian airports — Decision declaring the aid compatible in part and incompatible in part with the internal market — Whether imputable to the State — Recovery — Beneficiaries — Advantage to co-contracting airlines — Market economy operator principle — Selectivity — Effect on trade between Member States — Adverse effect on competition — Recovery — Legitimate expectations — Obligation to state reasons)

(2020/C 215/30)

Language of the case: English

Parties

Applicant: Volotea, SA (Barcelona, Spain) (represented by: M. Carpagnano and M. Nordmann, lawyers)

Defendant: European Commission (represented by: D. Recchia, D. Grespan and S. Noë, acting as Agents)

Re:

Application under Article 263 TFEU seeking the annulment of Commission Decision (EU) 2017/1861 of 29 July 2016 on State aid SA 33983 (2013/C) (ex 2012/NN) (ex 2011/N) — Italy — Compensation to Sardinian airports for public service obligations (SGEI) (OJ 2017 L 268, p. 1).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Volotea, SA to pay the costs.

([1]) OJ C 392, 20.11.2017.

Judgment of the General Court of 13 May 2020 — Germanwings v Commission

(Case T-716/17) ([1])

(State aid — Aviation sector — Aid granted by Italy in favour of Sardinian airports — Decision declaring the aid partly compatible and partly incompatible with the internal market — Imputability to the State — Beneficiaries — Advantage for co-contracting airlines — Market economy operator principle — Effect on trade between Member States — Adverse effect on competition — Obligation to state reasons — Aid scheme — De minimis aid — Recovery)

(2020/C 215/31)

Language of the case: German

Parties

Applicant: Germanwings GmbH (Cologne, Germany) (represented by: A. Martin-Ehlers, lawyer)

Defendant: European Commission (represented by: T. Maxian Rusche and S. Noë, acting as Agents)

Re:

Application under Article 263 TFEU for the annulment of Commission Decision (EU) 2017/1861 of 29 July 2016 on State aid SA 33983 (2013/C) (ex 2012/NN) (ex 2011/N) — Italy — Compensation to Sardinian airports for public service obligations (SGEI) (OJ 2017 L 268, p. 1).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Germanwings GmbH to pay the costs.

(1) OJ C 412, 4.12.2017.

Judgment of the General Court of 13 May 2020 — easyJet Airline v Commission

(Case T-8/18) (1)

(State aid — Aviation sector — Aid granted by Italy in favour of Sardinian airports — Decision declaring the aid partly compatible and partly incompatible with the internal market — Imputability to the State — Beneficiaries — Advantage for co-contracting airlines — Market economy operator principle — Effect on trade between Member States — Adverse effect on competition — Recovery — Legitimate expectations — Obligation to state reasons)

(2020/C 215/32)

Language of the case: English

Parties

Applicant: easyJet Airline Co. Ltd (Luton, United Kingdom) (represented by: P. Willis, Solicitor, and J. Rivas Andrés, lawyer)

Defendant: European Commission (represented by: L. Armati and S. Noë, acting as Agents)

Re:

Application under Article 263 TFEU for the annulment of Commission Decision (EU) 2017/1861 of 29 July 2016 on State aid SA 33983 (2013/C) (ex 2012/NN) (ex 2011/N) — Italy — Compensation to Sardinian airports for public service obligations (SGEI) (OJ 2017 L 268, p. 1).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders easyJet Airline Co. Ltd to pay the costs.

(1) OJ C 94, 12.3.2018.

Judgment of the General Court of 13 May 2020 — Talanton v Commission

(Case T-195/18) ([1])

(Arbitration clause — Seventh framework programme for research, technological development and demonstration activities (2007-2013) — Perform Contract — Eligible costs — Repayment in part of the sums paid — Abuse of contractual rights — Principle of good faith — Legitimate expectations — Burden of proof — Counterclaim)

(2020/C 215/33)

Language of the case: Greek

Parties

Applicant: Talanton Anonymi Emporiki — Symvouleftiki-Ekpaideftiki Etaireia Dianomon, Parochis Ypiresion Marketing kai Dioikisis Epicheiriseon (Palaio Faliro, Greece) (represented by: K. Damis and M. Angelopoulos, lawyers)

Defendant: European Commission (represented by: R. Lyal and A. Kyratsou, acting Agents and G. Gerapetritis, lawyer)

Re:

First, application based on Article 272 TFEU seeking a declaration that the expenditure that the applicant declared in the context of grant agreement No 215952 relating to the implementation of the 'A sophisticated multi-parametric system for the continuous-effective assessment and monitoring of motor status in parkinson's disease and other neurodegenerative diseases' project, concluded in the context of the Seventh Framework Programme for research, technological development and demonstration activities (2007-2013), was eligible and that the request, by the Commission, for recovery of the sum of EUR 481 835,56 and EUR 29 694,10, pursuant to that grant agreement, amounted to a breach of the Commission's contractual obligations, as well as, second, a counterclaim seeking an order requiring the applicant to pay the sum of EUR 481 835,56, together with interest.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Talanton Anonymi Emporiki — Symvouleftiki-Ekpaideftiki Etaireia Dianomon, Parochis Ypiresion Marketing kai Dioikisis Epicheiriseon to reimburse to the European Commission non-eligible costs in the sum of EUR 481 835,56, together with late payment interest at the rate of 3,5 % from 26 February 2018;

3. Orders Talanton Anonymi Emporiki — Symvouleftiki-Ekpaideftiki Etaireia Dianomon, Parochis Ypiresion Marketing kai Dioikisis Epicheiriseon to pay to the European Commission, by way of compensation, a lump sum of EUR 29 694,10, together with late payment interest at the rate of 3,5 % from 26 February 2018;

4. Orders Talanton Anonymi Emporiki — Symvouleftiki-Ekpaideftiki Etaireia Dianomon, Parochis Ypiresion Marketing kai Dioikisis Epicheiriseon to pay the costs.

([1]) OJ C 211, 18.6.2018.

Judgment of the General Court of 13 May 2020 — Agmin Italy v Commission

(Case T-290/18) ([1])

(Financial Regulation — Exclusion from procurement and grant award procedures covered by the general EU budget and by the European Development Fund for a two-year period — Principle of impartiality — Rights of the defence — Error of assessment — Manifest error of assessment — Proportionality)

(2020/C 215/34)

Language of the case: Italian

Parties

Applicant: Agmin Italy SpA (Verona, Italy) ((represented by: F. Guardascione, lawyer)

Defendant: European Commission (represented by: F. Dintilhac and F. Moro, acting as Agents)

Re:

Application under Article 263 TFEU seeking annulment of the Commission decision of 7 March 2018 excluding the applicant for three years from participating in procurement and grant award procedures covered by the general budget of the European Union, from participating in procedures for the award of funds from the European Development Fund (EDF) and from publishing information relating to that exclusion.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Agmin Italy SpA to pay the costs.

([1]) OJ C 231, 2.7.2018.

Judgment of the General Court of 13 May 2020 — Peek & Cloppenburg v EUIPO — Peek & Cloppenburg (Vogue Peek & Cloppenburg)

(Case T-443/18) ([1])

(EU trade mark — Opposition proceedings — Application for the EU word mark Vogue Peek & Cloppenburg — Earlier national commercial designation Peek & Cloppenburg — Relative ground for refusal — Article 8(4) of Regulation (EU) 2017/1001 — Coexistence of the national commercial designation and the mark applied for — Demarcation agreement — Application of national law by EUIPO — Suspension of the administrative proceedings — Article 70 of Regulation 2017/1001 — Rule 20(7)(c) of Regulation (EC) No 2868/95 (now Article 71(1) of Delegated Regulation (EU) 2018/625) — Manifest error of assessment)

(2020/C 215/35)

Language of the case: German

Parties

Applicant: Peek & Cloppenburg KG (Düsseldorf, Germany) (represented by: P. Lange, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Peek & Cloppenburg KG (Hamburg, Germany) (represented by: A. Renck, M. Petersenn and C. Stöber, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 20 April 2018 (Case R 1362/2005-1), relating to opposition proceedings between Peek & Cloppenburg (Hamburg) and Peek & Cloppenburg (Düsseldorf).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Peek & Cloppenburg KG (Düsseldorf) to pay the costs.

([1]) OJ C 311, 3.9.2018.

Judgment of the General Court of 13 May 2020 — Peek & Cloppenburg v EUIPO — Peek & Cloppenburg (Peek & Cloppenburg)

(Case T-444/18) ([1])

(EU trade mark — Invalidity and revocation proceedings — EU word mark Peek & Cloppenburg — Earlier national commercial designation Peek & Cloppenburg — Relative ground for refusal — Article 8(4) and Article 60(1)(c) of Regulation (EU) 2017/1001 — Coexistence of the national commercial designation and the EU trade mark — Demarcation agreement — Application of national law by EUIPO — Suspension of the administrative proceedings — Article 70 of Regulation 2017/1001 — Rule 20(7)(c) of Regulation (EC) No 2868/95 (now Article 71(1) of Delegated Regulation (EU) 2018/625) — Manifest error of assessment)

(2020/C 215/36)

Language of the case: German

Parties

Applicant: Peek & Cloppenburg KG (Düsseldorf, Germany) (represented by: P. Lange, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Peek & Cloppenburg KG (Hamburg, Germany) (represented by: A. Renck, M. Petersenn and C. Stöber, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 20 April 2018 (Case R 522/2006-1), relating to invalidity and revocation proceedings between Peek & Cloppenburg (Hamburg) and Peek & Cloppenburg (Düsseldorf).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Peek & Cloppenburg KG (Düsseldorf) to pay the costs.

(1) OJ C 311, 3.9.2018.

Judgment of the General Court of 13 May 2020 — Peek & Cloppenburg v EUIPO — Peek & Cloppenburg (Peek & Cloppenburg)

(Case T-445/18) (1)

(EU trade mark — Opposition proceedings — Application for the EU word mark Peek & Cloppenburg — Earlier national commercial designation Peek & Cloppenburg — Relative ground for refusal — Likelihood of confusion — Article 8(4) of Regulation (EU) 2017/1001 — Coexistence of the national commercial designation and the mark applied for — Demarcation agreement — Application of national law by EUIPO — Suspension of the administrative proceedings — Article 70 of Regulation 2017/1001 — Rule 20(7)(c) of Regulation (EC) No 2868/95 (now Article 71(1) of Delegated Regulation (EU) 2018/625) — Manifest error of assessment)

(2020/C 215/37)

Language of the case: German

Parties

Applicant: Peek & Cloppenburg KG (Düsseldorf, Germany) (represented by: P. Lange, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Peek & Cloppenburg KG (Hamburg, Germany) (represented by: A. Renck, M. Petersenn and C. Stöber, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 24 January 2018 (Case R 1270/2007-1), relating to opposition proceedings between Peek & Cloppenburg (Hamburg) and Peek & Cloppenburg (Düsseldorf).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Peek & Cloppenburg KG (Düsseldorf) to pay the costs.

(1) OJ C 311, 3.9.2018.

Judgment of the General Court of 13 May 2020 — Peek & Cloppenburg v EUIPO — Peek & Cloppenburg (Peek & Cloppenburg)

(Case T-446/18) ([1])

(EU trade mark — Opposition proceedings — Application for the EU word mark Peek & Cloppenburg — Earlier national commercial designation Peek & Cloppenburg — Relative ground for refusal — Likelihood of confusion — Article 8(4) of Regulation (EU) 2017/1001 — Coexistence of the national commercial designation and the mark applied for — Demarcation agreement — Application of national law by EUIPO — Suspension of the administrative proceedings — Article 70 of Regulation 2017/1001 — Rule 20(7)(c) of Regulation (EC) No 2868/95 (now Article 71(1) of Delegated Regulation (EU) 2018/625) — Manifest error of assessment)

(2020/C 215/38)

Language of the case: German

Parties

Applicant: Peek & Cloppenburg KG (Düsseldorf, Germany) (represented by: P. Lange, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Peek & Cloppenburg KG (Hamburg, Germany) (represented by: A. Renck, M. Petersenn and C. Stöber, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 20 April 2018 (Case R 1589/2007-1), relating to opposition proceedings between Peek & Cloppenburg (Hamburg) and Peek & Cloppenburg (Düsseldorf).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Peek & Cloppenburg KG (Düsseldorf) to pay the costs.

([1]) OJ C 311, 3.9.2018.

Judgment of the General Court of 13 May 2020 — Peek & Cloppenburg v EUIPO — Peek & Cloppenburg (Peek)

(Case T-534/18) ([1])

(EU trade mark — Opposition proceedings — Application for the EU word mark Peek — Earlier national commercial designation Peek & Cloppenburg — Relative ground for refusal — Likelihood of confusion — Article 8(4) of Regulation (EU) 2017/1001 — Coexistence of the national commercial designation and the mark applied for — Demarcation agreement — Application of national law by EUIPO — Suspension of the administrative proceedings — Article 70 of Regulation 2017/1001 — Rule 20(7)(c) of Regulation (EC) No 2868/95 (now Article 71(1) of Delegated Regulation (EU) 2018/625) — Manifest error of assessment)

(2020/C 215/39)

Language of the case: German

Parties

Applicant: Peek & Cloppenburg KG (Düsseldorf, Germany) (represented by: P. Lange, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Peek & Cloppenburg KG (Hamburg, Germany) (represented by: A. Renck, M. Petersenn and C. Stöber, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 31 May 2018 (Case R 115/2005-1), relating to opposition proceedings between Peek & Cloppenburg (Hamburg) and Peek & Cloppenburg (Düsseldorf).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Peek & Cloppenburg KG (Düsseldorf) to pay the costs.

([1]) OJ C 392, 29.10.2018.

Judgment of the General Court of 13 May 2020 — Peek & Cloppenburg v EUIPO — Peek & Cloppenburg (Peek's)

(Case T-535/18) ([1])

(EU trade mark — Opposition proceedings — Application for the EU word mark Peek's — Earlier national commercial designation Peek & Cloppenburg — Relative ground for refusal — Likelihood of confusion — Article 8(4) of Regulation (EU) 2017/1001 — Coexistence of the national commercial designation and the mark applied for — Demarcation agreement — Application of national law by EUIPO — Suspension of the administrative proceedings — Article 70 of Regulation 2017/1001 — Rule 20(7)(c) of Regulation (EC) No 2868/95 (now Article 71(1) of Delegated Regulation (EU) 2018/625) — Manifest error of assessment)

(2020/C 215/40)

Language of the case: German

Parties

Applicant: Peek & Cloppenburg KG (Düsseldorf, Germany) (represented by: P. Lange, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Peek & Cloppenburg KG (Hamburg, Germany) (represented by: A. Renck, M. Petersenn and C. Stöber, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 31 May 2018 (Case R 60/2007-1), relating to opposition proceedings between Peek & Cloppenburg (Hamburg) and Peek & Cloppenburg (Düsseldorf).

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Peek & Cloppenburg KG (Düsseldorf) to pay the costs.

(1) OJ C 392, 29.10.2018.

Judgment of the General Court of 29 April 2020 — Intercontact Budapest v CdT

(Case T-640/18) (1)

(Public service contracts — Tendering procedure — Provision of translation services of texts in the financial and banking fields from English into Hungarian — Ranking of a tenderer — Article 113(2) and (3) of Regulation (EU, Euratom) No 966/2012 — Obligation to state reasons — Tender price of the highest ranked tenderers — Refusal of disclosure)

(2020/C 215/41)

Language of the case: Hungarian

Parties

Applicant: Intercontact Budapest Fordító és Pénzügyi Tanácsadó Kft. (Intercontact Budapest Kft.) (Budapest, Hungary) (represented by: É. Subasicz, lawyer)

Defendant: Translation Centre for the Bodies of the European Union (CdT) (represented by: M. Garnier, acting as Agent)

Re:

Application based on Article 263 TFEU seeking, in essence, the annulment of the decision of the CdT of 29 August 2018 ranking the applicant's bid in fifth position in the ranking of successful tenderers according to the cascade mechanism concerning Lot No 12 of contract notice FL/FIN 17.

Operative part of the judgment

The Court:

1. Annuls the decision of the Translation Centre for the Bodies of the European Union (CdT) of 29 August 2018 classifying the tender of Intercontact Budapest Fordító és Pénzügyi Tanácsadó Kft. (Intercontact Budapest Kft.) in fifth place in the ranking of successful tenderers according to the cascade mechanism concerning Lot No 12 of contract notice FL/FIN 17.

2. Dismisses the remaining heads of claim in the application.

3. Orders the CdT to pay the costs.

(1) OJ C 4, 7.1.2019.

Judgment of the General Court of 13 May 2020 — Clatronic International v EUIPO (PROFI CARE)

(Case T-5/19) ([1])

(EU trade mark — International registration designating the European Union — Figurative mark PROFI CARE — Absolute grounds for refusal — No distinctive character — Article 7(1)(b) of Regulation (EU) 2017/1001 — Descriptive character — Article 7(1)(c) of Regulation 2017/1001 — Obligation to state reasons)

(2020/C 215/42)

Language of the case: English

Parties

Applicant: Clatronic International GmbH (Kempen, Germany) (represented by: O. Löffel, lawyer)

Defendant: European Union Intellectual Property Office (represented by: J. Ivanauskas and H. O'Neill, acting as Agents)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 15 October 2018 (Case R 504/2018-1), relating to the international registration designating the European Union in respect of the figurative mark PROFI CARE.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Clatronic International GmbH to pay the costs.

([1]) OJ C 82, 4.3.2019.

Judgment of the General Court of 13 May 2020 — View. v EUIPO (CREATE DELIGHTFUL HUMAN ENVIRONMENTS)

(Case T-49/19) ([1])

(EU trade mark — International registration designating the European Union — Word mark CREATE DELIGHTFUL HUMAN ENVIRONMENTS — Trade mark consisting of an advertising slogan — Absolute ground for refusal — No distinctive character — Article 7(1)(b) of Regulation (EU) 2017/1001)

(2020/C 215/43)

Language of the case: English

Parties

Applicant: View, Inc. (Milpitas, Delaware, United States) (represented by: G. Tritton, Barrister)

Defendant: European Union Intellectual Property Office (represented by: H. O'Neill and V. Ruzek, acting as Agents)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 27 November 2018 (Case R 1625/2018-2), concerning the international registration designating the European Union in respect of the word mark CREATE DELIGHTFUL HUMAN ENVIRONMENTS.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders View, Inc. to pay the costs.

(1) OJ C 103, 18.3.2019.

Judgment of the General Court of 13 May 2020 — Rot Front v EUIPO — Kondyterska korporatsiia 'Roshen' (РОШЕН)

(Case T-63/19) (1)

(EU trade mark — Opposition Proceedings — International registration designating the European Union — Figurative mark РОШЕН — Earlier international figurative mark РОМАШКИ — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2020/C 215/44)

Language of the case: English

Parties

Applicant: Rot Front OAO (Moscow, Russia) (represented by: M. Geitz and J. Stock, lawyers)

Defendant: European Union Intellectual Property Office (represented by: M. Fischer and H. O'Neill, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO: Dochirnie pidpryiemstvo Kondyterska korporatsiia 'Roshen' (Kiev, Ukraine) (represented by: I. Lukauskienė, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 16 November 2018 (Case R 1872/2018-2), relating to opposition proceedings between Rot Front and Dochirnie pidpryiemstvo Kondyterska korporatsiia 'Roshen'.

Operative part of the judgment

The Court:

1. Annuls the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 16 November 2018 (Case R 1872/2018-2);

2. Orders EUIPO to pay, in addition to its own costs, those incurred by Rot Front OAO;

3. Orders Dochirnie pidpryiemstvo Kondyterska korporatsiia 'Roshen' to bear its own costs.

(1) OJ C 122, 1.4.2019.

Judgment of the General Court of 13 May 2020 — Pontinova v EUIPO — Ponti & Partners (pontinova)

(Case T-76/19) ([1])

(EU trade mark — Opposition proceedings — Application for EU figurative mark pontinova — Earlier national word mark PONTI — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001 — Relevant public — Similarity of the services — Similarity of the signs — Global assessment of the likelihood of confusion)

(2020/C 215/45)

Language of the case: English

Parties

Applicant: Pontinova AG (Zurich, Switzerland) (represented by: L. Röh, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Ponti & Partners, SLP (Barcelona, Spain) (represented by: R. Guerras Mazón, lawyer)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 27 November 2018 (Case R 566/2018 5), relating to opposition proceedings between Ponti & Partners and Pontinova.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Pontinova AG to pay the costs.

([1]) OJ C 122, 1.4.2019.

Judgment of the General Court of 13 May 2020 — SolNova v EUIPO — Canina Pharma (BIO-INSECT Shocker)

(Case T-86/19) ([1])

(EU trade mark — Invalidity proceedings — EU word mark BIO-INSECT Shocker — Absolute ground for refusal — Mark of such a nature as to deceive the public — Article 7(1)(g) of Regulation (EC) No 207/2009)

(2020/C 215/46)

Language of the case: German

Parties

Applicant: SolNova AG (Zollikon, Switzerland) (represented by: P. Lee, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Canina Pharma GmbH (Hamm, Germany) (represented by: O. Bischof, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 11 December 2018 (Case R 276/2018-2), concerning invalidity proceedings between SolNova and Canina Pharma.

Operative part of the judgment

The Court:

1. Annuls the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 11 December 2018 (Case R 276/2018-2) in so far as it concerns 'biocidal preparations for use in manufacture; chemical preparations for use in the manufacture of biocides; additives, chemical, to insecticides', in class 1 and 'disinfectants; vermin destroying preparations; parasiticides; bacteriological preparations for medical and veterinary use; nutritional supplements; medicinal sprays; antibacterial sprays; anti-inflammatory sprays; insecticides; insect attractants; anti-insect spray; insect repellents; preparations for destroying insects; insect growth regulators; tissues impregnated with insect repellents; powders for killing fleas; flea sprays; flea collars; flea exterminating preparations; animal flea collars; powders for killing fleas on animals; biocides; animal repellent formulations; veterinary preparations; veterinary diagnostic reagents; veterinary vaccines; food supplements for veterinary use; sanitary preparations for veterinary use', in Class 5;

2. The action is dismissed for the remainder;

3. Orders Canina Pharma GmbH to bear, in addition to its own costs, half of the costs incurred by SolNova AG before the General Court and the costs necessarily incurred by it for the purposes of the proceedings before the Board of Appeal of the EUIPO;

4. Orders SolNova to bear half of its own costs before the General Court;

5. Orders EUIPO to bear its own costs.

([1]) OJ C 122, 1.4.2019.

Judgment of the General Court of 13 May 2020 — Koenig & Bauer v EUIPO (we're on it)

(Case T-156/19) ([1])

(EU trade mark — Application for EU word mark we're on it — Absolute grounds for refusal — No distinctive character — Trade mark consisting of an advertising slogan — Article 7(1)(b) of Regulation (EU) 2017/1001 — Obligation to state reasons — Article 94 of Regulation 2017/1001)

(2020/C 215/47)

Language of the case: German

Parties

Applicant: Koenig & Bauer AG (Wurzbourg, Germany) (represented by: B. Reinisch, B. Sorg and M. Ringer, lawyers)

Defendant: European Union Intellectual Property Office (represented by: A. Graul and A. Söder, acting as Agents)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 16 January 2019 (Case R 1027/2018-1), relating to an application for registration of the word sign we're on it as an EU trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Koenig & Bauer AG to pay the costs.

(1) OJ C 148, 29.4.2019.

Judgment of the General Court of 13 May 2020 — Cognac Ferrand v EUIPO (Shape of braiding on a bottle)

(Case T-172/19) (1)

(EU trade mark — Application for a three-dimensional EU trade mark — Shape of braiding on a bottle — Absolute ground for refusal — No distinctive character — Article 7(1)(b) of Regulation (EU) 2017/1001)

(2020/C 215/48)

Language of the case: French

Parties

Applicant: Cognac Ferrand (Paris, France) (represented by: D. Régnier, lawyer)

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

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 7 January 2019 (Case R 1640/2018-2) relating to an application for registration of a three-dimensional sign constituted by the shape of braiding on a bottle as an EU trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Cognac Ferrand to bear the costs.

(1) OJ C 182, 27.5.2019.

Judgment of the General Court of 13 May 2020 — Wonder Line v EUIPO — De Longhi Benelux (KENWELL)

(Case T-284/19) (1)

(EU trade mark — Opposition proceedings — Application for EU word mark KENWELL — Earlier EU word mark KENWOOD — Relative ground for refusal — Likelihood of confusion — Similarity of the signs — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2020/C 215/49)

Language of the case: English

Parties

Applicant: Wonder Line, SL (Barcelona, Spain) (represented by: E. Manresa Medina and J. Manresa Medina, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO: De Longhi Benelux SA (Luxembourg, Luxembourg)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 11 February 2019 (Case R 1351/2018-2), relating to opposition proceedings between De Longhi Benelux and Wonder Line.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Wonder Line, SL to pay the costs.

(1) OJ C 238, 15.7.2019.

Judgment of the General Court of 13 May 2020 — Divaro v EUIPO — Grendene (IPANEMA)

(Case T-288/19) (1)

(EU trade mark — Opposition proceedings — Application for EU figurative mark IPANEMA — Earlier EU figurative mark Ipanema — Relative ground for refusal — Article 8(5) of Regulation (EU) 2017/1001)

(2020/C 215/50)

Language of the case: Spanish

Parties

Applicant: Divaro, SA (Oviedo, Spain) (represented by: M. Santos Quintana and M. A. Fernández Munárriz, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Grendene, SA (Sobral, Brazil)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 22 February 2019 (Case R 1785/2018-2) relating to opposition proceedings between Grendene and Divaro.

Operative part of the judgment

The Court:

1. Annuls the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 22 February 2019 (Case R 1785/2018-2) in so far as it dismissed the action of Divaro, SA for 'protective glasses' in Class 9;

2. Rejects the opposition for all the goods covered in the application for registration, except for 'glasses (optical)', 'frames for the latter (lenses)' and 'sports glasses' in Class 9;

3. Dismisses the action as to the remainder;

4. Orders each party to bear its own costs.

(1) OJ C 213, 24.6.2019.

Judgment of the General Court of 13 May 2020 — adp Gauselmann v EUIPO — Gameloft (City Mania)

(Case T-381/19) (1)

(EU trade mark — Opposition proceedings — Application for EU word mark City Mania — Earlier EU word mark City Lights — Relative ground for refusal — No likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2020/C 215/51)

Language of the case: English

Parties

Applicant: adp Gauselmann GmbH (Espelkamp, Germany) (represented by: P. Koch Moreno, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Gameloft SE (Paris, France)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 11 April 2019 (Case R 976/2018-2), relating to opposition proceedings between adp Gauselmann and Gameloft.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders adp Gauselmann GmbH to pay the costs.

(1) OJ C 270, 12.8.2019.

Judgment of the General Court of 13 May 2020 — Global Brand Holdings v EUIPO (XOXO)

(Case T-503/19) (1)

(EU trade mark — Application for the EU word mark XOXO — Absolute ground for refusal — No distinctive character — Article 7(1)(b) and (2) of Regulation (EU) 2017/1001)

(2020/C 215/52)

Language of the case: English

Parties

Applicant: Global Brand Holdings, LLC (New York, New York, United States) (represented by: D. de Marion de Glatigny, lawyer)

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

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 11 April 2019 (Case R 1413/2018-1), concerning an application for registration of the word sign XOXO as an EU trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders Global Brand Holdings, LLC to pay the costs.

(1) OJ C 288, 26.8.2019.

Judgment of the General Court of 13 May 2020 — EC Brand Comércio, Importação e Exportação de Vestuário em Geral v EUIPO (pantys)

(Case T-532/19) (1)

(EU trade mark — Application for the EU figurative mark pantys — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EU) 2017/1001 — No distinctive character acquired through use — Article 7(3) of Regulation 2017/1001)

(2020/C 215/53)

Language of the case: English

Parties

Applicant: EC Brand Comércio, Importação e Exportação de Vestuário em Geral Ltda (Sorocaba, Brazil) (represented by: B. Bittner and U. Heinrich, lawyers)

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

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 22 May 2019 (Case R 314/2019-5), relating to an application for registration of the figurative mark pantys as an EU trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders EC Brand Comércio, Importação e Exportação de Vestuário em Geral Ltda to pay the costs.

(1) OJ C 312, 16.9.2019.

Action brought on 28 April 2020 — Rochem Group v EUIPO — Rochem Marine (R.T.S. ROCHEM Technical Services)

(Case T-233/20)

(2020/C 215/54)

Language of the case: English

Parties

Applicant(s): Rochem Group AG (Zug, Switzerland) (represented by: K. Guridi Sedlak, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Rochem Marine Srl (Genova, Italy)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union figurative mark R.T.S. ROCHEM Technical Services — European Union trade mark No 12 326 609

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 20 February 2020 in Case R 1544/2019-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to render a new decision refusing the declaration of invalidity filed against the EU trade mark No 12 326 609, also for classes 11 and 40;

— order EUIPO to pay its own costs and bear the fees and costs of the applicant.

Pleas in law

— Infringement of Article 18 of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement Article 64(2) and (3) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 29 April 2020 — HB v EIB

(Case T-234/20)

(2020/C 215/55)

Language of the case: English

Parties

Applicant: HB (represented by: C. Bernard-Glanz, lawyer)

Defendant: European Investment Bank

Form of order sought

The applicant claims that the Court should:

— annul (i) the 2017 performance appraisal and (ii) the decision of the adjudication panel, rejecting the applicant's appeal against her 2017 performance appraisal;

— order the defendant to pay an amount of EUR 50 000, in compensation for the loss of a chance, together with interest at the legal rate from the date of delivery of the judgment until payment in full has been made;

— order the defendant to pay the costs.

Pleas in law and main arguments

In support of the claim for annulment of the performance appraisal, the applicant relies on two pleas in law.

1. First plea in law, alleging breach of the principle of good administration and of the right to confidentiality, insofar as, by commenting on the applicant's alleged improper behaviour with a senior manager in June 2017 in the performance appraisal, X breached the principle of good administration as well as the applicant's right to confidentiality.

2. Second plea in law, alleging manifest error of assessment and misuse of powers, insofar as the applicant claims that she was harassed by X during the reporting period, that (i) as a result, X did not have the objectivity to assess her performance and thus vitiated his comments and marks with manifest error, and (ii) the appraisal report was adopted with the intention of harming the applicant and is thus vitiated by misuse of powers

In support of her claim for the annulment of the appeal panel's decision, the applicant relies on two further pleas in law.

1. First plea in law, alleging procedural irregularities, insofar as procedural irregularities were committed by the adjudication panel (irregular notice to the hearing, irregular adoption of the decision *in contumaciam*), in the absence of which the outcome of the procedure might have been different.

2. Second plea in law, alleging breach of the right to be heard, insofar as, as a result of the procedural irregularities committed, the applicant was not present at the hearing of the adjudication panel and was thus not heard.

In support of her damages claim, the applicant argues that, by rejecting her request for conciliation, illegally, the defendant deprived the applicant of a chance of settling the matter amicably and avoiding proceedings before the General Court.

Action brought on 27 April 2020 — Arnaoutakis v Parliament

(Case T-240/20)

(2020/C 215/56)

Language of the case: French

Parties

Applicant: Stavros Arnaoutakis (Heraklion, Greece) (represented by: A. Schmitt and A. Grosjean, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

declare and rule that

— the present action is admissible;

— if necessary, by way of measures of organization of procedure or measures of inquiry in the present case, the European Parliament is ordered to produce the opinions of the Legal Service of the European Parliament, ostensibly delivered on 16 July 2018 and 3 December 2018, regardless of the exact date but in any event before the adoption of the decision of the Parliament's Bureau on 10 December 2018 amending the Implementing Measures for the Statute for Members of the European Parliament (2018/C 466/02, Official Journal 28 December 2018, C 466/8) ('the IMS');

— the contested individual decision, notified to the applicant by the 'Members' Salaries and Social Entitlements' Unit of the Directorate-General for Finances of the European Parliament concerning the applicant's rights to his additional (voluntary) pension, shall be annulled on the basis of Article 263 TFEU, in so far as that that decision implemented the increase in the age of entitlement to additional (voluntary) retirement due to the applicant from the age of 63 to 65 years as of 1 January 2019, as introduced by the Bureau's decision of 10 December 2018 referred to above;

— the decision taken by the Parliament's Bureau on 10 December 2018 referred to above shall be annulled, or alternatively shall be inapplicable, by virtue of Article 277 TFEU, in so far as it modifies Article 76 of the IMS, and more particularly in so far as it increases the age of entitlement to the additional (voluntary) pension, payable as of 1 January 2019;

— the Parliament shall pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging lack of competence *ratione materiae* of the Bureau:

   — first, the Bureau's decision of 10 December 2018 ('the Bureau's decision') was taken in breach of the Statute for Members of the European Parliament adopted by Decision of the European Parliament of 28 September 2005, 2005/684/EC, Euratom (OJ 2005 L 262, p. 1) ('the Statute'); in particular, the Bureau's decision contravenes the provisions of Article 27 of the Statute which requires that 'acquired rights' and 'future entitlements' be maintained;

   — secondly, the Bureau's decision creates a tax by introducing a special levy of 5 % of the nominal amount of the pension, when creating a tax does not fall within the Bureau's remit according to Article 223(2) TFEU.

2. Second plea in law, alleging infringement of essential procedural requirements:

   — first, it is alleged that the Bureau adopted its decision without respecting the rules laid down by Article 223 TFEU;

   — secondly, the Bureau's decision is insufficiently reasoned and is thus in breach of the obligation to state reasons, laid down in the second paragraph of Article 296 TFEU and Article 41(2)(c) of the Charter of Fundamental Rights of the European Union.

3. Third plea in law, alleging infringement of acquired rights and future entitlements and of the principle of legitimate expectations:

   — first, the Bureau's decision infringes the acquired rights and future entitlements arising both from general principles of law and from the Statute which expressly requires that they be maintained 'in full' (Article 27);

— secondly, the Bureau's decision infringes the principle of legitimate confidence.

4. Fourth plea in law, alleging infringement of the principle of proportionality and of the principles of equal treatment and non-discrimination:

— first, the interferences with the applicant's rights are disproportionate to the objectives pursued by the Bureau's decision;

— secondly, the Bureau's decision must be declared to be inapplicable for infringement of the principles of equal treatment and non-discrimination.

5. Fifth plea in law, alleging infringement of the principle of legal certainty and the absence of transitional measures:

— first, the Bureau's decision infringes the principle of legal certainty in that it unlawfully has retroactive effects;

— secondly, the Bureau's decision infringes the principle of legal certainty in that it failed to make provision for transitory measures.

Action brought on 27 April 2020 — Susta v Parliament

(Case T-241/20)

(2020/C 215/57)

Language of the case: French

Parties

Applicant: Gianluca Susta (Biella, Italy) (represented by: A. Schmitt and A. Grosjean, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

declare and rule that

— the present action is admissible;

— if necessary, by way of measures of organization of procedure or measures of inquiry in the present case, the European Parliament is ordered to produce the opinions of the Legal Service of the European Parliament, ostensibly delivered on 16 July 2018 and 3 December 2018, regardless of the exact date but in any event before the adoption of the decision of the Parliament's Bureau on 10 December 2018 amending the Implementing Measures for the Statute for Members of the European Parliament (2018/C 466/02, Official Journal 28 December 2018, C 466/8) ('the IMS');

— the contested individual decision, notified to the applicant by the 'Members' Salaries and Social Entitlements' Unit of the Directorate-General for Finances of the European Parliament concerning the applicant's rights to his additional (voluntary) pension, shall be annulled on the basis of Article 263 TFEU, in so far as that that decision implemented the increase in the age of entitlement to additional (voluntary) retirement due to the applicant from the age of 63 to 65 years as of 1 January 2019, as introduced by the Bureau's decision of 10 December 2018 referred to above;

— the decision taken by the Parliament's Bureau on 10 December 2018 referred to above shall be annulled, or alternatively shall be inapplicable, by virtue of Article 277 TFEU, in so far as it modifies Article 76 of the IMS, and more particularly in so far as it increases the age of entitlement to the additional (voluntary) pension, payable as of 1 January 2019;

— the Parliament shall pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging lack of competence *ratione materiae* of the Bureau:

   — first, the Bureau's decision of 10 December 2018 ('the Bureau's decision') was taken in breach of the Statute for Members of the European Parliament adopted by Decision of the European Parliament of 28 September 2005, 2005/684/EC, Euratom (OJ 2005 L 262, p. 1) ('the Statute'); in particular, the Bureau's decision contravenes the provisions of Article 27 of the Statute which requires that 'acquired rights' and 'future entitlements' be maintained;

   — secondly, the Bureau's decision creates a tax by introducing a special levy of 5 % of the nominal amount of the pension, when creating a tax does not fall within the Bureau's remit according to Article 223(2) TFEU.

2. Second plea in law, alleging infringement of essential procedural requirements:

   — first, it is alleged that the Bureau adopted its decision without respecting the rules laid down by Article 223 TFEU;

   — secondly, the Bureau's decision is insufficiently reasoned and is thus in breach of the obligation to state reasons, laid down in the second paragraph of Article 296 TFEU and Article 41(2)(c) of the Charter of Fundamental Rights of the European Union.

3. Third plea in law, alleging infringement of acquired rights and future entitlements and of the principle of legitimate expectations:

   — first, the Bureau's decision infringes the acquired rights and future entitlements arising both from general principles of law and from the Statute which expressly requires that they be maintained 'in full' (Article 27);

   — secondly, the Bureau's decision infringes the principle of legitimate confidence.

4. Fourth plea in law, alleging infringement of the principle of proportionality and of the principles of equal treatment and non-discrimination:

   — first, the interferences with the applicant's rights are disproportionate to the objectives pursued by the Bureau's decision;

   — secondly, the Bureau's decision must be declared to be inapplicable for infringement of the principles of equal treatment and non-discrimination.

5. Fifth plea in law, alleging infringement of the principle of legal certainty and the absence of transitional measures:

   — first, the Bureau's decision infringes the principle of legal certainty in that it unlawfully has retroactive effects;

   — secondly, the Bureau's decision infringes the principle of legal certainty in that it failed to make provision for transitory measures.

Action brought on 27 April 2020 — Frutos Gama v Parliament

(Case T-242/20)

(2020/C 215/58)

Language of the case: French

Parties

Applicant: Manuela Frutos Gama (Valverde de Mérida, Spain) (represented by: A. Schmitt and A. Grosjean, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— declare the present action admissible;

— where necessary, by way of measures of organisation of procedure or measures of inquiry in the present case, order the European Parliament to disclose the opinions issued by the legal service of the European Parliament, which were allegedly delivered on 16 July 2018 and 3 December 2018, without prejudice to the precise date, and in any event before the adoption of the decision of the European Parliament Bureau of 10 December 2018 amending the Implementing Measures for the Statute for Members of the European Parliament (2018/C 466/02, OJ 2018 C 466, p. 8);

— annul, pursuant to Article 263 TFEU, the contested individual decision, notified to the applicant by the Members' Salaries and Social Entitlements Unit of the European Parliament's Directorate-General for Finance, concerning the applicant's entitlement to her additional (voluntary) pension, in so far as that decision raised the age for entitlement to the additional (voluntary) pension payable to the applicant from 63 to 65 years with effect from 1 January 2019, as introduced by the aforementioned decision of the Bureau of 10 December 2018;

— annul, or declare inapplicable pursuant to Article 277 TFEU, the decision of the Parliament Bureau of 10 December 2018 referred to above, in so far as it amends Article 76 of the Implementing Measures, and more particularly, in so far as it raises the age for entitlement to the additional (voluntary) pension payable with effect from 1 January 2019;

— order the Parliament to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging lack of competence *ratione materiae* of the Bureau.

— First, the decision of the Bureau of 10 December 2018 ('the decision of the Bureau') was adopted in infringement of the Statute for Members of the European Parliament adopted by decision of the European Parliament of 28 September 2005, 2005/684/EC, Euratom (OJ 2005 L 262, p. 1) ('the Statute'). The decision of the Bureau infringes, inter alia, Article 27 of the Statute which requires that 'acquired rights' and 'future entitlements' be maintained.

— Second, the decision of the Bureau creates a tax by introducing a special levy of 5 % of the nominal amount of the pension although the creation of a tax does not fall within the competence of the Bureau according to Article 223(2) TFEU.

2. Second plea in law, alleging infringement of essential procedural requirements.

   — First, the applicant alleges that the Bureau adopted its decision without complying with the rules laid down in Article 223 TFEU.

   — Second, the decision of the Bureau is insufficiently reasoned and therefore it infringes the duty to state reasons laid down in the second paragraph of Article 296 TFEU and Article 41(2)(c) of the Charter of Fundamental Rights of the European Union.

3. Third plea in law, alleging infringement of acquired rights and future entitlements and of the principle of legitimate expectations.

   — First, the decision of the Bureau infringes the acquired rights and future entitlements resulting both from the general principles of law and the Statute, which expressly requires that they be maintained 'in full' (Article 27).

   — Second, the decision of the Bureau infringes the principle of legitimate expectations.

4. Fourth plea in law, alleging infringement of the principle of proportionality and the principles of equal treatment and non-discrimination.

   — First, the prejudice to the applicant's rights is disproportionate to the objectives pursued by the decision of the Bureau.

   — Second, the decision of the Bureau must be declared inapplicable on the ground that it infringes the principles of equal treatment and non-discrimination.

5. Fifth plea in law, alleging infringement of legal certainty and the absence of transitional measures.

   — First, the decision of the Bureau infringes the principle of legal certainty in that it has unlawful retroactive consequences.

   — Second, the decision of the Bureau infringes the principle of legal certainty in that it failed to take transitional measures.

Action brought on 29 April 2020 — Galeote v Parliament

(Case T-243/20)

(2020/C 215/59)

Language of the case: French

Parties

Applicant: Gerardo Galeote (Madrid, Spain) (represented by: A. Schmitt and A. Grosjean, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— declare the present action admissible;

— where necessary, as measures of organisation of procedure or measures of inquiry in the present case, order the European Parliament to produce the opinions issued by the European Parliament's Legal Service, which were delivered on 16 July 2018 and on 3 December 2018, without prejudice as to their exact date, but in any event before the adoption of the decision taken by the Bureau of the Parliament on 10 December 2018 modifying the Implementing Measures for the Statute for Members of the European Parliament (2018/C 466/02, Official Journal 28 December 2018, C 466/8);

— annul the contested individual decision, notified to the applicant by the 'Remuneration and Social Entitlements of Members' unit of the European Parliament's Directorate-General for Finance concerning the applicant's rights to his (voluntary) supplementary pension, on the basis of Article 263 TFEU, in so far as that decision implemented the increase in the age of entitlement to receive the (voluntary) supplementary retirement pension owed to the applicant from 63 to 65 as from 1 January 2019, as introduced by the abovementioned decision of the Bureau of 10 December 2018;

— annul or declare inapplicable pursuant to Article 277 TFEU the abovementioned decision taken by the Bureau of the Parliament on 10 December 2018, in so far as it modifies Article 76 of the IMS, and more specifically in so far as it raises the age of entitlement to the (voluntary) supplementary pension payable as from 1 January 2019;

— order the Parliament to pay the costs.

Pleas in law and main arguments

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

1. First plea, alleging that the Bureau lacks competence *ratione materiae*.

— first, the Bureau's decision of 10 December 2018 ('the Bureau's decision') was taken in breach of the Statute of Members of the European Parliament adopted by decision of the European Parliament of 28 September 2005, 2005/684/EC, Euratom, (OJ 2005 L 262, p. 1) ('the Statute'). The Bureau's decision is inter alia contrary to the provisions of Article 27 of the Statute, which requires that 'acquired rights' and 'rights in the course of acquisition' be maintained.

— secondly, the Bureau's decision creates a tax by introducing a special levy of 5 % of the nominal amount of the pension, even though the creation of a tax does not fall within the Bureau's competence under Article 223(2) TFEU.

2. Second plea, alleging infringement of essential procedural requirements.

— first, the Bureau adopted its decision without respecting the rules laid down by Article 223 TFEU.

— secondly, the Bureau's decision lacks a sufficient statement of reasons and thus infringes the obligation to state reasons laid down in the second paragraph of Article 296 TFEU and in Article 41(2)(c) of the Charter of Fundamental Rights of the European Union.

3. Third plea, alleging infringement of acquired rights and rights in the course of acquisition and of the principle of legitimate expectations.

— first, the Bureau's decision infringes the acquired rights and rights in the course of acquisition stemming both from general principles of law and from the Statute, which expressly requires that they be 'entirely' maintained (Article 27).

— secondly, the Bureau's decision infringes the principle of legitimate expectations.

4. Fourth plea, alleging infringement of the principle of proportionality and of the principles of equal treatment and non-discrimination.

— first, the infringements of the applicant's rights are disproportionate in relation to the objectives pursued by the Bureau's decision.

— secondly, the Bureau's decision must be declared inapplicable on the ground that it infringes the principles of equal treatment and of non-discrimination.

5. Fifth plea, alleging infringement of the principle of legal certainty and a lack of transitional measures.

— first, the Bureau's decision infringes the principle of legal certainty in that it improperly has retroactive effect.

— secondly, the Bureau's decision disregards the principle of legal certainty in that it failed to provide for transitional measures.

Action brought on 29 April 2020 — Marques v Parliament

(Case T-244/20)

(2020/C 215/60)

Language of the case: French

Parties

Applicant: Mário Sérgio Marques (Funchal, Portugal) (represented by: A. Schmitt and A. Grosjean, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— declare the present action admissible;

— where necessary, by way of measures of organisation of procedure or measures of inquiry in the present case, order the European Parliament to disclose the opinions issued by the legal service of the European Parliament, which were allegedly delivered on 16 July 2018 and 3 December 2018, without prejudice to the precise date, and in any event before the adoption of the decision of the European Parliament Bureau of 10 December 2018 amending the Implementing Measures for the Statute for Members of the European Parliament (2018/C 466/02, OJ 2018 C 466, p. 8);

— annul, pursuant to Article 263 TFEU, the contested individual decision, notified to the applicant by the Members' Salaries and Social Entitlements Unit of the European Parliament's Directorate-General for Finance, concerning the applicant's entitlement to his additional (voluntary) pension, in so far as that decision raised the age for entitlement to the additional (voluntary) pension payable to the applicant from 63 to 65 years with effect from 1 January 2019, as introduced by the aforementioned decision of the Bureau of 10 December 2018;

— annul, or declare inapplicable pursuant to Article 277 TFEU, the decision of the Parliament Bureau of 10 December 2018 referred to above, in so far as it amends Article 76 of the Implementing Measures, and more particularly, in so far as it raises the age for entitlement to the additional (voluntary) pension payable with effect from 1 January 2019;

— order the Parliament to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging lack of competence *ratione materiae* of the Bureau.

   — First, the decision of the Bureau of 10 December 2018 ('the decision of the Bureau') was adopted in infringement of the Statute for Members of the European Parliament adopted by decision of the European Parliament of 28 September 2005, 2005/684/EC, Euratom (OJ 2005 L 262, p. 1) ('the Statute'). The decision of the Bureau infringes, inter alia, Article 27 of the Statute which requires that 'acquired rights' and 'future entitlements' be maintained.

   — Second, the decision of the Bureau creates a tax by introducing a special levy of 5 % of the nominal amount of the pension although the creation of a tax does not fall within the competence of the Bureau according to Article 223(2) TFEU.

2. Second plea in law, alleging infringement of essential procedural requirements.

   — First, the applicant alleges that the Bureau adopted its decision without complying with the rules laid down in Article 223 TFEU.

   — Second, the decision of the Bureau is insufficiently reasoned and therefore it infringes the duty to state reasons laid down in the second paragraph of Article 296 TFEU and Article 41(2)(c) of the Charter of Fundamental Rights of the European Union.

3. Third plea in law, alleging infringement of acquired rights and future entitlements and of the principle of legitimate expectations.

   — First, the decision of the Bureau infringes the acquired rights and future entitlements resulting both from the general principles of law and the Statute, which expressly requires that they be maintained 'in full' (Article 27).

   — Second, the decision of the Bureau infringes the principle of legitimate expectations.

4. Fourth plea in law, alleging infringement of the principle of proportionality and the principles of equal treatment and non-discrimination.

   — First, the prejudice to the applicant's rights is disproportionate to the objectives pursued by the decision of the Bureau.

   — Second, the decision of the Bureau must be declared inapplicable on the ground that it infringes the principles of equal treatment and non-discrimination.

5. Fifth plea in law, alleging infringement of legal certainty and the absence of transitional measures.

   — First, the decision of the Bureau infringes the principle of legal certainty in that it has unlawful retroactive consequences.

   — Second, the decision of the Bureau infringes the principle of legal certainty in that it failed to take transitional measures.

Action brought on 29 April 2020 — Watson v Parliament

(Case T-245/20)

(2020/C 215/61)

Language of the case: French

Parties

Applicant: Graham R. Watson (Edinburgh, United Kingdom) (represented by: A. Schmitt and A. Grosjean, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

— declare the present action admissible;

— where necessary, by way of measures of organisation of procedure or measures of inquiry in the present case, order the European Parliament to disclose the opinions issued by the legal service of the European Parliament, which were allegedly delivered on 16 July 2018 and 3 December 2018, without prejudice to the precise date, and in any event before the adoption of the decision of the European Parliament Bureau of 10 December 2018 amending the Implementing Measures for the Statute for Members of the European Parliament (2018/C 466/02, OJ 2018 C 466, p. 8);

— annul, pursuant to Article 263 TFEU, the contested individual decision, notified to the applicant by the Members' Salaries and Social Entitlements Unit of the European Parliament's Directorate-General for Finance, concerning the applicant's entitlement to his additional (voluntary) pension, in so far as that decision raised the age for entitlement to the additional (voluntary) pension payable to the applicant from 63 to 65 years with effect from 1 January 2019, as introduced by the aforementioned decision of the Bureau of 10 December 2018;

— annul, or declare inapplicable pursuant to Article 277 TFEU, the decision of the Parliament Bureau of 10 December 2018 referred to above, in so far as it amends Article 76 of the Implementing Measures, and more particularly, in so far as it raises the age for entitlement to the additional (voluntary) pension payable with effect from 1 January 2019;

— order the Parliament to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging lack of competence *ratione materiae* of the Bureau.

— First, the decision of the Bureau of 10 December 2018 ('the decision of the Bureau') was adopted in infringement of the Statute for Members of the European Parliament adopted by decision of the European Parliament of 28 September 2005, 2005/684/EC, Euratom (OJ 2005 L 262, p. 1) ('the Statute'). The decision of the Bureau infringes, inter alia, Article 27 of the Statute which requires that 'acquired rights' and 'future entitlements' be maintained.

— Second, the decision of the Bureau creates a tax by introducing a special levy of 5 % of the nominal amount of the pension although the creation of a tax does not fall within the competence of the Bureau according to Article 223(2) TFEU.

2. Second plea in law, alleging infringement of essential procedural requirements.

   — First, the applicant alleges that the Bureau adopted its decision without complying with the rules laid down in Article 223 TFEU.

   — Second, the decision of the Bureau is insufficiently reasoned and therefore it infringes the duty to state reasons laid down in the second paragraph of Article 296 TFEU and Article 41(2)(c) of the Charter of Fundamental Rights of the European Union.

3. Third plea in law, alleging infringement of acquired rights and future entitlements and of the principle of legitimate expectations.

   — First, the decision of the Bureau infringes the acquired rights and future entitlements resulting both from the general principles of law and the Statute, which expressly requires that they be maintained 'in full' (Article 27).

   — Second, the decision of the Bureau infringes the principle of legitimate expectations.

4. Fourth plea in law, alleging infringement of the principle of proportionality and the principles of equal treatment and non-discrimination.

   — First, the prejudice to the applicant's rights is disproportionate to the objectives pursued by the decision of the Bureau.

   — Second, the decision of the Bureau must be declared inapplicable on the ground that it infringes the principles of equal treatment and non-discrimination.

5. Fifth plea in law, alleging infringement of legal certainty and the absence of transitional measures.

   — First, the decision of the Bureau infringes the principle of legal certainty in that it has unlawful retroactive consequences.

   — Second, the decision of the Bureau infringes the principle of legal certainty in that it failed to take transitional measures.

Action brought on 27 April 2020 — Aerospinning Master Franchising v EUIPO — Mad Dogg Athletics (SPINNING)

(Case T-246/20)

(2020/C 215/62)

Language in which the application was lodged: Czech

Parties

Applicant: Aerospinning Master Franchising s.r.o. (Prague, Czech Republic) (represented by: K. Labalestra, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Mad Dogg Athletics, Inc. (Venice, California, United States)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union word mark 'SPINNING' — European Union trade mark No 175 117

Procedure before EUIPO: Proceedings for a declaration of invalidity

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 26 February 2020 in Case R 369/2019-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Pleas in law

— Infringement of Article 58(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 41(2)(a) of the Charter of Fundamental Rights of the European Union;

— Infringement of Article 41(2)(c) of the Charter of Fundamental Rights of the European Union.

Action brought on 28 April 2020 — Sabra v Council

(Case T-249/20)

(2020/C 215/63)

Language of the case: English

Parties

Applicant: Abdelkader Sabra (Beirut, Lebanon) (represented by: M. Lester, QC, and A. Bradshaw, Solicitor)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul the contested measures insofar as they apply to him;

— order the defendant to pay the costs.

Pleas in law and main arguments

The applicant seeks the annulment of Council Implementing Decision (CFSP) 2020/212 of 17 February 2020 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria ([1]) and Council Implementing Regulation (EU) 2020/211 of 17 February 2020 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria ([2]).

In support of the action, the applicant contends that his inclusion in the contested measures is a result of manifest errors of assessment by the Council. In particular, the applicant claims that

— he is not a leading businessperson operating in Syria within the meaning of Article 15(1a) of Council Regulation (EU) No 36/2012 of 18 January 2012 ([3]);

— he is not associated with the Syrian regime, does not exercise influence over it and poses no risk of circumvention, within the meaning of Article 15(1b) of Council Regulation No 36/2012, and

— he does not provide any support to or benefit from the Syrian regime.

([1]) OJ 2020 L 43I, p. 6.
([2]) OJ 2020 L 43I, p. 1.
([3]) Council Regulation (EU) No 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No 442/2011 (OJ 2012 L 16, p. 1).

Action brought on 23 April 2020 — JU and Others v Council

(Case T-252/20)

(2020/C 215/64)

Language of the case: English

Parties

Applicants: JU, JV, JW, JY, JZ, KA, KB (represented by: P. Tridimas, Barrister, A. von Westernhagen, and D. Harrison, Solicitors)

Defendant: Council of the European Union

Form of order sought

The applicants claim that the Court should:

— annul Council Decision (EU) 2020/135 of 30 January 2020 on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ([1]), insofar it deprives them without their consent and without due process of their status as Union citizens and their rights arising therefrom;

— order the defendant to pay the costs.

Pleas in law and main arguments

The applicants claim that by depriving them, of their status of Union citizenship and the fundamental rights arising therefrom, the Council has breached Articles 20 and 23 TFEU, Article 50 TFEU, Articles 39, 40, 45 and 46 as well as Articles 7 and 19 of the Charter, the principles of proportionality, of equal treatment and of legitimate expectations.

Therefore, the applicants claim that Union Citizenship is the fundamental status of EU nationals. As such, it is personal in nature and, once vested, it does not automatically demise upon the withdrawal of the United Kingdom. The applicants allege that no person may be deprived arbitrarily of their Union citizenship status and the rights flowing thereof.

([1]) Council Decision (EU) 2020/135 of 30 January 2020 on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ 2020, L 29, p. 1

Action brought on 5 May 2020 — Oatly v EUIPO (IT'S LIKE MILK BUT MADE FOR HUMANS)

(Case T-253/20)

(2020/C 215/65)

Language of the case: English

Parties

Applicant: Oatly AB (Malmö, Sweden) (represented by: M. Johansson, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for European Union word mark IT'S LIKE MILK BUT MADE FOR HUMANS — Application for registration No 18 035 560

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 7 February 2020 in Case R 2446/2019-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to bear its own costs and pay those incurred by the applicant at the present proceedings.

Plea in law

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

Action brought on 5 May 2020 — Kondyterska korporatsiia 'Roshen' v EUIPO — Krasnyj Octyabr (Representation of a lobster)

(Case T-254/20)

(2020/C 215/66)

Language of the case: English

Parties

Applicant: Dochirnie pidpryiemstvo Kondyterska korporatsiia 'Roshen' (Kiev, Ukraine) (represented by: I. Lukauskienė, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Krasnyj Octyabr (Moscow, Russia)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union figurative mark (Representation of a lobster) — European Union trade mark No 15 948 185

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 4 March 2020 in Case R 1916/2019-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Pleas in law

— Misapplication of the right to be heard in conjunction with Articles 94(1) and 95(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Misapplication of Article 7(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Misapplication of Article 59(1)(a) in conjunction with Article 7(1)(c) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Misapplication of Article 59(1)(a) in conjunction with Article 7(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Misapplication of Article 59(3) in conjunction with Article 7(1)(b) and (c) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 6 May 2020 — Steinel v EUIPO (GluePro)

(Case T-256/20)

(2020/C 215/67)

Language of the case: German

Parties

Applicant: Steinel GmbH (Herzebrock-Clarholz, Germany) (represented by: M. Breuer and K. Freudenstei, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for EU word mark GluePro — Application No 18 029 161

Contested decision: Decision of the Second Board of Appeal of EUIPO of 14 February 2020 in Case R 2516/2019-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Pleas in law

— Infringement of Article 7(1)(c) in conjunction with Article 7(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

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

Action brought on 8 May 2020 — Ryanair v Commission

(Case T-259/20)

(2020/C 215/68)

Language of the case: English

Parties

Applicant: Ryanair DAC (Swords, Ireland) (represented by: E. Vahida, F. Laprévote, S. Rating and I. Metaxas-Maranghidis, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the European Commission's decision (EU) of 31 March 2020 on State aid SA.56765; ([1]) and

— order the European Commission to pay the costs.

— The applicant has also requested that its action be determined under the expedited procedure as referred to in Article 23a of the Statute of the Court of Justice.

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's decision violates specific provisions of the TFEU and the general principles of European law regarding the prohibition of discrimination based on nationality and free movement of services that have underpinned the liberalisation of air transport in the EU since the late 1980s. The liberalisation of the air transport market in the EU has allowed the growth of truly pan-European low-fares airlines. The decision of the European Commission ignores the role of such pan-European airlines in the market structure of EU Member States by allowing France to reserve aid only to those EU airlines to which France has issued EU operating licenses. Article 107(2)(b) TFEU provides for an exception to the prohibition of State aid under Article 107(1) TFEU, but it does not provide for an exception to the other rules and principles of the TFEU.

2. Second plea in law, alleging that the European Commission committed a manifest error of assessment in its review of the proportionality of the aid to the damage caused by the COVID-19 crisis.

3. Third plea in law, alleging that the European Commission failed to initiate a formal investigation procedure despite serious difficulties and violated the applicant's procedural rights.

4. Fourth plea in law, alleging that the European Commission violated its duty to state reasons in its decision.

(1) European Commission's decision (EU) of 31 March 2020 on State aid SA.56765 (2020/N) — France COVID-19 — *Moratoire sur le paiement de taxes aéronautiques en faveur des entreprises de transport public aérien* (not yet published at the OJ).

Action brought on 1 May 2020 — Da Silva Carreira v Commission

(Case T-260/20)

(2020/C 215/69)

Language of the case: French

Parties

Applicant: José Da Silva Carreira (Olhos de Água, Portugal) (represented by: S. Orlandi and T. Martin, avocats)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul the decision of 26 July 2019 by which the Commission refused to reassess, for the future, the applicant's retirement pension;

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant puts forward a single plea, alleging breach of Articles 21 and 22 of Annex XIII to the Staff Regulations of Officials of the European Union ('the Staff Regulations'). He claims, inter alia, that the Commission's refusal to reassess, for the future, his retirement pension is contrary to Article 41 of Annex VIII to the Staff Regulations and to the principle of legality.

Action brought on 6 May 2020 — Rochem Group v EUIPO — Rochem Marine (R.T.S. ROCHEM Technical Services)

(Case T-263/20)

(2020/C 215/70)

Language of the case: English

Parties

Applicant: Rochem Group AG (Zug, Suisse) (represented by: K. Guridi Sedlak, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Rochem Marine Srl (Genova, Italy)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union word mark R.T.S. ROCHEM Technical Services — European Union trade mark No 12 313 797

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 2 March 2020 in Case R 1545/2019-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to render a new decision refusing the declaration of invalidity filed against the EU trade mark No 12 313 797, also for classes 11 and 40;

— order EUIPO and the intervener, should the other party to the proceedings before the Board of Appeal appear before the Court, to pay its own costs and bear the fees and costs of the applicant.

Pleas in law

— Infringement of Article 18 of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 64(2) and (3) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 13 May 2020 — Apologistics v EUIPO — Kerckhoff (APO)

(Case T-282/20)

(2020/C 215/71)

Language in which the application was lodged: German

Parties

Applicant: Apologistics GmbH (Markkleeberg, Germany) (represented by: H. Hug, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Markus Kerckhoff (Bergisch Gladbach, Germany)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: European Union word mark APO — European Union trade mark No 9 273 103

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 25 February 2020 in Case R 982/2019-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Pleas in law

— Infringement of Article 7(1)(c) of Regulation EU No 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 7(1)(b) of Regulation EU No 2017/1001 of the European Parliament and of the Council.

Order of the General Court of 17 April 2020 — Mende Omalanga and Others v Council

(Joined Cases T-103/19, T-110/19 to T-113/19 and T-116/19 to T-124/19) ([1])

(2020/C 215/72)

Language of the case: French

The President of the Seventh Chamber has ordered that the cases T-103/19 and T-112/19 be removed from the register.

([1]) OJ C 139, 15.4.2019.

ISSN 1977-091X (electronic edition)
ISSN 1725-2423 (paper edition)

Publications Office
of the European Union
L-2985 Luxembourg
LUXEMBOURG

EN