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COURT OF JUSTICE OF THE EUROPEAN UNION

(2013/C 352/01)

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

OJ C 344, 23.11.2013

Past publications

OJ C 336, 16.11.2013

OJ C 325, 9.11.2013

OJ C 313, 26.10.2013

OJ C 304, 19.10.2013

OJ C 298, 12.10.2013

OJ C 291, 5.10.2013

These texts are available on:

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

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Appeal brought on 8 August 2013 by the Italian Republic against the judgment of the General Court (Second Chamber) of 30 May 2013 in Case T-454/10 Italian Republic v Associazione Nazionale degli Industriali delle Conserve Alimentari Vegetali (Anicav)

(Case C-460/13 P)

(2013/C 352/02)

Language of the Procedure: English

Parties

Appellant: Italian Republic (represented by: G. Palmieri, Agent, S. Varone, Avvocato dello Stato)

Other parties to the proceedings: Associazione Nazionale degli Industriali delle Conserve Alimentari Vegetali (Anicav),

Agrupación Española de Fabricantes de Conservas Vegetales (Agrucon),

European Commission,

Associazione Italiana Industrie Prodotti Alimentari (AIIPA),

Confederazione Cooperative Italiane

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal;

— order the parties opposing the appeal to pay the costs.

Pleas in law and main arguments

These proceedings concern an appeal against the judgment in Case T-454/10 in which the General Court annulled:

(a) the second subparagraph of Article 52(2)a of Commission Regulation (EC) No 1580/2007 [1] and Article 50(3) of Commission Implementing Regulation (EU) No 543/2011 [2] 'in so far as they provide that the value of "[non-]genuine processing activities" is included in the value of marketed production of fruit and vegetables intended for processing'.

(b) Article 60(7) of Implementing Regulation No 543/2011, which provides for investments and activities related to the transformation of products, in its entirety.

According to the Italian Republic, the provisions referred to in point (a) above do not conflict with Regulation (EC) No 1234/2007, since they introduce support for activities for which no provision is made in the regulation and simply lay down in the interests, inter alia, of greater simplification, the method of calculating a value serving as a parameter for Community aid.

The interpretation adopted by the General Court would result in an unjustified difference of treatment within organisations of producers of fruit and vegetables as the marketing of the same product would be subsidised differently depending on whether or not the producer organisation carries out the actual processing.

As regards point (b) — annulment of Article 60(7) of Implementing Regulation No 543/2011 — the General Court's decision is flawed to the extent that it finds that private processors are discriminated against as compared to processors, the majority of whom are set up as cooperatives, who are members of producer organisations.

(1) Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector (OJ 2007 L 350 p. 1)

(2) Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors (OJ 2011 L 157, p. 1)

Request for a preliminary ruling from the Bundesverwaltungsgericht (Germany) lodged on 22 August 2013 — Bund für Umwelt und Naturschutz Deutschland e.V. v Bundesrepublik Deutschland

(Case C-461/13)

(2013/C 352/03)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: Bund für Umwelt und Naturschutz Deutschland e.V.

Defendant: Bundesrepublik Deutschland

Joined party: Freie Hansestadt Bremen

Questions referred

1. Is Article 4(1)(a)(i) of Directive 2000/60/EC [1] of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, as last amended by Directive 2009/31/EC [2] of the European Parliament and of the Council of 23 April 2009, ('the Water Framework Directive') to be interpreted as meaning that the Member States must — unless a derogation is granted — refuse to authorise a project if it may cause a deterioration in the status of a body of surface water, or is that provision merely a statement of an objective for management planning?

2. Is the term 'deterioration of the status' in Article 4(1)(a)(i) of the Water Framework Directive to be interpreted as covering only detrimental changes which lead to classification in a lower class in accordance with Annex V to the Directive?

3. If Question 2 is to be answered in the negative: under what circumstances does 'deterioration of the status' within the meaning of Article 4(1)(a)(i) of the Water Framework Directive arise?

4. Must the provisions of Article 4(1)(a)(ii) and (iii) of the Water Framework Directive be interpreted as meaning that the Member States must — unless a derogation is granted — refuse to authorise a project if it jeopardises the attainment of good surface water status or of good ecological potential and good surface water chemical status by the date laid down by the Directive, or are those provisions merely a statement of an objective for management planning?

[1] OJ 2000 L 327, p. 1.

[2] Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006 (OJ 2009 L 140, p. 114).

Request for a preliminary ruling from the Finanzgericht Hamburg (Germany) lodged on 9 September 2013 — Sysmex Europe GmbH v Hauptzollamt Hamburg-Hafen

(Case C-480/13)

(2013/C 352/04)

Language of the case: German

Referring court

Finanzgericht Hamburg

Parties to the main proceedings

Applicant: Sysmex Europe GmbH

Defendant: Hauptzollamt Hamburg-Hafen

Question referred

Should a product have been classified, in 2005, under heading 3212 of the Combined Nomenclature [1] as a dye or colouring matter where it is composed of solvents and of a polymethine substance which can have a certain colouring effect — which, on textiles at least, is not permanent — but which, in the case of the product to be classified, serves to obtain information on particles (white blood cells) contained in a test solution (pre-treated blood) by means of a process in which, through the deposition of ions in defined components of the particles (nucleic acids), the substance forms molecular structures which, when exposed to laser light on a certain wavelength, become fluorochromatic for a limited period and this state and its extent are measured with the aid of a special photo-electric cell?

[1] The Combined Nomenclature in Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 1987 L 256, p. 1), as amended by Commission Regulation (EC) No 1810/2004 of 7 September 2004 amending 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 (OJ 2004 L 327, p. 1).

Request for a preliminary ruling from the Oberlandesgericht Bamberg (Germany) lodged on 9 September 2013 — Criminal proceedings against Mohammad Ferooz Qurbani

(Case C-481/13)

(2013/C 352/05)

Language of the case: German

Referring court

Oberlandesgericht Bamberg

Party to the main proceedings

Mohammad Ferooz Qurbani

Questions referred

1. Does the personal ground for the suspension of penalties in Article 31 of the Geneva Convention relating to the Status of Refugees ('GC') also include, beyond its wording, forgery of documents, which took place on presentation of a forged passport to a police officer on the occasion of entry by air into the Federal Republic of Germany, when the forged passport is not in fact necessary to apply for asylum in that State?

2. Does the use of human traffickers preclude reliance on Article 31 GC?

3. Is the factual requirement in Article 31 GC, of coming 'directly' from a territory where the life or freedom of the person concerned was threatened, to be interpreted as meaning that that element is also satisfied if the person concerned first entered another Member State (here: Greece) from where he continued to another Member State (here: the Federal Republic of Germany) in which he seeks asylum?

Request for a preliminary ruling from the Juzgado de Primera Instancia e Instrucción nº 2 de Marchena (Spain) lodged on 10 September 2013 — Unicaja Banco SA v José Hidalgo Rueda and Others

(Case C-482/13)

(2013/C 352/06)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia e Instrucción nº 2 de Marchena

Parties to the main proceedings

Applicant: Unicaja Banco SA

Defendants: José Hidalgo Rueda, María del Carmen Vega Martín, Gestión Patrimonial Hive, S.L., Francisco Antonio López Reina, Rosa María Hidalgo Vega

Questions referred

1. Under Council Directive 93/13/EEC [1] of 5 April 1993 on unfair terms in consumer contracts, and in particular Article 6(1) thereof, and in order to ensure the protection of consumers and users in accordance with the principles of equivalence and effectiveness, must a national court, when it finds there to be an unfair default-interest clause in mortgage loans, declare the clause void and not binding or, on the contrary, must it moderate the interest clause, referring the matter back to the party seeking enforcement or lender for recalculation of the interest?

2. Is the Second Transitional Provision of Law 1/2013 of 14 May 2013 nothing more than a clear limitation on the protection of consumer interests, by implicitly imposing upon the court the obligation to moderate a default-interest clause which is tainted by unfairness, recalculating the stipulated interest and maintaining in force a stipulation which was unfair, instead of declaring the clause to be void and not binding upon the consumer?

3. Does the Second Transitional Provision of Law 1/2013 of 14 May 2013 contravene Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, and in particular Article 6(1) thereof, by preventing application of the principles of equivalence and effectiveness in relation to consumer protection and avoiding application of the penalty of nullity and lack of binding force in respect of default-interest clauses tainted by unfairness and stipulated in mortgage loans entered into prior to the entry into force of Law 1/2013 of 14 May 2013?

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

Request for a preliminary ruling from the Juzgado de Primera Instancia e Instrucción de Marchena nº 2 (Spain) lodged on 10 September 2013 — Unicaja Banco S.A. v Steluta Grigore

(Case C-483/13)

(2013/C 352/07)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia e Instrucción nº 2 de Marchena

Parties to the main proceedings

Applicant: Unicaja Banco S.A.

Defendant: Steluta Grigore

Questions referred

1. Under Council Directive 93/13/EEC [1] of 5 April 1993 on unfair terms in consumer contracts, and in particular Article 6(1) thereof, and in order to ensure the protection of consumers and users in accordance with the principles of equivalence and effectiveness, must a national court, when it finds there to be an unfair default-interest clause in mortgage loans, declare the clause void and not binding or, on the contrary, must it moderate the interest clause, referring the matter back to the party seeking enforcement or lender for recalculation of the interest?

2. Is the Second Transitional Provision of Law 1/2013 of 14 May 2013 nothing more than a clear limitation on the protection of consumer interests, by implicitly imposing upon the court the obligation to moderate a default-interest clause which is tainted by unfairness, recalculating the stipulated interest and maintaining in force a stipulation which was unfair, instead of declaring the clause to be void and not binding upon the consumer?

3. Does the Second Transitional Provision of Law 1/2013 of 14 May 2013 contravene Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, and in particular Article 6(1) thereof, by preventing application of the principles of equivalence and effectiveness in relation to consumer protection and avoiding application of the penalty of nullity and lack of binding force in respect of default-interest clauses tainted by unfairness and stipulated in mortgage loans entered into prior to the entry into force of Law 1/2013 of 14 May 2013?

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

Request for a preliminary ruling from the Juzgado de Primera Instancia e Instrucción nº 2 de Marchena (Spain) lodged on 10 September 2013 — Caixabank SA v Manuel María Rueda Ledesma, Rosario Mesa Mesa

(Case C-484/13)

(2013/C 352/08)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia e Instrucción nº 2 de Marchena

Parties to the main proceedings

Applicant: Caixabank SA

Defendants: Manuel María Rueda Ledesma, Rosario Mesa Mesa

Questions referred

1. Under Council Directive 93/13/EEC [1] of 5 April 1993 on unfair terms in consumer contracts, and in particular Article 6(1) thereof, and in order to ensure the protection of consumers and users in accordance with the principles of equivalence and effectiveness, must a national court, when it finds there to be an unfair default-interest clause in mortgage loans, declare the clause void and not binding or, on the contrary, must it moderate the interest clause, referring the matter back to the party seeking enforcement or lender for recalculation of the interest?

2. Is the Second Transitional Provision of Law 1/2013 of 14 May 2013 nothing more than a clear limitation on the protection of consumer interests, by implicitly imposing upon the court the obligation to moderate a default-interest clause which is tainted by unfairness, recalculating the stipulated interest and maintaining in force a stipulation which was unfair, instead of declaring the clause to be void and not binding upon the consumer?

3. Does the Second Transitional Provision of Law 1/2013 of 14 May 2013 contravene Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, and in particular Article 6(1) thereof, by preventing application of the principles of equivalence and effectiveness in relation to consumer protection and avoiding application of the penalty of nullity and lack of binding force in respect of default-interest clauses tainted by unfairness and stipulated in mortgage loans entered into prior to the entry into force of Law 1/2013 of 14 May 2013?

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

Request for a preliminary ruling from the Juzgado de Primera Instancia e Instrucción nº 2 de Marchena (Spain) lodged on 10 September 2013 — Caixabank SA v José Labella Crespo and Others

(Case C-485/13)

(2013/C 352/09)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia e Instrucción nº 2 de Marchena

Parties to the main proceedings

Applicant: Caixabank SA

Defendants: José Labella Crespo, Rosario Márquez Rodríguez, Rafael Gallardo Salvat, Manuela Márquez Rodríguez

Questions referred

1. Under Council Directive 93/13/EEC [1] of 5 April 1993 on unfair terms in consumer contracts, and in particular Article 6(1) thereof, and in order to ensure the protection of consumers and users in accordance with the principles of equivalence and effectiveness, must a national court, when it finds there to be an unfair default-interest clause in mortgage loans, declare the clause void and not binding or, on the contrary, must it moderate the interest clause, referring the matter back to the party seeking enforcement or lender for recalculation of the interest?

2. Is the Second Transitional Provision of Law 1/2013 of 14 May 2013 nothing more than a clear limitation on the protection of consumer interests, by implicitly imposing upon the court the obligation to moderate a default-interest clause which is tainted by unfairness, recalculating the stipulated interest and maintaining in force a stipulation which was unfair, instead of declaring the clause to be void and not binding upon the consumer?

3. Does the Second Transitional Provision of Law 1/2013 of 14 May 2013 contravene Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, and in particular Article 6(1) thereof, by preventing application of the principles of equivalence and effectiveness in relation to consumer protection and avoiding application of the penalty of nullity and lack of binding force in respect of default-interest clauses tainted by unfairness and stipulated in mortgage loans entered into prior to the entry into force of Law 1/2013 of 14 May 2013?

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

Request for a preliminary ruling from the Juzgado de Primera Instancia e Instrucción nº 2 de Marchena (Spain) lodged on 10 September 2013 — Caixabank SA v Antonio Galán Rodríguez

(Case C-486/13)

(2013/C 352/10)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia e Instrucción nº 2 de Marchena

Parties to the main proceedings

Applicant: Caixabank SA

Defendant: Antonio Galán Rodríguez

Questions referred

1. Under Council Directive 93/13/EEC [1] of 5 April 1993 on unfair terms in consumer contracts, and in particular Article 6(1) thereof, and in order to ensure the protection of consumers and users in accordance with the principles of equivalence and effectiveness, must a national court, when it finds there to be an unfair default-interest clause in mortgage loans, declare the clause void and not binding or, on the contrary, must it moderate the interest clause, referring the matter back to the party seeking enforcement or lender for recalculation of the interest?

2. Is the Second Transitional Provision of Law 1/2013 of 14 May 2013 nothing more than a clear limitation on the protection of consumer interests, by implicitly imposing upon the court the obligation to moderate a default-interest clause which is tainted by unfairness, recalculating the stipulated interest and maintaining in force a stipulation which was unfair, instead of declaring the clause to be void and not binding upon the consumer?

3. Does the Second Transitional Provision of Law 1/2013 of 14 May 2013 contravene Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, and in particular Article 6(1) thereof, by preventing application of the principles of equivalence and effectiveness in relation to consumer protection and avoiding application of the penalty of nullity and lack of binding force in respect of default-interest clauses tainted by unfairness and stipulated in mortgage loans entered into prior to the entry into force of Law 1/2013 of 14 May 2013?

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

Request for a preliminary ruling from the Juzgado de Primera Instancia e Instrucción nº 2 de Marchena (Spain) lodged on 10 September 2013 — Caixabank SA v Alberto Galán Luna and Domingo Galán Luna

(Case C-487/13)

(2013/C 352/11)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia e Instrucción nº 2 de Marchena

Parties to the main proceedings

Applicant: Caixabank SA

Defendants: Alberto Galán Luna and Domingo Galán Luna

Questions referred

1. Under Council Directive 93/13/EEC [1] of 5 April 1993 on unfair terms in consumer contracts, and in particular Article 6(1) thereof, and in order to ensure the protection of consumers and users in accordance with the principles of equivalence and effectiveness, must a national court, when it finds there to be an unfair default-interest clause in mortgage loans, declare the clause void and not binding or, on the contrary, must it moderate the interest clause, referring the matter back to the party seeking enforcement or lender for recalculation of the interest?

2. Is the Second Transitional Provision of Law 1/2013 of 14 May 2013 nothing more than a clear limitation on the protection of consumer interests, by implicitly imposing upon the court the obligation to moderate a default-interest clause which is tainted by unfairness, recalculating the stipulated interest and maintaining in force a stipulation which was unfair, instead of declaring the clause to be void and not binding upon the consumer?

3. Does the Second Transitional Provision of Law 1/2013 of 14 May 2013 contravene Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, and in particular Article 6(1) thereof, by preventing application of the principles of equivalence and effectiveness in relation to consumer protection and avoiding application of the penalty of nullity and lack of binding force in respect of default-interest clauses tainted by unfairness and stipulated in mortgage loans entered into prior to the entry into force of Law 1/2013 of 14 May 2013?

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

Request for a preliminary ruling from the Hof van beroep te Antwerpen (Belgium) lodged on 10 September 2013 — Ronny Verest, Gaby Gerards v Belgische Staat

(Case C-489/13)

(2013/C 352/12)

Language of the case: Dutch

Referring court

Hof van beroep te Antwerpen

Parties to the main proceedings

Appellants: Ronny Verest, Gaby Gerards

Respondent: Belgische Staat

Question referred

Does Article 56 of the EC Treaty preclude the taxation in one Member State, on a basis other than its local cadastral income, of immovable property situated in another Member State which is not rented out, assuming in particular in that case that the local cadastral income is determined in a similar way to the Belgian cadastral income from Belgian immovable property?

Appeal brought on 13 September 2013 by Cytochroma Development, Inc. against the judgment of the General Court (Third Chamber) delivered on 3 July 2013 in Case T-106/12: Cytochroma Development, Inc. v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-490/13 P)

(2013/C 352/13)

Language of the case: English

Parties

Appellant: Cytochroma Development, Inc. (represented by: S. Malynicz, Barrister, A. Smith, Solicitor)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), Teva Pharmaceutical Industries, Ltd.

Form of order sought

The appellant claims that the Court should:

— annul the judgment of the General Court dated 3 July 2013 in Case T-106/12;

— order OHIM to bear its own costs and pay those of the appellant

Pleas in law and main arguments

The appellant submits that the contested judgment should be annulled on the following grounds:

— The General Court infringed Article 65(6) of the Community Trade Mark Regulation [1] and Article 1 (d) (1) of Regulation 216/96 [2] regarding the measures taken by OHIM to comply with the judgment of the General Court;

— The General Court infringed the principle of legal certainty, as well as Article 17 of the EU Charter of Fundamental Rights.

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

(2) Commission Regulation (EC) No 216/96 of 5 February 1996 laying down the rules of procedure of the Boards of Appeal of the Office for Harmonization in the Internal Market (Trade Marks and Designs) OJ L 28, p. 11

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 19 September 2013 — Boston Scientific Medizintechnik GmbH v AOK Sachsen-Anhalt

(Case C-503/13)

(2013/C 352/14)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Appellant on a point of law: Boston Scientific Medizintechnik GmbH

Respondent on a point of law: AOK Sachsen-Anhalt

Questions referred

1. Is Article 6(1) of Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (1) to be interpreted as meaning that a product in the form of a medical device implanted in the human body (in this case, a pacemaker) is already defective if devices in the same product group have a significantly increased risk of failure, but a defect has not been detected in the device which has been implanted in the specific case in point?

2. If the answer to the first question is in the affirmative:

   Do the costs of the operation to remove the product and implant another pacemaker constitute damage caused by personal injury for the purposes of Article 1 and point (a) of the first sentence of Article 9 of Directive 85/374/EEC?

(1) OJ 1985 L 210, p. 29

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 19 September 2013 — Boston Scientific Medizintechnik GmbH v Betriebskrankenkasse RWE

(Case C-504/13)

(2013/C 352/15)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Appellant on a point of law: Boston Scientific Medizintechnik GmbH

Respondent on a point of law: Betriebskrankenkasse RWE

Questions referred

1. Is Article 6(1) of Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (1) to be interpreted as meaning that a product in the form of a medical device which is implanted in the human body (in this case, an implantable cardioverter defibrillator — ICD) is already defective if a malfunction has occurred in a significant number of devices in the same series, but a defect has not been detected in the device which has been implanted in the specific case in point?

2. If the answer to the first question is in the affirmative:

   Do the costs of the operation to remove the product and implant another ICD constitute damage caused by personal injury for the purposes of Article 1 and point (a) of the first sentence of Article 9 of Directive 85/374/EEC?

(1) OJ 1985 L 210, p. 29.

Appeal brought on 23 September 2013 by Philips Lighting Poland S.A., Philips Lighting BV against the judgment of the General Court (Fifth Chamber) delivered on 11 July 2013 in Case T-469/07: Philips Lighting Poland S.A., Philips Lighting BV v Council of the European Union

(Case C-511/13 P)

(2013/C 352/16)

Language of the case: English

Parties

Appellants: Philips Lighting Poland S.A., Philips Lighting BV (represented by: M.L. Catrain González, abogada, E.A. Wright, H. Zhu, Barristers)

Other parties to the proceedings: Council of the European Union, Hangzhou Duralamp Electronics Co., Ltd, GE Hungary Ipari és Kereskedelmi Zrt. (GE Hungary Zrt), European Commission, Osram GmbH

Form of order sought

The Appellants claim that the Court should:

— set aside the judgment and annul the Contested Regulation in so far as it applies to the Appellants;

— order the Council to pay the Appellants' costs both before the General Court and in connection with the present proceedings.

Pleas in law and main arguments

By the present appeal, the Appellants request that the Judgment be set aside and the Contested Regulation be annulled on the grounds that:

1. The General Court wrongly interpreted Article 9(1) of the Council Regulation (EC) No 384/96 of 22 December 1995 ([1]) (the 'basic regulation') ('Article 9(1)') when concluding that the Council is entitled to apply Article 9(1) *a fortiori* to situations that fall outside the scope of application of that provision (i.e., where there is no withdrawal of a complaint, but rather support for the complaint merely falls). The General Court's expansive interpretation of Article 9(1) is not supported by either the wording or the scheme of the provisions of the basic regulation. It is also contradicted by the Institutions' practice in the last 25 years during which reliance on Article 9(1), following the withdrawal of a complaint, has always triggered the termination of the related investigation.

2. The General Court committed an error of law by misinterpreting, and therefore misapplying, Articles 4(1) and 5(4) of the basic regulation ('Articles 4(1) and Article 5(4)') when defining the 'Community industry'. This led to the incorrect conclusion that a 'major proportion' of total Community production must be determined through application of only one of the two thresholds required by Article 5(4), the 25 % threshold only. The erroneous definition of the 'Community industry' vitiated the Institutions' injury analysis which, instead of being determined on the basis of the effect of the dumped imports on the 'Community industry' as set out in Article 3(1) of the basic regulation ('Article 3(1)'), and defined in Article 5(4) was assessed on the basis of the situation of the 'supporting company' or 'the largest producer'. Neither of these terms is used in the basic regulation for the purpose of determining 'injury'.

([1]) Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community, OJ L 56, p. 1

Request for a preliminary ruling from the Tribunal de première instance de Namur (Belgium) lodged on 27 September 2013 — Belgacom SA, continuing the proceedings brought by Belgacom Mobile SA, v Province de Namur

(Case C-517/13)

(2013/C 352/17)

Language of the case: French

Referring court

Tribunal de première instance de Namur

Parties to the main proceedings

Applicant: Belgacom SA, continuing the proceedings brought by Belgacom Mobile SA

Defendant: Province de Namur

Questions referred

1. Must Article 13 of Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) ([1]) be interpreted to mean that it precludes legislation of a national or local authority which imposes, for budgetary purposes outside the purposes of that authorisation, a tax on mobile communications infrastructures used in the context of performing activities

covered by a general authorisation granted pursuant to that directive (as the case may be, distinguishing the situation in which those infrastructures are established on private property from the situation in which they are established on public property)?

2. Must Article 6(1) of Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) be interpreted to mean that it precludes legislation of a national or local authority which imposes, for budgetary purposes outside the purposes of that authorisation, a tax on mobile communications infrastructures which does not feature among the conditions listed in Part A of the annex to that directive, in particular as it does not constitute an administrative charge within the terms of Article 12?

(1) OJ 2002 L 108, p. 21.

Request for a preliminary ruling from the Työtuomioistuin (Finland) lodged on 9 October 2013 — Auto- ja Kuljetusalan Työntekijäliitto AKT ry v Öljytuote ry, Shell Aviation Finland Oy

(Case C-533/13)

(2013/C 352/18)

Language of the case: Finnish

Referring court

Työtuomioistuin

Parties to the main proceedings

Applicant: Auto- ja Kuljetusalan Työntekijäliitto AKT ry

Defendants: Öljytuote ry, Shell Aviation Finland Oy

Questions referred

(a) Must Article 4(1) of the Temporary Agency Work Directive 2008/104/EC (1) be interpreted as laying down a permanent obligation on national authorities, including the courts, to ensure by the means available to them that national provisions or clauses in collective agreements contrary to that provision of the directive are not in force or are not applied?

(b) Must Article 4(1) of the directive be interpreted as precluding a national provision under which the use of temporary agency labour is permitted only in the cases specially listed, such as to cope with peak periods of work or for work which cannot be given to an undertaking's own employees to do? May the use of agency workers for a lengthy period in the ordinary work of an undertaking alongside the undertaking's own employees be defined as a prohibited use of agency labour?

(c) If the national provision is found to be contrary to the directive, what methods does a court have for achieving the objectives of the directive where a collective agreement to be observed by individuals is concerned?

(1) Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work, OJ 2008 L 327, p. 9.

GENERAL COURT

Judgment of the General Court of 16 October 2013 — Italy v Commission

(Case T-248/10) [1]

(Languages — Notice of open competition for the recruitment of administrators — Choice of second language from three languages — Regulation No 1/58 — Article 1d(1), Article 27, first paragraph, and Article 28(f) of the Staff Regulations — Article 1(1)(f) of Annex III to the Staff Regulations — Obligation to state reasons — Principle of non-discrimination)

(2013/C 352/19)

Language of the case: Italian

Parties

Applicant: Italian Republic (represented by: G. Palmieri, acting as Agent, assisted by P. Gentili, avvocato dello Stato)

Defendant: European Commission (represented initially by J. Currall, J. Baquero Cruz and B. Eggers, subsequently by J. Currall and G. Gattinara, acting as Agents)

Re:

Action for annulment of the notice of open competition EPSO/AD/177/10 — Administrators (AD 5), in the fields of European Public Administration, Law, Economics, Audit, and Information and Communication Technology (ICT) (OJ 2010 C 64A, p. 1)

Operative part of the judgment

The Court:

1. *Annuls the notice of open competition EPSO/AD/177/10 — Administrators (AD 5), in the fields of European Public Administration, Law, Economics, Audit, and Information and Communication Technology (ICT);*

2. *Orders the European Commission to pay, in addition to its own costs, those incurred by the Italian Republic.*

[1] OJ C 209, 31.7.2010.

Judgment of the General Court of 16 October 2013 — Vivendi v Commission

(Case T-432/10) [1]

(Competition — Abuse of dominant position — French broadband and telephone subscription market — Decision rejecting a complaint — Lack of Community interest — Significance of the alleged infringement as regards the functioning of the internal market — Probability of establishing the existence of the alleged infringement)

(2013/C 352/20)

Language of the case: French

Parties

Applicant: Vivendi (Paris, France) (represented initially by: M. Struys, O. Fréget and J.-Y. Ollier; and subsequently by M. Struys, O. Fréget and L. Eskenazi, lawyers)

Defendant: European Commission (represented by: B. Mongin and N. von Lingen, acting as Agents)

Intervener in support of the defendant: Orange, formerly France Télécom (Paris France) (represented by: S. Hautbourg, lawyer)

Re:

Application for annulment of Commission Decision C(2010) 4730 of 2 July 2010, rejecting the complaint lodged by the applicant against France Télécom relating to an alleged abuse of a dominant position on the French broadband and telephone subscription market (Case COMP/C-1/39.653 — Vivendi & Iliad/France Télécom)

Operative part of the judgment

The Court:

1. *Dismisses the application;*

2. *Orders Vivendi to bear its own costs and to pay those incurred by the European Commission;*

3. *Orders Orange to bear its own costs.*

[1] OJ C 317, 20.11.2010.

Judgment of the General Court of 15 October 2013 — Evropaïki Dynamiki v European Commission

(Case T-457/10) [1]

(Public service contracts — Tender procedure — External service provision for development, studies and support for information systems (ESP DESIS II) — Classification of a tenderer — Award of the contract — Tendering consortium — Admissibility — Obligation to state reasons — Transparency — Equal treatment — Manifest error of assessment — Non-contractual liability)

(2013/C 352/21)

Language of the case: English

Parties

Applicant: Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens (Greece)) (represented by: N. Korogiannakis and M. Dermitzakis, lawyers,)

Defendant: European Commission (represented initially by: S. Delaude and N. Bambara, and subsequently by S. Delaude, acting as Agents, and initially by P. Wytinck, and subsequently by B. Hoorelbeke, lawyers,)

Re:

Application, first, for annulment of the Commission's decision of 16 July 2010 to classify the applicant's tender submitted in the context of the call for tenders DIGIT/R2/PO/2009/045, concerning 'External service provision for development, studies and support for information systems' (ESP DESIS II) (OJ 2009/S 198-283663), for Lot 2 'Off site development projects', in third, and not first, place and to award the first and second places to other tenderers, and also of all the related decisions of the Commission's Directorate General for Informatics, including the decisions to award the respective contracts to the tenderers classified in first and second places; and, second, for damages,

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE to pay the costs.*

[1] OJ C 346, 18.12.2010.

Judgment of the General Court of 15 October 2013 — Evropaïki Dynamiki v European Commission

(Case T-474/10) [1]

(Public service contracts — Tender procedure — External service provision for development, studies and support for information systems (ESP DESIS II) — Classification of a tenderer — Award of the contract — Obligation to state reasons — Transparency — Equal treatment — Manifest error of assessment — Non-contractual liability)

(2013/C 352/22)

Language of the case: English

Parties

Applicant: Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens (Greece)) (represented by: N. Korogiannakis and M. Dermitzakis, lawyers,)

Defendant: European Commission (represented initially by: N. Bambara and S. Delaude, and subsequently by S. Delaude, acting as Agents, and by O. Graber-Soudry, Solicitor,)

Re:

Application, first, for annulment of four Commission decisions communicated in four separate letters of 16 July 2010 to classify the applicant's tender submitted in the context of the call for tenders DIGIT/R2/PO/2009/045, concerning 'External service provision for development, studies and support for information systems' (ESP DESIS II) (OJ 2009/S 198-283663), for Lot 1A in second place, for Lot 1B in third place, for Lot 1C in second place and for Lot 3 in third place, and also of all the related decisions of the Commission's Directorate General for Informatics, including the decisions to award the respective contracts to the tenderers classified in first and second places; and, second, for damages,

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE to pay the costs.*

[1] OJ C 346, 18.12.2010.

Judgment of the General Court of 16 October 2013 — TF1 v Commission

(Case T-275/11) [1]

(State aid — Public service broadcasting — Aid proposed by the French authorities for France Télévisions — Annual budgetary grant — Decision declaring the aid compatible with the internal market — Article 106(2) TFEU — Strict interdependence of a tax and an aid measure)

(2013/C 352/23)

Language of the case: French

Parties

Applicant: Télévision française 1 (TF1) (Boulogne-Billancourt, France) (represented initially by J.-P Hordies and C. Smits, and subsequently by J. Vogel, lawyers)

Defendant: European Commission (represented by: B. Stromsky and D. Grespan, Agents)

Interveners in support of the defendant: Kingdom of Spain (represented initially by M. Muñoz Pérez, then by S. Centeno Huerta and subsequently by N. Díaz Abad, Abogados del Estato); French Republic (represented initially by G. de Bergues and J. Gstalter, and subsequently by D. Colas and J. Rossi, Agents); and France Télévisions (Paris, France) (represented by: J.-P. Gunther and A. Giraud, lawyers)

Re:

Application for annulment of Commission Decision 2011/140/EU of 20 July 2010 on State Aid C-27/09 (ex N 34/B/09) Budgetary grant for France Télévisions which the French Republic plans to implement in favour of France Télévisions (OJ 2011 L 59, p. 44).

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Télévision française 1 (TF1) to bear its own costs and to pay those incurred by the European Commission and by France Télévisions;*

3. *Orders the Kingdom of Spain and the French Republic each to bear its own costs.*

[1] OJ C 232, 6.8.2011.

Judgment of the General Court of 15 October 2013 — European Dynamics Belgium and Others v EMA

(Case T-638/11) [1]

(Public service contracts — Tender procedure of the EMA — Provision of software application support services — Rejection of a tender — Award criteria — Statement of reasons — Observance of the award criteria set out in the tendering specifications — Establishment of subheadings for the award criteria — Access to documents)

(2013/C 352/24)

Language of the case: Greek

Parties

Applicants: European Dynamics Belgium SA (Brussels, Belgium); European Dynamics Luxembourg SA (Ettelbrück, Luxembourg), Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece), and European Dynamics UK Ltd (London, United Kingdom) (represented by: V. Christianos, lawyer)

Defendant: European Medicines Agency (EMA) (London, United Kingdom) (represented initially by V. Salvatore and subsequently by T. Jabłoński and C. Maignen, acting as Agents, assisted by H.-G. Kamann and E. Arsenidou, lawyers)

Re:

Annulment of, first, decision EMA/787935/2011 of the European Medicines Agency of 3 October 2011, by which the tender submitted by the applicants in tender procedure EMA/2011/05/DV was rejected and, second, annulment of decision EMA/882467/2011 of the acting Executive Director of the EMA of 9 November 2011, by which the applicants' confirmatory application for access to the tender procedure documents relating to the composition of the evaluation committee was rejected.

Operative part of the judgment

The Court:

1. *Annuls decision EMA/787935/2011 of the European Medicines Agency (EMA) of 3 October 2011, by which the tender submitted by European Dynamics Belgium SA; European Dynamics Luxembourg SA, Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE and European Dynamics UK Ltd in connection with tender procedure EMA/2011/05/DV was rejected;*

2. *Holds that there is no longer any need to adjudicate on the pleas seeking annulment of decision EMA/882467/2011 of the acting Executive Director of the EMA of 9 November 2011, by which the applicants' confirmatory application for access to the tender procedure documents relating to the composition of the evaluation committee was rejected;*

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

(1) OJ C 49, 18.2.2012.

Judgment of the General Court of 16 October 2013 — El Corte Inglés v OHIM — Sohawon (fRee YOUR STYLe.)

(Case T-282/12) (1)

(Community trade mark — Opposition proceedings — Application for Community figurative mark fRee YOUR STYLe. — Earlier Community and national word marks FREE STYLE — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2013/C 352/25)

Language of the case: Spanish

Parties

Applicant: El Corte Inglés, SA (Madrid, Spain) (represented by: E. Seijo Veiguela, J.L. Rivas Zurdo and I. Munilla Muñoz, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: V. Melgar, Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Nadia Mariam Sohawon (London, United Kingdom)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 17 April 2012 (Case R 1825/2010-4), relating to opposition proceedings between El Corte Inglés, SA and Ms Nadia Mariam Sohawon.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders El Corte Inglés, SA to pay the costs.*

(1) OJ C 258, 25.8.2012.

Judgment of the General Court of 16 October 2013 — Mundipharma v OHIM — AFT Pharmaceuticals (Maxigesic)

(Case T-328/12) (1)

(Community trade mark — Opposition proceedings — Application for Community word mark Maxigesic — Earlier Community word mark OXYGESIC — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2013/C 352/26)

Language of the case: German

Parties

Applicant: Mundipharma GmbH (Limburg an der Lahn, Germany) (represented by: F. Nielsen, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: D. Walicka, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: AFT Pharmaceuticals Ltd (Takapuna, New Zealand) (represented by: M. Nentwig, L. Kouker and G.M. Becker, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 23 May 2012 (Case R 1788/2010-4), concerning opposition proceedings between Mundipharma GmbH and AFT Pharmaceuticals Ltd

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mundipharma GmbH to pay the costs.*

(1) OJ C 287, 22.9.2012.

Judgment of the General Court of 15 October 2013 — Electric Bike World Ltd v OHIM — Brunswick (LIFECYCLE)

(Case T-379/12) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark LIFECYCLE — Earlier national word mark LIFECYCLE — Partial refusal of registration by the Board of Appeal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — Obligation to state reasons — Article 75 of Regulation No 207/2009)

(2013/C 352/27)

Language of the case: English

Parties

Applicant: Electric Bike World Ltd (Southampton, United Kingdom) (represented by: S. Malynicz, Barrister)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: L. Rampini, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Brunswick Corp. (Lake Forest, Illinois, United States of America)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 16 May 2012 (Case R 2308/2011-1), relating to opposition proceedings between Brunswick Corp. and Electric Bike World Ltd.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Electric Bike World Ltd to pay the costs.*

([1]) OJ C 355, 17.11.2012.

Judgment of the General Court of 16 October 2013 — Zoo Sport v OHIM — K-2 (ZOOSPORT)

(Case T-453/12) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark ZOOSPORT — Earlier Community word mark ZOOT and earlier Community figurative mark SPORTS ZOOT SPORTS — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2013/C 352/28)

Language of the case: English

Parties

Applicant: Zoo Sport Ltd (Leeds, United Kingdom) (represented by: I. Rungg, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: K-2 Corp. (Seattle, United States of America) (represented by: M. Graf, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 9 August 2012 (Case R 1119/2011-4), relating to opposition proceedings between K-2 Corp. and Zoo Sport Ltd.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Zoo Sport Ltd to pay the costs.*

([1]) OJ C 26, 26.1.2013.

Judgment of the General Court of 16 October 2013 — Zoo Sport v OHIM — K-2 (zoo sport)

(Case T-455/12) [1]

(Community trade mark — Opposition proceedings — Application for Community figurative mark ZOO Sport — Earlier Community word mark ZOOT and earlier Community figurative mark SPORTS ZOOT SPORTS — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2013/C 352/29)

Language of the case: English

Parties

Applicant: Zoo Sport Ltd (Leeds, United Kingdom) (represented by: I. Rungg, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: K-2 Corp. (Seattle, United States of America) (represented by: M. Graf, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 9 August 2012 (Case R 1395/2011-4), relating to opposition proceedings between K-2 Corp. and Zoo Sport Ltd.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Zoo Sport Ltd to pay the costs.*

[1] OJ C 399, 22.12.2012.

Action brought on 2 September 2013 — GEA Group v OHIM (engineering for a better world)

(Case T-488/13)

(2013/C 352/30)

Language of the case: German

Parties

Applicant: GEA Group AG (Düsseldorf, Germany) (represented by J. Schneiders, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 21 March 2013 (Case R 0935/2012-4;

— Order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: the word mark 'engineering for a better world' for goods and services in Classes 6, 7, 9, 11, 35, 37, 39, 41 and 42 — Community trade mark application No 10 244 416

Decision of the Examiner: the application was rejected

Decision of the Board of Appeal: the appeal was dismissed

Pleas in law: Infringement of Article 7(1)(b) of Regulation (EC) No 207/2009

Action brought on 18 September 2013 — ASPA v OHIM — Banco Bilbao Vizcaya Argentaria (ARGENTARIA)

(Case T-502/13)

(2013/C 352/31)

Language in which the application was lodged: English

Parties

Applicant: Argenta Spaarbank NV (ASPA) (Antwerp, Belgium) (represented by: K. De Winter and M. De Vroey, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: Banco Bilbao Vizcaya Argentaria, SA (Madrid, Spain)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 15 July 2013 given in Case R 1581/2011-4.

Pleas in law and main arguments

Registered Community trade mark in respect of which an application for revocation has been made: The word mark 'ARGENTARIA' for goods and services in Classes 1 to 42 — Community trade mark No 159 707

Proprietor of the Community trade mark: The other party to the proceedings before the Board of Appeal

Party applying for revocation of the Community trade mark: The applicant

Decision of the Cancellation Division: Declared the cancellation proceedings closed following the surrender of the contested services by the CTM proprietor

Decision of the Board of Appeal: Dismissed the appeal as inadmissible

Pleas in law: Infringement of Articles 51 (1)(a) and 80 CTMR.

Action brought on 20 September 2013 — Urb Rulmenti Suceava v OHIM — Adiguzel (URB)

(Case T-506/13)

(2013/C 352/32)

Language in which the application was lodged: English

Parties

Applicant: Urb Rulmenti Suceava SA (Suceava, Romania) (represented by: I. Burdusel, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: Harun Adiguzel (Diosd, Hungary)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 12 July 2013 given in Case R 1309/2012-4;

— Order the defendant to pay the costs of present proceedings; and

— Order the other party to the proceedings before the Board of Appeal to pay the costs incurred during the proceedings before the OHIM.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: The word mark 'URB' for goods in Classes 6 and 7 — Community trade mark registration No 7 380 009

Proprietor of the Community trade mark: The other party to the proceedings before the Board of Appeal

Applicant for the declaration of invalidity of the Community trade mark: The applicant

Grounds for the application for a declaration of invalidity: Absolute grounds for invalidity under Article 52(1)(b) CTMR and relative grounds for invalidity under Article 8(1)(b) in conjunction with Article 53(1)(a) CTMR

Decision of the Cancellation Division: Rejected the request for a declaration of invalidity

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Articles 52(1)(b), 53(1)(a) and 72 CTMR.

Action brought on 20 September 2013 — Government of Malaysia v OHIM — Vergamini (HALAL MALAYSIA)

(Case T-508/13)

(2013/C 352/33)

Language in which the application was lodged: English

Parties

Applicant: Government of Malaysia (Putrajaya, Malaysia) (represented by: R. Volterra, Solicitor, R. Miller, Barrister, V. von Bomhard and T. Heitmann, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: Paola Vergamini (Castelnuovo di Garfagnana, Italy)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 27 June 2013 given in Case R 326/2012-1; and

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

Pleas in law and main arguments

Applicant for a Community trade mark: The other party to the proceedings before the Board of Appeal

Community trade mark concerned: The figurative mark containing the verbal elements 'HALAL MALAYSIA' for goods and services in Classes 5, 18, 25, 29, 30, 31, 32 and 43 — Community trade mark application No 9 169 343

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited in opposition: The non-registered figurative mark containing the verbal elements 'HALAL MALAYSIA', which is well known in all 27 Member States of the European Union within the meaning of Article 8(2)(c) CTMR in conjunction with Article 6bis of the Paris Convention and for the purpose of Article 8(4) CTMR a non-registered figurative mark in the United Kingdom

Decision of the Opposition Division: Rejected the opposition in its entirety

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 8(4) CTMR.

Action brought on 23 September 2013 — AgriCapital v OHIM — agri.capital (AGRI.CAPITAL)

(Case T-514/13)

(2013/C 352/34)

Language in which the application was lodged: English

Parties

Applicant: AgriCapital Corp. (New York, United States) (represented by: P. Meyer and M. Gramsch, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: agri.capital GmbH (Münster, Germany)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 10 July 2013 given in Case R 2236/2012-2;

— Order the defendant and the other party to the proceedings before the Board of Appeal to bear their own costs of proceedings, as well as those incurred by the applicant.

Pleas in law and main arguments

Applicant for a Community trade mark: The other party to the proceedings before the Board of Appeal

Community trade mark concerned: The word mark 'AGRI.CAPITAL' for goods and services in Classes 4, 7, 35, 36, 37, 39, 40, 42 and 45 — Community trade mark application No 8 341 323

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited in opposition: Community trade mark registration No 6 192 322 for the word mark 'AgriCapital' for services in Class 36 and Community trade mark registration No 4 589 339 for the word mark 'AGRICAPITAL' for services in Class 36

Decision of the Opposition Division: Rejected the opposition in its entirety

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 8 (1)(b) CTMR.

Action brought on 19 September 2013 — Éditions Quo Vadis v OHIM — Gómez Hernández ('QUO VADIS')

(Case T-517/13)

(2013/C 352/35)

Language in which the application was lodged: English

Parties

Applicant: Éditions Quo Vadis (Carquefou, France) (represented by: F. Valentin, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: Francisco Gómez Hernández (Jacarilla, Spain)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 10 July 2013 given in Case R 1166/2012-4.

Pleas in law and main arguments

Applicant for a Community trade mark: The other party to the proceedings before the Board of Appeal

Community trade mark concerned: The word mark 'QUO VADIS' for goods and services in Classes 29, 33 and 35 — Community trade mark application No 8 871 758

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited in opposition: French trade mark No 92 422 947 for the word mark 'QUO VADIS' for goods and services in Classes 9, 38 and 42 and French trade mark No 1 257 750 for the word mark 'QUO VADIS' for goods in Class 16

Decision of the Opposition Division: Upheld the opposition for part of the contested goods and services

Decision of the Board of Appeal: Annulled the contested decision and rejected the opposition

Pleas in law: Infringement of Article 8(5) CTMR.

Action brought on 23 September 2013 — Future Enterprises v OHIM — McDonald's International Property (MACCOFFEE)

(Case T-518/13)

(2013/C 352/36)

Language in which the application was lodged: English

Parties

Applicant: Future Enterprises Pte Ltd (Singapore, Singapore) (represented by: J. Olsen, B. Hitchens, R. Sharma and M. Henshall, Solicitors)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: McDonald's International Property Co. Ltd (Wilmington, United States)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 13 June 2013 given in Case R 1178/2012-1; and

— Order the defendant to pay the costs of proceedings.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: The word mark 'MACCOFFEE' for goods in Classes 29, 30 and 32 — Community trade mark registration No 7 307 382

Proprietor of the Community trade mark: The applicant

Applicant for the declaration of invalidity of the Community trade mark: The other party to the proceedings before the Board of Appeal

Grounds for the application for a declaration of invalidity: The grounds were those laid down in Article 53(1)(a) in conjunction with Articles 8(1)(a) and (b), 8(2)(c) and 8(5) CTMR

Decision of the Cancellation Division: Upheld the request for invalidity in its entirety

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 8(5) CTMR.

Action brought on 19 September 2013 — Alpinestars Research v OHIM — Tung Cho et Wang Yu (A ASTER)

(Case T-521/13)

(2013/C 352/37)

Language in which the application was lodged: English

Parties

Applicant: Alpinestars Research Srl (Coste di Maser, Italy) (represented by: G. Dragotti and R. Valenti, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other parties to the proceedings before the Board of Appeal: Kean Tung Cho (Taichung City, Taiwan); and Ling-Yuan Wang Yu (Wuci Township, Taiwan)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 15 July 2013 given in Case R 2309/2012-4;

— Order the defendant to pay the costs of proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: The other parties to the proceedings before the Board of Appeal

Community trade mark concerned: The figurative mark in black and white containing the verbal elements 'A ASTER' for goods in Classes 18 and 25 — Community trade mark application No 7 084 395

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited in opposition: The word mark 'A-STARS' for goods in Classes 9, 12, 14, 18, 25 and 28 — Community trade mark No 6 181 002

Decision of the Opposition Division: Rejected the opposition in its entirety

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 8(1)(b) CTMR.

Action brought on 26 September 2013 — Tsujimoto v OHIM — Kenzo (KENZO ESTATE)

(Case T-522/13)

(2013/C 352/38)

Language in which the application was lodged: English

Parties

Applicant: Kenzo Tsujimoto (Osaka, Japan) (represented by: A. Wenninger-Lenz, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: Kenzo, SA (Paris, France)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 3 July 2013 given in Case R 1363/2012-2;

— Order the defendant to pay the costs of proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'KENZO ESTATE' for goods and services in Classes 29, 30, 31, 35, 41 and 43 — International Registration No W 1 016 724

Proprietor of the mark or sign cited in the opposition proceedings: The other party to the proceedings before the Board of Appeal

Mark or sign cited in opposition: The word mark 'KENZO' for goods in Classes 3, 18 and 25 — Community trade mark No 720 706

Decision of the Opposition Division: Rejected the opposition

Decision of the Board of Appeal: Upheld the appeal in part

Pleas in law: Infringement of Article 8(5) CTMR.

Action brought on 20 September 2013 — Euromed v OHIM — DC Druck-Chemie (EUROSIL)

(Case T-523/13)

(2013/C 352/39)

Language in which the application was lodged: English

Parties

Applicant: Euromed, SA (Mollet del Vallès, Spain) (represented by: E. Sugrañes Coca, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: DC Druck-Chemie GmbH (Ammerbuch-Altingen, Germany)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 27 June 2013 given in Case R 1854/2012-1; and

— Order the defendant to pay the costs of proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: The other party to the proceedings before the Board of Appeal

Community trade mark concerned: The word mark 'EUROSIL' for goods in Class 1 — Community trade mark application No 8 558 751

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited in opposition: The word mark 'EUROSIL-85' for goods in Class 5 — Community registration No 6 140 099 and the word mark 'EUROSIL-85' for goods in Class 5 — Spanish registration No 2 785 209

Decision of the Opposition Division: Rejected the opposition in its entirety

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 8(1)(b) CTMR.

Action brought on 20 September 2013 — Euromed v OHIM — DC Druck-Chemie (EUROSIL)

(Case T-524/13)

(2013/C 352/40)

Language in which the application was lodged: English

Parties

Applicant: Euromed, SA (Mollet del Vallès, Spain) (represented by: E. Sugrañes Coca, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: DC Druck-Chemie GmbH (Ammerbuch-Altingen, Germany)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 27 June 2013 given in Case R 1829/2012-1; and

— Order the defendant to pay the costs of proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: The other party to the proceedings before the Board of Appeal

Community trade mark concerned: The word mark 'EUROSIL' for certain goods in Class 1 — Community trade mark application No 8 540 049

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited in opposition: The word mark 'EUROSIL-85' for goods in Class 5 — Community registration No 6 140 099 and the word mark 'EUROSIL-85' for goods in Class 5 — Spanish registration No 2 785 209

Decision of the Opposition Division: Rejected the opposition in its entirety

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 8 (1)(b) CTMR.

Action brought on 9 October 2013 — Abertis Telecom and Retevisión I v Commission

(Case T-541/13)

(2013/C 352/41)

Language of the case: Spanish

Parties

Applicants: Abertis Telecom, SA (Barcelona, Spain) and Retevisión I, SA (Barcelona) (represented by: L. Cases Pallarés, J. Buendía Sierra, N. Ruiz García, A. Lamadrid de Pablo, M. Muñoz de Juan and M. Reverter Baquer, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the General Court should:

— annul the contested decision and, in particular, Article 1 thereof, in so far as it declares there to be State aid incompatible with the internal market;

— consequently, annul the recovery orders set out in Articles 3 and 4 of the contested decision;

— order, by way of a measure of organisation of procedure, the Commission to produce the cost report submitted by ASTRA; and

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

Pleas in law and main arguments

The contested decision in the present case is the same as that in Case T-462/13 *Comunidad Autónoma del País Vasco and Itelazpi* v *Commission*.

The applicants raise the same pleas in support of their action as those raised in the aforecited case.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Judgment of the Civil Service Tribunal (1st Chamber) of 17 October 2013 — BF v Court of Auditors

(Case F-69/11) [1]

(Civil service — Procedure for filling the post of director — Report of the pre-selection board — Statement of reasons — None — Unlawfulness of the nomination decision — Conditions)

(2013/C 352/42)

Language of the case: French

Parties

Applicant: BF (Luxembourg, Luxembourg) (represented by: L. Levi, lawyer)

Defendant: Court of Auditors of the European Union (represented by: T. Kennedy and J. Vermer, acting as Agents, and by D. Waelbroeck)

Re:

Application to annul the decision of the Court of Auditors not to appoint the applicant to the post of director of the Directorate of Human Resources and to appoint another candidate to that post.

Operative part of the judgment

The Tribunal:

1. *Annuls the decisions of 18 November 2011 by which the Court of Auditors of the European Union appointed Ms Z to the post of Director of Human Resources and rejected BF's candidacy for that post;*

2. *Considers that there is no need to adjudicate on the request of the Court of Auditors of the European Union to remove from the file Annexes A7 and A11 to the application;*

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

4. *Orders the Court of Auditors of the European Union to bear its own costs and to pay those incurred by BF.*

[1] OJ C 282, 24.9.2011, p. 52.

Judgment of the Civil Service Tribunal (Third Chamber) of 11 September 2013 — de Brito Sequeira Carvalho v Commission

(Case F-126/11) [1]

(Civil Service — Officials — Disciplinary measures — Disciplinary procedure — Disciplinary sanction — Reprimand — Article 25 of Annex IX to the Staff Regulations — Article 22a of the Staff Regulations)

(2013/C 352/43)

Language of the case: French

Parties

Applicant: José Antonio de Brito Sequeira Carvalho (Brussels, Belgium) (represented by: M. Boury, lawyer)

Defendant: European Commission (represented by: J. Baquero Cruz and D. Martin, acting as Agents)

Re:

Application to annul the decision of the Appointing Authority in so far as it issues a disciplinary sanction in the form of a written reprimand to the applicant.

Operative part of the judgment

The Tribunal:

1. *Dismisses the action;*

2. *Orders Mr de Brito Sequeira Carvalho to bear his own costs and to pay those incurred by the European Commission.*

[1] OJ C 174, 16.6.12, p. 31.

Judgment of the Civil Service Tribunal (3rd Chamber) of 23 October 2013 — BQ v Court of Auditors

(Case F-39/12) [1]

(Civil service — Official — Staff report — Psychological harassment — Damages — Admissibility — Time-limits)

(2013/C 352/44)

Language of the case: French

Parties

Applicant: BQ (Bereldange, Luxembourg) (represented by: D. Abreu Caldas, S. Orlandi, A. Coolen, J.-N. Louis and É. Marchal, lawyers)

Defendant: Court of Auditors of the European Union (represented by: T. Kennedy, B. Schäfer and I. Ní Riagáin Düro, Agents)

Re:

Application to annul the rejection by the European Court of Auditors of the applicant's application seeking the recognition of unlawful conduct which allegedly caused him material and non-material harm

Operative part of the judgment

The Tribunal:

1. *Orders the Court of Auditors of the European Union to pay BQ EUR 2 000;*

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

3. *Orders the parties to bear their own costs.*

([1]) OJ C 138, 12.05.2012, p. 38.

Judgment of the Civil Service Tribunal (Third Chamber) of 18 September 2013 — Scheidemann v Commission

(Case F-76/12) ([1])

(Civil service — Official — Inter-institutional transfer — Articles 43 and 45 of the Staff Regulations — Promotion — Merit points — Equal treatment — Autonomy of the institutions)

(2013/C 352/45)

Language of the case: French

Parties

Applicant: Sabine Scheidemann (Berlin, Germany) (represented by: S. Rodrigues and A. Blot, lawyers)

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

Re:

Application to annul the Commission's decision concerning the conversion of merit points acquired in another institution and the administrative notice publishing the list of officials promoted in the 2011 promotion exercise.

Operative part of the judgment

The Tribunal:

1. *Dismisses the application;*

2. *Orders Ms Scheidemann to bear her own costs and to pay the costs incurred by the European Commission.*

([1]) OJ C 287, 22.09.2012, p.41.

Judgment of the Civil Service Tribunal (First Chamber) of 17 October 2013 — Vasilev v Commission

(Case F-77/12) ([1])

(Civil Service — Open competition — Notice of competition EPSO/AD/208/11 — Lack of availability, at the preliminary test, of a keyboard for the applicant to use to which he was accustomed — Refusal of admission to the assessment tests — Equal treatment)

(2013/C 352/46)

Language of the case: Bulgarian

Parties

Applicant: Vasil Vasilev (Sandanski, Bulgaia) (represented by: R. Nedin, lawyer)

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

Re:

Application to annul the decision not to admit the applicant to the assessment tests in competition EPSO/AD/208/11.

Operative part of the judgment

1. *Dismisses the action.*

2. *Orders Mr Vasilev to bear his own costs and to pay those incurred by the European Commission.*

([1]) OJ C 319, 20.10.2012, p. 18.

Judgment of the Civil Service Tribunal (3rd Chamber) of 23 October 2013 — D'Agostino v Commission

(Case F-93/12) ([1])

(Civil service — Member of the contract staff — Article 3a of the CEOS — Non-renewal of a contract — Duty of care — Interests of the service — Full and detailed examination within all departments of the possibility of employment corresponding to the tasks envisaged in the contract)

(2013/C 352/47)

Language of the case: French

Parties

Applicant: Luigi D'Agostino (Luxembourg, Luxembourg) (represented by: M.-A. Lucas, lawyer)

Defendant: European Commission (represented by: G. Gattinara and D. Martin, Agents)

Re:

Application to annul the decision not to renew the applicant's contract as a member of the contract staff.

Operative part of the judgment

The Tribunal:

1. *Annuls the European Commission's decision of 1 December 2011 not to renew Mr D'Agostino's contract;*

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

3. *Orders the Commission to bear its own costs and to pay one third of the costs incurred by Mr D'Agostino;*

4. *Orders Mr D'Agostino to bear two thirds of his own costs.*

([1]) OJ C 343, 10.11.2012, p. 23.

Judgment of the Civil Service Tribunal (Single Judge) of 23 October 2013 — Verstreken v Council

(Case F-98/12) ([1])

(Civil service — Officials — Promotion — 2008 promotion procedure — 2009 promotion procedure — Decision not to promote the applicant — Statement of reasons — General and stereotypical statement of reasons)

(2013/C 352/48)

Language of the case: French

Parties

Applicant: Kathleen Verstreken (Brussels, Belgium) (represented by: D. Abreu Caldas, A. Coolen, S. Orlandi, J.-N. Louis and É. Marchal, lawyers)

Defendant: Council of the European Union (represented by: M. Bauer and A. Bisch, Agents)

Re:

Application to annul the decisions not to promote the applicant to grade AD12 under the 2008 and 2009 promotion procedures.

Operative part of the judgment

The Tribunal:

1. *Annuls the decision of the Council of the European Union of 7 November 2011 not to promote Ms Verstreken under the 2008 and 2009 promotion procedures;*

2. *Orders the Council of the European Union to bear its own costs and to pay the costs incurred by Ms Verstreken.*

([1]) OJ C 343, 10.11.2012, p. 24.

Judgment of the Civil Service Tribunal (Third Chamber) of 23 October 2013 — Solberg v EMCDDA

(Case F-124/12) ([1])

(Civil service — Former member of the temporary staff — Non-renewal of a fixed-term contract — Obligation to state reasons — Scope of discretion)

(2013/C 352/49)

Language of the case: French

Parties

Applicant: Ulrik Solberg (Lisbon, Portugal) (represented by: D. Abreu Caldas, A. Coolen, S. Orlandi, J.-N. Louis and É. Marchal, lawyers)

Defendant: European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) (represented by: D. Storti, Agent, and by B. Wägenbaur, lawyer)

Re:

Application to annul the decision to not renew the applicant's contact as a member of the temporary staff

Operative part of the judgment

The Tribunal:

1. *Dismisses Mr Solberg's action;*

2. *Orders Mr Solberg to bear his own costs and to pay the costs incurred by the European Monitoring Centre for Drugs and Drug Addiction.*

([1]) OJ C 26, 26.01.2013, p. 72.

Judgment of the Civil Service Tribunal (Third Chamber) of 23 October 2013 — Solberg v EMCDDA

(Case F-148/12) [1]

(Civil service — Former member of the temporary staff — Staff report — Legal interest in bringing proceedings — Obligation to state reasons — Scope of discretion)

(2013/C 352/50)

Language of the case: French

Parties

Applicant: Ulrik Solberg (Lisbon, Portugal) (represented by: D. Abreu Caldas, A. Coolen, S. Orlandi, J.-N. Louis and É. Marchal, lawyers)

Defendant: European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) (represented by: D. Storti, Agent, and by B. Wägenbaur, lawyer)

Re:

Application to annul the decision establishing the applicant's staff report for the period from 1 January to 31 December 2011

Operative part of the judgment

The Tribunal:

1. *Dismisses the action;*

2. *Orders Mr Solberg to bear his own costs and to pay the costs incurred by the European Monitoring Centre for Drugs and Drug Addiction.*

[1] OJ C 71, 09.03.2013, p. 30.

Action brought on 21 June 2013 — ZZ v Commission

(Case F-58/13)

(2013/C 352/51)

Language of the case: Italian

Parties

Applicant: ZZ (represented by: L. Mansullo, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Application for annulment of the decision rejecting the applicant's request for compensation for the harm suffered as a result of the infringement alleged of the applicant's right to confidentiality caused by the defendant's sending a letter concerning his situation to a lawyer who did not represent him.

Form of order sought

— Annul the measure, whatever the form in which it was adopted, rejecting the request sent by the applicant to the Commission on 9 March 2012 and duly received by the Commission;

— annul the note of 28 June 2012;

— annul the measure, whatever the form in which it was adopted, rejecting the complaint against the decision rejecting the request of 9 March 2012, sent by the applicant to the Commission on 26 September 2012 and duly received by the Commission;

— in so far as necessary, annul the note of 1 February 2013;

— order the Commission to pay to the applicant the sum of EUR 10 000,00, together with interest on that sum at the rate of 10 % per annum, and annual capitalisation, with effect from 9 March 2012 until actual payment;

— order the Commission to pay the costs.

Action brought on 26 June 2013 — ZZ v Commission

(Case F-62/13)

(2013/C 352/52)

Language of the case: Italian

Parties

Applicant: ZZ (represented by: L. Mansullo, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Application for annulment of the decision to recover the sum of EUR 500 and five further sums in the amount of EUR 504.67 withheld from the applicant's invalidity allowance for the months July to December 2012.

Form of order sought

— Annul the decision, contained in the pension statement for the month of July 2012, to withhold EUR 500 from the invalidity allowance to which the applicant was entitled in respect of that month;

— annul the decisions, contained in the pension statements for the months August to December 2012, to withhold EUR 504.67 from the invalidity allowance to which the applicant was entitled in respect of each of those months;

— in so far as necessary, annul the decisions, whatever the form in which they were adopted, rejecting the complaints of 15 October 2012 and 15 January 2013 against those decisions;

— annul the memorandum of 6 February 2013 together with the annex to that memorandum and a copy of a memorandum of 3 August 2012 purportedly from the Commission's Office for Administration and Payment of Individual Entitlements;

— order the Commission to pay to the applicant the following sums: (1) EUR 500.00, together with interest on that sum at the rate of 10 % per annum and annual capitalisation, with effect from 1 August 2012 until actual payment of that sum; (2) EUR 504.67, together with interest on that sum at the rate of 10 % per annum and annual capitalisation, with effect from 1 September 2012 until actual payment of that sum; (3) EUR 504.67, together with interest on that sum at the rate of 10 % per annum and annual capitalisation, with effect from 1 October 2012 until actual payment of that sum; (4) EUR 504.67, together with interest on that sum at the rate of 10 % per annum and annual capitalisation, with effect from 1 November 2012 until actual payment of that sum; (5) EUR 504.67, together with interest on that sum at the rate of 10 % per annum and annual capitalisation, with effect from 1 December 2012 until actual payment of that sum; (6) EUR 504.67, together with interest on that sum at the rate of 10 % per annum and annual capitalisation, with effect from 1 January 2013 until actual payment of that sum;

— order the Commission to pay the costs.

Action brought on 9 August 2013 — ZZ v Europol

(Case F-77/13)

(2013/C 352/53)

Language of the case: Dutch

Parties

Applicant: ZZ (represented by: W. Brouwer, lawyer)

Defendant: Europol

Subject-matter and description of the proceedings

Annulment of the decision fixing the interest payable on the sum paid on the basis of total incapacity for work following injuries suffered in two accidents while on work-related travel and payment of damages for the harm allegedly suffered.

Form of order sought

— Annul the decision of 15 October 2012, in conjunction with that of 13 March 2012 and that of 18 December 2012, respectively;

— annul the implied decision of 10 May 2013 rejecting the claim of 10 January 2013;

— order the defendant to pay the interest due from it on the amount of EUR 170 074,39 paid to the applicant on 14 May 2013, namely:

  — principally: interest due for the period from 21 February 2001 to 14 May 2013, assessed at EUR 138 331,75;

  — in the alternative: interest due for the period from 27 January 2004 to 14 May 2013, assessed at EUR 83 154,25;

  — in the further alternative: at least, the interest due for the period from 27 January 2001 to 1 February 2013, assessed at EUR 80 356,75, at least, from a date to be fixed by the Tribunal in accordance with judicial discretion from which the interest is to fall due, or award an amount of compensation for the harm suffered by the applicant for which the defendant is responsible which takes account of the defendant's omissions;

— order the defendant to pay:

— principally: the interest due from the defendant on the amounts paid under policy WBA&I 2600914, on 3 May 2010, namely:

— interest from the date on which the debt in respect of the damage to hearing came into being (5 % AMA, EUR 11 344,50), for the period from 11 December 2002, less 15 days (section 4B of the policy), to 3 May 2010, which amounts to EUR 4 875,28;

— interest from the date on which the debt in respect of the damage to the ankle came into being (9 % AMA, EUR 20 420,12) for the period from the date on which Europol was held liable, 27 January 2004, less 15 days (section 4B of the policy) to 3 May 2010, which amounts to EUR 6 878,71;

— interest from the date on which the debt in respect of the cognitive damage came into being (16 % AMA, EUR 36 302,41) for the period from the date on which Europol was held liable, 27 January 2004, less 15 days (section 4B of the policy) to 3 May 2010, which amounts to EUR 12 228,81;

— in the alternative: award the applicant an amount for compensation for the damage for which the defendant is responsible which takes account of the defendant's omissions;

— order the defendant to pay the costs of the proceedings, including the representative's fees.

Action brought on 23 September 2013 — ZZ and Others v European Railway Agency (ERA)

(Case F-95/13)

(2013/C 352/54)

Language of the case: French

Parties

Applicants: ZZ and Others (represented by: D. Abreu Caldas, A. Coolen, J.-N. Louis and E. Marchal, lawyers)

Defendant: European Railway Agency (ERA)

Subject-matter and description of the proceedings

Annulment of the decision to not reclassify the applicants' employment contracts as members of the temporary staff for a fixed-term as an employment contracts for an indefinite duration.

Form of order sought

— Annul the decision rejecting the applicants' application of 20 December 2012 seeking to reclassify their employment contracts as members of the temporary staff for a fixed-term for the purposes of Article 2(a) of the Conditions of Employment of other Servants of the European Communities (CEOS) as employment contracts for an indefinite duration under Article 8 of the CEOS from the date of their actual entry into force;

— order the European Railway Agency to pay the costs.

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