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

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Past publications

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These texts are available on:

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

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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Order of the Court (Tenth Chamber) of 14 November 2013 (request for a preliminary ruling from the Handelsgericht Wien — Austria) — Krejci Lager & Umschlagbetriebs GmbH v Olbrich Transport und Logistik GmbH

(Case C-469/12) ([1])

(Request for a preliminary ruling — Area of freedom, security and justice — Brussels Convention — Judicial cooperation in civil matters — Regulation (EC) No 44/2001 — Article 5(1)(b) — Jurisdiction — Special jurisdiction — Matters relating to a contract — Concept of 'provision of services' — Storage contract)

(2014/C 102/02)

Language of the case: German

Referring court

Handelsgericht Wien

Parties to the main proceedings

Applicant: Krejci Lager & Umschlagbetriebs GmbH

Defendant: Olbrich Transport und Logistik GmbH

Re:

Request for a preliminary ruling — Handelsgericht Wien — Interpretation of Article 5(1)(b) 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 (OJ 2001 L 12, p. 1) — Special jurisdiction — Concept of provision of services — Storage contract.

Operative part of the order

The second indent of Article 5(1)(b) 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 a contract relating to the storage of goods, such as that at issue in the main proceedings, constitutes a contract for the 'provision of services' within the meaning of that provision.

([1]) OJ C 26, 26.1.2013.

Order of the Court (Eighth Chamber) of 10 October 2013 (requests for a preliminary ruling from the Debreceni Munkaügyi Bíróság — Hungary) — Nagy Sándor (C-488/12) v Hajdú-Bihar Megyei Kormányhivatal, Lajos Tiborné Böszörményi (C-489/12), Róbert Gálóczhi-Tömösváry (C-490/12), Magdolna Margit Szabadosné Bay (C-491/12) v Mezőgazdasági és Vidékfejlesztési Hivatal and Józsefné Ványai (C-526/12) v Nagyrábé Község Polgármesteri Hivatal

(Joined Cases C-488/12 to C-491/12 and C-526/12) ([1])

(Request for a preliminary ruling — Article 30 of the Charter of Fundamental Rights of the European Union — Implementation of Union law — Failure to implement Union law — Clear lack of jurisdiction of the Court)

(2014/C 102/03)

Language of the case: Hungarian

Referring court

Debreceni Munkaügyi Bíróság

Parties to the main proceedings

Applicants: Nagy Sándor(C-488/12), Lajos Tiborné Böszörményi (C-489/12), Róbert Gálóczhi-Tömösváry (C-490/12), Magdolna Margit Szabadosné Bay (C-491/12) Józsefné Ványai (C-526/12)

Defendants: Hajdú-Bihar Megyei Kormányhivatal (C-488/12), Mezőgazdasági és Vidékfejlesztési Hivatal (C-489/12, C-490/12, C-491/12), Nagyrábé Község Polgármesteri Hivatal (C-526/12)

Re:

Request for a preliminary ruling — Debreceni Munkaügyi Bíróság — Interpretation of Article 30 of the Charter of Fundamental Rights of the European Union — Unjustified dismissal — Dismissal without reasons being given — Official of a public administrative body dismissed on the basis of a provision of national legislation on the status of officials.

Operative part of the order

The Court of Justice of the European Union clearly has no jurisdiction to answer the questions referred by the Debreceni Munkaügyi Bíróság (Hungary).

([1]) OJ C 79, 16.3.2013

Order of the Court (First Chamber) of 14 November 2013 (requests for a preliminary ruling from the Juzgado de Primera Instancia e Instrucción No. 1 de Catarroja and the Juzgado de Primera Instancia No. 17 de Palma de Mallorca — Spain) — Banco Popular Español SA v Maria Teodolinda Rivas Quichimbo, Wilmar Edgar Cun Pérez (C-537/12), and Banco de Valencia SA v Joaquín Valldeperas Tortosa, María Ángeles Miret Jaume (C-116/13)

(Joined Cases C-537/12 and C 116/13) ([1])

(Directive 93/13/EEC — Article 99 of the Rules of Procedure of the Court of Justice — Consumer contracts — Mortgage loan agreement — Mortgage enforcement proceedings — Powers of the national court responsible for enforcement — Unfair terms — Criteria for assessment)

(2014/C 102/04)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia e Instrucción No. 1 de Catarroja (Spain) and the Juzgado de Primera Instancia No. 17 de Palma de Mallorca

Parties to the main proceedings

Applicants: Banco Popular Español SA (C-537/12), Banco de Valencia SA (C-116/13)

Defendants: Maria Teodolinda Rivas Quichimbo, Wilmar Edgar Cun Pérez (C-537/12), Joaquín Valldeperas Tortosa, María Ángeles Miret Jaume (C-116/13)

Re:

(C-537/12)

Request for a preliminary ruling — Juzgado de Primera Instancia e Instrucción — Interpretation of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29) — Protection of consumers in relation to mortgages — Ground for application raised in enforcement proceedings based on an unfair term in the mortgage agreement — National legislation on civil procedure applicable to the enforcement proceedings which precludes such a ground of opposition — Lack of competence of the national courts to assess whether such a term is unfair.

(C-116/13)

Request for a preliminary ruling — Juzgado de Primera Instancia de Palma de Mallorca — Interpretation of Article 3(1) and 3(7) of Council Directive 93/13/EEC and points 1(e) and (g) and 2(a) of the annex of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29) — Protection of consumers in relation to mortgages — National legislation on civil procedure applicable to mortgage enforcement proceedings — Powers of the national court.

Operative part of the order

1. *Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts must be interpreted as precluding legislation of a Member State, such as that at issue in the main proceedings, which does not allow the court responsible for the enforcement, in mortgage enforcement proceedings, either to assess of its own motion or at the consumer's request, the unfairness of a term contained in the contract which gives rise to the debt claimed and which constitutes the basis of the right to enforcement, or to grant interim relief capable of staying or terminating the mortgage enforcement proceedings, where such relief is necessary to ensure the full effectiveness of the final decision of the court hearing the declaratory proceedings before which the consumer argues that that term is unfair.*

2. *Article 3(1) and (3) of Directive 93/13 and Points 1(e) and (g) and 2(a) of the annex thereto must be interpreted as meaning that, in order to assess the unfairness of a contractual term accelerating the repayment of a mortgage, such as that at issue in the main proceedings, the following are of decisive importance:*

   — *whether the right of the seller or supplier to cancel the contract unilaterally is conditional upon the non-compliance by the consumer with an obligation which is of essential importance in the context of the contractual relationship in question,*

   — *whether that right is provided for in cases in which such non-compliance is sufficiently serious in the light of the contractual term and amount of the loan,*

   — *whether that right derogates from the rules applicable in the absence of agreement between the parties, so as to make it more difficult for the consumer, given the procedural means at his disposal, to take legal action and exercise rights of the defence, and*

   — *whether national law provides for adequate and effective means enabling the consumer subject to such a contractual term to remedy the effects of the unilateral cancellation of the loan agreement.*

It is for the national court to make such an assessment on the basis of the specific circumstances of the case before it.

([1]) OJ C 38, 9.2.2013.
OJ C 171, 15.6.2013.

Order of the Court (Tenth Chamber) of 14 November 2013 — J v European Parliament

(Case C-550/12 P) ([1])

(Article 227 TFEU — Right of petition — Petition addressed to the European Parliament — Decision to take no further action — Subject not falling within an area of activity of the European Union)

(2014/C 102/05)

Language of the case: German

Parties

Appellant: J (represented by: A. Auer, lawyer)

Other party to the proceedings: European Parliament (represented by: N. Lorenz and N. Görlitz, Agents)

Re:

Appeal brought against the judgment of the General Court (Sixth Chamber) of 27 September 2012 in Case T-160/10 *J* v *Parliament*, by which the General Court dismissed the action brought by Mr J seeking annulment of the decision of the Committee on Petitions of the European Parliament of 2 March 2010 to shelve the appellant's petition of 19 November 2009 (petition No 1673/2009) without taking any further action — Lack of reasoning — Infringement of fundamental rights.

Operative part of the order

1. *The appeal is dismissed.*

2. *The application for legal aid is dismissed.*

3. *J shall pay the costs.*

([1]) OJ C 32, 2.2.2013.

Order of the Court (Tenth Chamber) of 21 November 2013 — Kuwait Petroleum Corp., Kuwait Petroleum International Ltd, Kuwait Petroleum (Nederland) BV v European Commission

(Case C-581/12 P) ([1])

(Appeals — Agreements, decisions and concerted practices — Netherlands market in road pavement bitumen — Setting of the gross price of road pavement bitumen — Setting of a rebate for road builders — 2002 Leniency Notice — Last paragraph of point 23(b) — Partial immunity — Evidence relating to facts previously unknown to the European Commission — Appeal manifestly inadmissible or manifestly unfounded)

(2014/C 102/06)

Language of the case: English

Parties

Appellants: Kuwait Petroleum Corp., Kuwait Petroleum International Ltd, Kuwait Petroleum (Nederland) BV (represented by: D. Hull, Solicitor, and G. Berrisch, Rechtsanwalt)

Other party to the proceedings: European Commission (represented by: F. Ronkes Agerbeek and P. Van Nuffel, Agents)

Re:

Appeal brought against the judgment of the General Court (Sixth Chamber) of 27 September 2012 in Case T-370/06 *Kuwait Petroleum and Others* v *Commission*, by which the General Court dismissed an action seeking partial annulment of Commission Decision C(2006) 4090 final of 13 September 2006 relating to a proceeding under Article 81 EC (Case COMP/F/38.456 — Bitumen (Netherlands)) concerning agreements on the fixing of the gross price of road pavement bitumen in the Netherlands and on the fixing of a uniform minimum rebate for road-builders participating in the cartel and a smaller maximum rebate for other road builders — Reduction of the fine imposed on the appellants.

Operative part of the order

The Court

1. *Dismisses the appeal;*

2. *Orders Kuwait Petroleum Corp., Kuwait Petroleum International Ltd and Kuwait Petroleum (Nederland) BV to pay the costs.*

([1]) OJ C 55, 23.2.2013.

Order of the Court (Seventh Chamber) of 24 October 2013 — Lancôme parfums et beauté & Cie v Office for Harmonisation in the Internal Market (Trade Marks and Designs), Focus Magazin Verlag GmbH

(Case C-593/12 P) ([1])

(Appeal — Community trade mark — Word mark Color Focus — Application for a declaration of invalidity made by the proprietor of the Community word mark Focus — Declaration of invalidity — Surrender — Article 149 of the Rules of Procedure — Appeal which has become devoid of purpose — No need to adjudicate)

(2014/C 102/07)

Language of the case: English

Parties

Appellant: Lancôme parfums et beauté & Cie (represented by: A. von Mühlendahl, Rechtsanwalt)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, acting as Agent, R. Schweizer, Rechtsanwalt), Focus Magazin Verlag GmbH (represented by R. Schweizer, Rechtsanwalt)

Re:

Appeal brought against the judgment of 5 October 2012 in Case T-204/10 *Lancôme* v *OHIM*, by which the General Court (Eighth Chamber) dismissed an action brought by the proprietor of the word mark 'COLOR FOCUS' for goods in Class 3 against Decision R 238/2009-2 of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 11 February 2010, dismissing the appeal brought against the decision of the Cancellation Division upholding the action for a declaration of the invalidity of that mark, brought by the proprietor of the Community word mark 'FOCUS' for goods in Class 3 — Article 8(1)(b) and Article 53(1)(a) of Regulation (EC) No 207/2009 — Likelihood of confusion — Similarity of the marks — Genuine use of the earlier mark — Abuse of rights.

Operative part of the order

1. *There is no need to adjudicate on the appeal.*

2. *Lancôme parfums et beauté & Cie shall pay the costs of the present proceedings.*

([1]) OJ C 55, 23.2.2013.

Order of the Court of 14 November 2013 (request for a preliminary ruling from the High Court of Justice (Chancery Division) — United Kingdom) — Astrazeneca AB v Comptroller General of Patents

(Case C-617/12) ([1])

(Medicinal products for human use — Supplementary protection certificate — Regulation (EC) No 469/2009 — Article 13(1) — Concept of 'first authorisation to place [a product] on the market in the Community' — Authorisation issued by the Swiss Institute for Medicinal Products (Swissmedic) — Automatic recognition in Liechtenstein — Authorisation issued by the European Medicines Agency — Period of validity of a certificate)

(2014/C 102/08)

Language of the case: English

Referring court

High Court of Justice (Chancery Division)

Parties to the main proceedings

Applicant: Astrazeneca AB

Defendant: Comptroller General of Patents

Re:

Request for a preliminary ruling — High Court of Justice, Chancery Division, Patents Court — United Kingdom — Interpretation of Article 13(1) of Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products (OJ 2009 L 152, p. 1) — Meaning of first authorisation to place the product on the market — Swiss authorisation automatically recognised by Liechtenstein but not granted in accordance with the administrative procedure laid down by Directive 2001/83/EC on the Community code relating to medicinal products for human use.

Operative part of the order

In the context of the European Economic Area (EEA), Article 13(1) of Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products must be interpreted as meaning that an administrative authorisation issued for a medicinal product by the Swiss Institute for Medicinal Products (SwissMedic), which is automatically recognised in Liechtenstein, must be regarded as the first authorisation to place that medicinal product on the market within the meaning of that provision in the European Economic Area where that authorisation predates marketing authorisations issued for the same medicinal product, either by the European Medicines Agency (EMA), or by the competent authorities of European Union Member States in accordance with the requirements laid down in 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, and the authorities of the Republic of Iceland and the Kingdom of Norway. The fact that, on the basis of similar clinical data, the European Medicines Agency, unlike the Swiss authority, refused to grant a marketing authorisation for that medicinal product at the conclusion of its examination of those data, or the fact that the Swiss authorisation to place the product on the market was suspended by the Swiss Institute for Medicinal Products and subsequently reinstated by the latter only when the holder of the authorisation submitted additional data to it are irrelevant.

([1]) OJ C 86, 23.3.2013.

Order of the Court (Ninth Chamber) of 10 October 2013 (request for a preliminary ruling from the Szombathelyi Törvényszék — Hungary) — Ferenc Tibor Kovács v Vas Megyei Rendőr-főkapitányság

(Case C-5/13) ([1])

(Reference for a preliminary ruling — Article 45 TFEU — Free movement of workers — National legislation under which a driver using a vehicle with foreign registration plates must prove the lawfulness of its use on the spot, during a police inspection, on pain of a fine)

(2014/C 102/09)

Language of the case: Hungarian

Referring court

Szombathelyi Törvényszék

Parties to the main proceedings

Applicant: Ferenc Tibor Kovács

Defendant: Vas Megyei Rendőr-főkapitányság

Re:

Request for a preliminary ruling — Szombathelyi Törvényszék — Interpretation of the law on non-discrimination, freedom of movement for workers and the right to a fair trial — National legislation on road traffic under which only vehicles that have administrative authorisation and registration plates granted by the national authorities may be used on the roads in the national territory, and the fulfilment of the requirements which allow a derogation from that provision may be established only during an inspection — Obligation for a person residing in Member State A, working in Member State B and having, for the purposes of travelling to his workplace, the use of a vehicle owned by his employer and bearing registration plates from Member State B, to prove during the police inspection that he is lawfully using the vehicle in Member State A — No possibility for the driver of the vehicle to provide the proof of that lawful use subsequently in an administrative procedure.

Operative part of the order

Article 45 TFEU must be interpreted as meaning that that it precludes national legislation, such as that at issue in the main proceedings, under which, in principle, only vehicles that have administrative authorisation and registration plates granted by the Member State in question may be used on the roads in that Member State and a resident of that Member State who seeks to rely on a derogation from that rule, on the ground that he uses a vehicle made available to him by his employer established in another Member State, must be able to prove on the spot, during a police inspection, that he fulfils the requirements for such a derogation, as laid down by the national legislation in question, on pain of the immediate imposition of a fine equivalent to that applicable in the event of infringement of the registration requirement, without there being any possibility of an exemption from that fine.

([1]) OJ C 114, 20.4.2013.

Order of the Court (Third Chamber) of 14 November 2013 (request for a preliminary ruling from the Úřad průmyslového vlastnictví — Czech Republic) — MF 7 a.s. v MAFRA a.s.

(Case C-49/13) ([1])

(Article 267 TFEU — Concept of 'court or tribunal' — Proceedings intended to lead to a decision of a judicial nature — Independence — Clear lack of jurisdiction of the Court)

(2014/C 102/10)

Language of the case: Czech

Referring court

Úřad průmyslového vlastnictví

Parties to the main proceedings

Applicant: MF 7 a.s.

Defendant: MAFRA a.s.

Re:

Request for a preliminary ruling — Úřad průmyslového vlastnictví — Interpretation of Article 3(2)(d) 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 (OJ 2008 L 299, p. 25) — Criteria for the assessment of bad faith — Influence of circumstances which occurred after the application for registration was filed on the assessment of the good faith of the applicant — Consent by the proprietor of the trade mark to conduct which might limit its exclusive rights — Contracts concluded between the proprietor of the earlier trade mark and the applicant for the later trade mark not governing intellectual property rights — Tolerance of the contested trade mark by the proprietor of an earlier trade mark for a prolonged period.

Operative part of the order

The Court of Justice of the European Union clearly has no jurisdiction to answer the questions referred by the Úřad průmyslového vlastnictví (Czech Republic) in its decision of 22 January 2013.

([1]) OJ C 141, 18.5.2013.

Order of the Court (Eighth Chamber) of 12 December 2013 — Getty Images (US) Inc. v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-70/13 P) ([1])

(Appeal — Community trade mark — Regulation (EC) No 207/2009 — Article 7(1)(b) and (c) — Absolute grounds for refusal — Lack of distinctiveness — Descriptive character — Word mark PHOTOS.COM — Partial refusal of registration — Equal treatment — Obligation for OHIM to take into account its prior decision-making practice — Appeal partly manifestly inadmissible and partly manifestly unfounded)

(2014/C 102/11)

Language of the case: English

Parties

Appellant: Getty Images (US) Inc. (represented by: P.G. Olson, advokat)

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

Re:

Appeal brought against the judgment of the General Court (Fifth Chamber) of 21 November 2012 in Case T-338/11 *Getty Images* v *OHIM*, by which the General Court dismissed an action for annulment of Decision R 1831/2010-2 of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (OHIM) of 6 April 2011, rejecting the appeal brought against the examiner's decision to partially refuse registration of the word mark 'PHOTOS.COM', for goods in classes 9, 42 and 45 — Article 7(1)(b) and (c), and Article 7(3) of Regulation No 207/2009 — Lack of distinctive character.

Operative part of the order

1. *The appeal is dismissed.*

2. *Getty Images (US) Inc. is ordered to pay the costs.*

([1]) OJ C 101, 6.4.2013.

Order of the Court (Eighth Chamber) of 28 November 2013 (request for a preliminary ruling from the Conseil régional d'expression française de l'ordre des médecins vétérinaires (Belgium)) — Disciplinary proceedings against Jean Devillers

(Case C-167/13) ([1])

(Reference for a preliminary ruling — Article 53(2) of the Rules of Procedure of the Court of Justice — Conseil régional d'expression française de l'ordre des médecins vétérinaires — Concept of 'court or tribunal of a Member State' within the meaning of Article 267 TFEU — Lack of jurisdiction of the Court)

(2014/C 102/12)

Language of the case: French

Referring court

Conseil régional d'expression française de l'ordre des médecins vétérinaires

Party to the main proceedings

Jean Devillers

Re:

Request for a preliminary ruling — Conseil regional d'expression française de l'ordre des médecins vétérinaires (Belgium) — Interpretation of Article 3 of Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97 (OJ 2005 L 3, p. 1) — Question referred for a preliminary ruling by a professional association — Concept of court or tribunal within the meaning of Article 267 TFEU — Jurisdiction of the Court — Insufficient as to facts and law — Admissibility of the question.

Operative part of the order

The Court of Justice of the European Union clearly has no jurisdiction to answer the question referred by the Conseil regional d'expression française de l'ordre des médecins vétérinaires (Belgium) in its decision of 23 March 2013.

([1]) OJ C 164, 8.6.2013.

Order of the Court (Eighth Chamber) of 14 November 2013 (request for a preliminary ruling from the High Court of Justice (Chancery Division) — United Kingdom) — Glaxosmithkline Biologicals SA, Glaxosmithkline Biologicals, Niederlassung der Smithkline Beecham Pharma GmbH & Co. KG v Comptroller-General of Patents, Designs and Trade Marks

(Case C-210/13) ([1])

(Medicinal products for human use — Supplementary protection certificate — Regulation (EC) No 469/2009 — Concepts of 'active ingredient' and 'combination of active ingredients' — Adjuvant)

(2014/C 102/13)

Language of the case: English

Referring court

High Court of Justice (Chancery Division)

Parties to the main proceedings

Applicants: Glaxosmithkline Biologicals SA, Glaxosmithkline Biologicals, Niederlassung der Smithkline Beecham Pharma GmbH & Co. KG

Defendants: Comptroller-General of Patents, Designs and Trade Marks

Re:

Request for a preliminary ruling — High Court of Justice (Chancery Division) — Interpretation of Article 1(b) of Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products (OJ 2009 L 152, p. 1) — Concept of 'active ingredient' and 'combination of active ingredients' — Adjuvant which does not have a therapeutic effect of its own but enhances the therapeutic effect in an antigen.

Operative part of the order

Article 1(b) of Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products must be interpreted as meaning that, just as an adjuvant does not fall within the definition of 'active ingredient' within the meaning of that provision, so a combination of two substances, namely an active ingredient having therapeutic effects on its own, and an adjuvant which, while enhancing those therapeutic effects, has no therapeutic effect on its own, does not fall within the definition of 'combination of active ingredients' within the meaning of that provision.

([1]) OJ C 189, 29.6.2013.

Order of the Court of 14 November 2013 (request for a preliminary ruling from the Tribunal des affaires de sécurité sociale des Bouches du Rhône — France) — Anouthani Mlamali v Caisse d'allocations familiales des Bouches-du-Rhône

(Case C-257/13) ([1])

(Request for a preliminary ruling — Article 94 of the Rules of Procedure of the Court — Absence of sufficient information concerning the factual and regulatory background to the dispute in the main proceedings and the reasons justifying the need for an answer to the question referred for a preliminary ruling — Manifest inadmissibility)

(2014/C 102/14)

Language of the case: French

Referring court

Tribunal des affaires de sécurité sociale des Bouches du Rhône

Parties to the main proceedings

Applicant: Anouthani Mlamali

Defendant: Caisse d'allocations familiales des Bouches-du-Rhône

Re:

Request for a preliminary ruling — Tribunal des affaires de sécurité sociale des Bouches du Rhône — Interpretation of Article 11 of Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ 2004 L 16, p. 44) — Legally resident third-country national — Rejection of a claim for family allowances in respect of a dependent minor child who is himself a third-country national — Non-compliance with the statutory provisions concerning family reunification — Rejection based on the failure provide a medical certificate issued by the Agence nationale de l'accueil des étrangers et des migrations (National Agency for the reception of foreign nationals and migrants) — Equal treatment.

Operative part of the order

The request for a preliminary ruling from the Tribunal des affaires de sécurité sociale des Bouches du Rhône (France), made by decision of 13 May 2013, is manifestly inadmissible.

([1]) OJ C 207, 20.7.2013.

Order of the Court (Second Chamber) of 28 November 2013 (request for a preliminary ruling from the 5ª Vara Cível de Lisboa — Portugal) — Sociedade Agrícola e Imobiliária da Quinta de S. Paio Lda v Instituto da Segurança Social IP

(Case C-258/13) ([1])

(Request for a preliminary ruling — Charter of Fundamental Rights of the European Union — Right to an effective remedy — Legal persons pursuing a commercial objective — Legal aid — No link with European Union law — Clear lack of jurisdiction of the Court)

(2014/C 102/15)

Language of the case: Portuguese

Referring court

5ª Vara Cível de Lisboa

Parties to the main proceedings

Applicant: Sociedade Agrícola e Imobiliária da Quinta de S. Paio Lda

Defendant: Instituto da Segurança Social IP

Re:

Request for a preliminary ruling — Varas Cíveis de Lisboa — Interpretation of Articles 6 and 267 TFEU and Article 47 of the Charter of Fundamental Rights of the European Union (OJ 2000 C 364, p. 1) — Right to an effective remedy — National legislation excluding legal persons pursuing a commercial objective from obtaining legal aid — Exemption from the legal charges applicable to those legal persons where they are insolvent or have entered into a composition with creditors.

Operative part of the order

The Court manifestly has no jurisdiction to rule on the questions referred for a preliminary ruling by the 5ª Vara Cível de Lisboa (Portugal) in its decision of 13 March 2013 (Case C-258/13).

([1]) OJ C 215, 27.7.2013.

Request for a preliminary ruling from the Grondwettelijk Hof (Belgium) lodged on 2 January 2014 — KPN Group Belgium NV and Mobistar NV v Ministerraad Intervener: Belgacom NV

(Case C-1/14)

(2014/C 102/16)

Language of the case: Dutch

Referring court

Grondwettelijk Hof

Parties to the main proceedings

Applicant: KPN Group Belgium NV and Mobistar NV

Defendant: Ministerraad

Intervener: Belgacom NV

Questions referred

1. Should Directive 2002/22/EC ([1]) of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive), and in particular Articles 9 and 32 thereof, be interpreted as meaning that the social tariff for universal service as well as the compensation mechanism provided for in Article 13(1)(b) of the Universal Service Directive are not only applicable to electronic communications by means of a telephone connection at a fixed location to a public communications network but also to electronic communications by means of mobile communication services and/or internet subscriptions?

2. Should Article 9(3) of the Universal Service Directive be interpreted as allowing Member States to add special tariff options to the universal service for services other than those defined in Article 9(2) of the universal service?

3. If the answers to the first and second questions are in the negative, are the relevant provisions of the Universal Service Directive compatible with the principle of equality, as set out inter alia in Article 20 of the Charter of Fundamental Rights of the European Union? ([2])

([1]) OJ 2002 L 108, p. 51.
([2]) OJ 2000 L 364, p. 1.

Request for a preliminary ruling from the Sąd Najwyższy (Poland) lodged on 3 January 2014 — Polska Telefonia Cyfrowa SA v Prezes Urzędu Komunikacji Elektronicznej

(Case C-3/14)

(2014/C 102/17)

Language of the case: Polish

Referring court

Sąd Najwyższy

Parties to the main proceedings

Applicant: Polska Telefonia Cyfrowa SA

Defendant: Prezes Urzędu Komunikacji Elektronicznej

Questions referred

1. Must Article 7(3) of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), ([1]) in conjunction with Article 28 of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive), ([2]) be interpreted as meaning that every measure taken by a national regulatory authority in order to fulfil the obligation arising from Article 28 of Directive 2002/22 affects trade between Member States where that measure may ensure that end-users from other Member States are able to access non-geographic numbers within the territory of that Member State?

2. Must Article 7(3) in conjunction with Articles 6 and 20 of Directive 2002/21 be interpreted as meaning that, in resolving disputes between undertakings providing electronic communications networks or services concerning the fulfilment by one of those undertakings of the obligation arising from Article 28 of Directive 2002/22, a national regulatory authority cannot conduct consolidation proceedings even where the measure affects trade between Member States and national law requires the national regulatory authority to conduct consolidation proceedings in every case where a measure may affect that trade?

3. If the answer to Question 2 is in the affirmative, must Article 7(3) in conjunction with Articles 6 and 20 of Directive 2002/21, read in conjunction with Article 288 TFEU and Article 4(3) TEU, be interpreted as meaning that a national court is obliged to refrain from applying provisions of national law which require the national regulatory authority to conduct consolidation proceedings in every case where a measure taken by that authority may affect trade between Member States?

(1) OJ 2002 L 108, p. 33.
(2) OJ 2002 L 108, p. 51.

Request for a preliminary ruling from the Juzgado de Primera Instancia (Spain) lodged on 10 January 2014 — Unnim Banc, S.A. v Diego Fernández Gabarro and Others

(Case C-8/14)

(2014/C 102/18)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia

Parties to the main proceedings

Applicant: Unnim Banc, S.A.

Defendants: Diego Fernández Gabarro, Pedro Penalva López and Clara López Durán

Question referred

Is the limitation period of one month provided for by Law 1/2013 on the protection of mortgagors, restructuring of debt and social rent contrary to the terms of Articles 6 and 7 of Directive 93/13/EEC (1)?

(1) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts OJ 1993 L 95, p. 29.

Request for a preliminary ruling from the Hoge Raad der Nederlanden (The Netherlands) lodged on 13 January 2014 — Staatssecretaris van Financiën v D. G. Kieback

(Case C-9/14)

(2014/C 102/19)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: Staatssecretaris van Financiën

Defendant: D. G. Kieback

Questions referred

1. Must Article 39 EC be interpreted as meaning that the Member State where a taxable person engages in paid employment is, when charging income tax, to take the personal and family circumstances of the interested party into account in circumstances where (i) that taxable person only worked for a part of the tax year in that Member State while living in another Member State, (ii) he received all, or almost all, of his income for that period in that State of employment, (iii) he has left, in the course of the relevant year, to live and work in another State, and (iv) when the tax year is considered as a whole, he did not receive all, or almost all, of his income in the first-mentioned State of employment?

2. Does it make a difference to the answer to the first question whether the State where the worker has gone to live and work during the course of the tax year is not a Member State of the European Union?

Request for a preliminary ruling from the Hof van Beroep te Gent (Belgium) lodged on 16 January 2014 — Property Development Company NV v Belgische Staat

(Case C-16/14)

(2014/C 102/20)

Language of the case: Dutch

Referring court

Hof van Beroep te Gent

Parties to the main proceedings

Applicant: Property Development Company NV

Defendant: Belgische Staat

Question referred

Is interest on borrowed capital which, according to Article 35(4) of the Fourth Council Directive 78/660/EEC ([1]) of 25 July 1978, may be included in the production costs to the extent that it relates to the period of production, part of the taxable amount of an application within the meaning of Article 5(6) of Sixth Council Directive 77/388/EEC ([2]) of 17 May 1977, that is to say, part of the 'cost price' within the meaning of Article 11A(1) of the Sixth Directive and/or the incidental expenses within the meaning of Article 11A(2) of the Sixth Directive?

([1]) Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54 (3)(g) of the Treaty on the annual accounts of certain types of companies (OJ 1978 L 222, p. 11).

([2]) Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1).

Appeal brought on 21 January 2014 by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) against the judgment of the General Court (First Chamber) delivered on 8 November 2013 in Case T-536/10 *Kessel Marketing & Vertriebs GmbH* v *Office for Harmonisation in the Internal Market (Trade Marks and Designs)*

(Case C-31/14 P)

(2014/C 102/21)

Language of the case: German

Parties

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

Other parties to the proceedings: Kessel Marketing & Vertriebs GmbH, Janssen-Cilag GmbH

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal;

— dismiss the action brought against the decision of the Fourth Board of Appeal of OHIM of 21 September 2010 in Case R 708/2010-4; in the alternative, refer the case back to the General Court;

— order the applicant at first instance to pay the costs of both the proceedings at first instance and the appeal proceedings.

Pleas in law and main arguments

The General Court confirmed the decision of the Board of Appeal that the restriction made by the then applicant to the list of goods and services is imprecise if it takes as its basis the criterion of the absence of a prescription requirement. Nevertheless, the General Court stated that that lack of precision could not make the application for restriction altogether irrelevant. OHIM takes the view that, in the case of a lack of precision, the restriction of the list of goods and services cannot be registered, nor can the comparison of the goods and services be based on that restriction. The Board of Appeal could not have taken the corresponding application into account because that lack of precision was established in this case.

The General Court also held that the restriction applied for by the then applicant was inadmissible in so far as it was based on the fact that the goods in question were not subject to a prescription requirement. The criterion of the absence of a prescription requirement is, it is submitted, unsuitable for the formation of a sub-group within that of the goods declared. It is not a suitable criterion for the formation of a sub-group of pharmaceutical products claimed by means of a trade mark. In the absence of harmonisation at European level, the question as to whether or not a prescription requirement exists is dependent on the national legal provisions in force for pharmaceutical products, which may be changed at any time by the national legislature. The right to protection by a Community trade mark cannot, however, depend on a criterion which comes under national law or on a criterion which may change over time. That is not contested by OHIM. However, the General Court nevertheless held that the Board of Appeal erred in not taking the restriction into account in its totality. The Board of Appeal could not regard the restriction as altogether irrelevant. It was required to make the comparison of the goods on the basis of the goods covered by the notified trade mark, after the restriction by the then applicant, and of the goods covered by the earlier trade mark, without thereby taking the criterion of the prescription requirement into account.

In the view of OHIM, the judgment is to that extent based on an infringement of Article 43(1) of the Regulation on the Community trade mark, ([1]) in conjunction with Article 2(2) of the Regulation implementing the Regulation on the Community trade mark, ([2]) because a lack of precision makes the list of goods and services inadmissible in its entirety. An inadmissible restriction cannot be registered or taken into account when a comparison is made of goods. The judgment also infringes the principle of the binding nature of the application which underlies the Community trade mark system. The list of goods and services must, as such, be assessed in the form applied for by the party seeking registration. OHIM has not been given any powers to reformulate the list.

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

([2]) Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 40/94 on the Community trade mark (OJ 1995 L 303, p. 1).

Request for a preliminary ruling from the Fővárosi Törvényszék (Hungary) lodged on 23 January 2014 — ERSTE Bank Hungary Zrt. v Attila Sugár

(Case C-32/14)

(2014/C 102/22)

Language of the case: Hungarian

Referring court

Fővárosi Törvényszék

Parties to the main proceedings

Applicant: ERSTE Bank Hungary Zrt.

Defendant: Attila Sugár

Questions referred

1. Does a procedure of a Member State comply with Article 7(1) of Directive 93/13/EEC ([1]) if, under that procedure, in the event of a breach by the consumer of an obligation contained in a document in due form drawn up by a notary, the other party to the contract avoids inter partes proceedings before a court and asserts its claim to the amount it indicates by issuing what is known as an enforcement clause, without any examination being possible of the unfairness of a term of the underlying contract?

2. In such a procedure may the consumer request the annulment of the enforcement clause already issued on the basis that there was no examination of the unfairness of a term of the underlying contract, whereas, according to the judgment in Case C-472/11, in court proceedings the court must inform the consumer if it finds that a term is unfair?

([1]) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts; OJ 1993 L 95, p. 29.

Appeal brought on 24 January 2014 by Mory SA, in liquidation, Mory Team, in liquidation, Superga Invest against the order of the General Court (Seventh Chamber) delivered on 11 November 2013 in Case T-545/12 Morey and Others v Commission

(Case C-331/14 P)

(2014/C 102/23)

Language of the case: French

Parties

Appellants: Mory SA, in liquidation, Mory Team, in liquidation, Superga Invest (represented by: B. Vatier and F. Loubières, avocats)

Other party to the proceedings: European Commission

Form of order sought

— set aside the order of the Seventh Chamber of the General Court;

— refer the case back so that a decision may be given on the substance by the General Court, under conditions which guarantee that the preparatory inquiries are impartial;

— provide that the costs are to be determined on the basis of the outcome of the main proceedings.

Pleas in law and main arguments

The appellants rely on two grounds of appeal.

In first place, the General Court misinterpreted Article 263 TFEU by failing to recoginse that the appellants have an interest in bringing proceedings. The appellants contend that the question whether an action is admissible is dependent on the ability of applicants who are not the addresses of a decision to show that the decision is of direct and individual concerned to them. According to the applicants, that is the only condition laid down by the Treaty for determining whether an action is admissible. Moreover, the Treaty makes no reference to an interest in bringing proceedings as an autonomous condition for bringing proceedings.

The appellants state that they have an interest in bringing proceedings for the following reasons. First, the fact that Mory SA was an interested party in the proceedings which led to the Sernam 1, Sernam 2 and Sernam 3 decisions and that it intervened personally in those proceedings confers upon it an interest in bringing proceedings against a decision on the manner in which the last of those decisions is to be enforced. Second, the fact that the appellants are parties in two sets of proceedings pending before the French courts also establishes their interest in bringing proceedings. Third, Superga Invest's interest in bringing proceedings derives directly from that of Mory SA and Mory Team, in which Superga Invest was the principal shareholder, and its participation in the proceedings referred to above. Lastly, the appellants' interest in bringing proceedings derives from the fact that they were denied the procedural right to secure the instigation of a formal investigation procedure, in spite of the fact that they apprised the Commission by letter of the fact that Sernam's assets had been taken over by Geodis.

In second place, the appellants take issue with the General Court for failing to conclude that they were 'directly and individually concerned' for the purpose of Article 263 TFEU. The General Court was incorrect not to examine the objections of inadmissibility raised by the Commission alleging a lack of individual concern on the part of the appellants. In the appellants' view, there can be no doubt as to their being individually concerned according to the case-law of the General Court.

Appeal brought on 23 January 2014 by Enercon GmbH against the judgment of the General Court (Fourth Chamber) delivered on 12 November 2013 in Case T-245/12: Gamesa Eólica, SL v Office for Harmonisation in the Internal Market (Trade Marks and Designs)(OHIM)

(Case C-35/14 P)

(2014/C 102/24)

Language of the case: English

Parties

Appellant: Enercon GmbH (represented by: J. Eberhardt, Rechtsanwalt, R. Böhm, Rechtsanwalt)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), Gamesa Eólica, SL

Form of order sought

The appellant claims that the Court should:

— annul the judgment in case T-245/12 handed down by the General Court on 12 November 2013;

— order OHIM to pay the costs of the proceedings.

Pleas in law and main arguments

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

1. As a consequence of the fact that the appellant did not lodge a reply in the proceedings before the General Court, that Court did not involve the appellant in the proceedings and did not serve a copy of the judgment on the appellant. It is submitted that the General Court therefore acted in breach of its Rules of Procedure and violated the appellant's property rights by denial of due legal process.

2. The General Court erred in assuming that the contested mark is a 'colour mark *per se*', and should not have used this categorisation as the sole basis for assessing the distinctiveness of the mark.

Action brought on 24 January 2014 — European Commission v French Republic

(Case C-37/14)

(2014/C 102/25)

Language of the case: French

Parties

Applicant: European Commission (represented by: J.-F. Brakeland and B. Stromsky, acting as Agents)

Defendant: French Republic

Form of order sought

The Commission claims that the Court should:

— declare that, by failing to adopt, within the prescribed time-limits, all the measures necessary to recover from the relevant beneficiaries all State aid declared unlawful and incompatible with the common market by Article 1 of Commission Decision 2009/402/EC of 28 January 2009 on the 'contingency plans' in the fruit and vegetable sector implemented by France ([1]) and by failing to inform the Commission, within the time-limit set, of any measures taken to comply with that decision, the French Republic has failed to fulfil its obligations under the fourth paragraph of Article 288 TFEU and Articles 2, 3 and 4 of Decision 2009/402/EC;

— order the French Republic to pay the costs.

Pleas in law and main arguments

Recovery of all State aid declared unlawful had not taken place by the date on which the time-limit for such recovery, as laid down by Decision 2009/402/EC, expired.

On the date on which the present action was brought, the French Republic had still not adopted the measures necessary to recover that aid from the undertakings to which it had been granted, nor had it disclosed to the Commission all the information requested by that institution.

([1]) OJ 2009 L 127, p. 11.

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 27 January 2014 — Bodenverwertungs- und -verwaltungs GmbH (BVVG) and Others

(Case C-39/14)

(2014/C 102/26)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Bodenverwertungs- und -verwaltungs GmbH (BVVG)

Other parties: Thomas Erbs, Ursula Erbs

Consent authority: Landkreis Jerichower Land

Question referred

Does Article 107(1) TFEU preclude a national provision such as Paragraph 9(1), no. 3, GrdstVG, which, for the improvement of the social structure of agriculture, in effect prohibits an agency such as Bodenverwertungs- und -verwaltungs GmbH (BVVG), which must be ascribed to the State, from selling to the highest bidder in a public call for tenders agricultural land available for sale, if the highest bid is grossly disproportionate to the value of the land?

Request for a preliminary ruling from the Cour de cassation (France) lodged on 27 January 2014 — Directeur général des douanes et droits indirects, Chef de l'agence de poursuites de la Direction nationale du renseignement et des enquêtes douanières, Directeur régional des douanes et droits indirects de Lyon v Utopia SARL, operating under the business name Marshall Bioresources

(Case C-40/14)

(2014/C 102/27)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicants: Directeur général des douanes et droits indirects, Chef de l'agence de poursuites de la Direction nationale du renseignement et des enquêtes douanières, Directeur régional des douanes et droits indirects de Lyon

Defendant: Utopia SARL, operating under the business name Marshall Bioresources

Questions referred

1. Is an importer of animals specially prepared for laboratory use entitled to the relief from import duties provided for for goods of this type by Article 60 of Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty ([1]) when it is not itself a public establishment or an authorised private establishment which is principally engaged in education or scientific research, but its clients are establishments meeting those conditions?

2. Must Rule 5(b) of the General Rules for the interpretation of the combined nomenclature be interpreted as meaning that cages used for transportation of live animals intended for laboratory research should be categorised as packing materials or packing containers for the purposes of that rule?

   If so, must the words 'clearly suitable for repetitive use' in relation to such packing materials or packing containers be assessed in general or only in respect of re-use within the Union?

([1]) OJ L 1983 105, p. 1.

Request for a preliminary ruling from the Cour de Cassation (France) lodged on 27 January 2014 — Christie's France SNC v Syndicat National des Antiquaires

(Case C-41/14)

(2014/C 102/28)

Language of the case: French

Referring court

Cour de Cassation

Parties to the main proceedings

Applicant: Christie's France SNC

Defendant: Syndicat National des Antiquaires

Question referred

Must the rule laid down by Article 1(4) of Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art, ([1]) which makes the seller responsible for payment of the royalty, be interpreted as meaning that the seller is required definitively to bear the cost thereof without any derogation by agreement's being possible?

([1]) OJ 2001 L 272, p. 32.

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 30 January 2014 — Holterman Ferho Exploitatie BV and Others, other party: F.L.F. Spies von Büllesheim

(Case C-47/14)

(2014/C 102/29)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellants: Holterman Ferho Exploitatie BV, Ferho Bewehrungsstahl GmbH, Ferho Vechta GmbH and Ferho Frankfurt GmbH

Other party: F.L.F. Spies von Büllesheim

Questions referred

1. Must the provisions of Section 5 of Chapter II (Articles 18-21) of Regulation (EC) No 44/2001 ([1]) be interpreted as precluding the application by the courts of Article 5(1)(a) or of Article 5(3) of that Regulation in a case such as that at issue here, where the defendant is held liable by the company not only in his capacity as director of that company on the basis of the improper performance of his duties or on the basis of unlawful conduct, but quite apart from that capacity, is also held liable by that company on the basis of intent or deliberate recklessness in the execution of the contract of employment entered into between him and the company?

2 (a) If the answer to question 1 is in the negative, must the term 'matters relating to a contract' in Article 5(1)(a) of Regulation (EC) No 44/2001 then be interpreted as also applying to a case such as that at issue here, where a company holds a person liable in his capacity as director of that company on the basis of the breach of his obligation to properly perform his duties under company law?

(b) If the answer to question 2(a) is in the affirmative, must the term 'place of performance of the obligation in question' in Article 5(1)(a) of Regulation (EC) No 44/2001 then be interpreted as referring to the place where the director performed or should have performed his duties under company law, which, as a rule, will be the place where the company concerned has its central administration or its principal place of business, as referred to in Article 60(1)(b) and (c) of that Regulation?

3 (a) If the answer to question 1 is in the negative, must the term 'matters relating to tort, delict or quasi-delict' in Article 5(3) of Regulation (EC) No 44/2001 then be interpreted as also applying to a case such as that at issue here, where a company holds a person liable in his capacity as director of that company on the basis of the improper performance of his duties under company law or on the basis of unlawful conduct?

(b) If the answer to question 3(a) is in the affirmative, must the term 'place where the harmful event occurred or may occur' in Article 5(3) of Regulation (EC) No 44/2001 be interpreted as referring to the place where the director performed or should have performed his duties under company law, which, as a rule, will be the place where the company concerned has its central administration or its principal place of business, as referred to in Article 60(1)(b) and (c) of that Regulation?

([1]) Council Regulation of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1).

Action brought on 30 January 2014 — European Parliament v Council of the European Union

(Case C-48/14)

(2014/C 102/30)

Language of the case: French

Parties

Applicant: European Parliament (represented by: L. Visaggio and J. Rodrigues)

Defendant: Council of the European Union

Form of order sought

— annul Council Directive 2013/51/Euratom of 22 October 2013 laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption. ([1])

— order Council of the European Union to pay the costs.

Pleas in law and main arguments

The Parliament puts forward three pleas in law in support of its action.

In the first place, the Parliament claims that the choice of legal basis made by the Council is mistaken, on the ground that the measures covered by the contested directive fall within the responsibilities of the European Union in the field of the protection of the environment, referred to in Article 192 TFEU. Those measures should therefore have been adopted on the basis of that article, following the ordinary legislative procedure, and not on the basis of Articles 31 and 32 EA.

In the second place, the Parliament claims that the contested directive undermines legal certainty in so far as it establishes rules of review and analysis which duplicate those already in force under Directive 98/83/EC. ([2])

In the final place, the Parliament considers that by adopting the contested directive, the Council infringed the principle of loyal cooperation between the institutions, referred to in Article 13(2) TEU.

([1]) OJ 2013 L 296, p. 12.

([2]) Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption (OJ 1998 L 330, p. 32).

Appeal brought on 4 February 2014 by JAS Jet Air Service France (JAS) against the judgment of the General Court (Fourth Chamber) delivered on 3 December 2013 in Case T-573/11 JAS Jet Air Service France v Commission

(Case C-53/14 P)

(2014/C 102/31)

Language of the case: French

Parties

Appellant: JAS Jet Air Service France (JAS) (represented by: T. Gallois and E. Dereviankine, lawyers)

Other party to the proceedings: European Commission

Form of order sought

— annul the decision of the General Court as it is set out in the operative part of the judgment given on 3 December 2013 in Case T-573/11;

— grant the form of order sought at first instance by the company JAS Jet Air Service France in so far as it seeks the annulment of the Decision of the European Commission dated 5 August 2011 in Case REM 01/2008 dismissing the application for remission of import duties amounting to EUR 1 001 778,20 which it presented on 24 January 2008;

— order the European Commission to pay the costs.

Pleas in law and main arguments

The appellant relies on two grounds in support of its appeal against the judgment by which the General Court upheld the decision of the Commission of 5 August 2011 dismissing the application for remission of import duties presented by the appellant.

In the first place, the appellant alleges that the General Court infringed Articles 13 of Regulation (EEC) No 1430/79 ([1]) and 239 of the Community Customs Code, ([2]) in so far as it failed to acknowledge the existence of a 'special situation' allowing the remission applied for. The General Court maintained that the appellant's situation was not similar to that of the company CALBERSON BV (case REM 10/01), to which the Commission had granted the remission.

In the second place, the appellant considers that the General Court infringed the articles cited above, in so far as it failed to take account, for the purpose of recognising the existence of a 'special situation', of the deficiency which took place at the level of the internal procedure for the issue and review of import authorisations without VAT, known as A12 (Article 275 of the French General Tax Code and its implementing provisions). The General Court reversed the burden of proof, and therefore infringed the general principles of law, by holding that it was for the appellant to establish precisely the consequences of that deficiency.

(1) Council Regulation (EEC) No 1430/79 of 2 July 1979 on the repayment or remission of import or export duties (OJ 1979 L 175, p. 1).

(2) Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1).

Request for a preliminary ruling from the Cour d'appel de Mons (Belgium) lodged on 5 February 2014 — Régie communale autonome du stade Luc Varenne v État Belge

(Case C-55/14)

(2014/C 102/32)

Language of the case: French

Referring court

Cour d'appel de Mons

Parties to the main proceedings

Applicant: Régie communale autonome du stade Luc Varenne

Defendant: État belge

Question referred

Does the making available of the facilities of a sports installation used exclusively for footballing purposes, understood as being the right to use and exploit the football stadium playing surface (the pitch) and the players' and referees' changing rooms on an *ad hoc* basis for up to 18 days per season (a season starting on 1 July each calendar year and ending on 30 June the following year), constitute an exempt letting of immovable property for the purposes of Article 13B(b) 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 (1) (Article 135(1)(l) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1)), (2) in so far as the party granting the right of use and exploitation:

— is fully entitled to confer identical rights on other natural or legal persons of its choice in respect of days other than the 18 days referred to above;

— has the right to access those facilities at any time, without the prior consent of the holder of the right of use and exploitation, in order, in particular, to satisfy itself of the proper use of the facilities and to pre-empt any damage, on the sole condition that it does not disrupt the smooth running of sports events;

— retains, in addition, a right of permanent control over access to those facilities, including during the period of their use by RFCT;

— seeks a flat-rate fee of EUR 1 750 per day for use of the playing surface, the changing rooms, the bar and the caretaking, surveillance and monitoring service for the facilities as a whole, it being understood that it has been agreed between the parties that, of the amount sought, 20% represents the right of access to the football pitch and 80% the consideration for various services connected with the maintenance, cleaning, upkeep (mowing, sowing, and so on) and regulatory compliance of the playing surface and ancillary services supplied by the party granting the right of use and exploitation (namely, RCA, the present appellant)?

([1]) OJ 1977 L 145, p. 1.

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

Request for a preliminary ruling from the Tribunale ordinario di Aosta (Italy) lodged on 10 February 2014 — Equitalia Nord SpA v CLR di Camelliti Serafino & C SNC

(Case C-68/14)

(2014/C 102/33)

Language of the case: Italian

Referring court

Tribunale ordinario di Aosta

Parties to the main proceedings

Applicant: Equitalia Nord SpA

Defendant: CLR di Camelliti Serafino & C. SNC

Questions referred

1. Are the Italian rules in force laid down in Article 3(1) and (4) of Decree-Law No 95 of 6 July 2012, as amended in part by converting Law No 135 of 7 August 2012, according to which 'given the exceptional nature of the economic situation and bearing in mind the priority need to achieve the objectives of controlling public expenditure, as from the date on which this measure enters into force, for the years 2012, 2013 and 2014, the updating relating to the variation in the indices of the National Statistics Institute (ISTAT), as provided for under the law in force, shall not apply to the rent payable by the administrations included in the consolidated balance sheet of the public authorities, as determined by ISTAT in accordance with Article 1(3) of Law No 196 of 31 December 2009, or by the independent regulatory authorities, including the Commissione nazionale per le società e la borsa (National Commission for Companies and the Stock Exchange — Consob) for the use as lessee of premises for institutional purposes', and, in addition, at paragraph 4, that 'for the purposes of controlling public expenditure, [Or. 6] in the case of leases for the use of premises for institutional purposes concluded by the central authorities, as determined by ISTAT in accordance with Article 1(3) of Law No 196 of 31 December 2009, and by the independent regulatory authorities, including the Commissione nazionale per le società e la borsa (Consob), the rental payments shall be reduced by 15% of the current rent as from 1 January 2015', and, 'as from the date of entry into force of the law converting this decree, the reduction referred to in the previous sentence shall in any event apply to leases which expired or were renewed after that date', incompatible with the provisions of Article 106(1) and (2) of the Treaty on the Functioning of the European Union, in that they are capable of guaranteeing entities operating in a competitive market an unjustified, discriminatory advantage compared with other entities that operate in the same field but do not benefit from those rules?'

2. Can those rules be regarded as 'State aid' within the meaning of and for the purposes of Article 107(1) TFEU, in that they are capable of guaranteeing entities operating in a competitive market an unjustified and discriminatory advantage compared with other entities that operate in the same field but do not benefit from those same rules?

Reference for a preliminary ruling from First-tier Tribunal (Information Rights) (United Kingdom) made on 10 February 2014 — East Sussex County Council v The Information Commissioner,

Property Search Group,

Local Government Association

(Case C-71/14)

(2014/C 102/34)

Language of the case: English

Referring court

First-tier Tribunal (Information Rights)

Parties to the main proceedings

Applicant: East Sussex County Council

Defendants: The Information Commissioner, Property Search Group, Local Government Association

Questions referred

1. What is the meaning to be attributed to Art 5(2) of Directive 2003/4/EC ([1]) and in particular can a charge of a reasonable amount for supplying a particular type of environmental information include:

   a) Part of the cost of maintaining a database used by the public authority to answer requests for information of that type;

   b) Overhead costs attributable to staff time properly taken into account in fixing the charge?

2. Is it consistent with Arts 5(2) and 6 of the Directive for a Member State to provide in its regulations that a public authority may charge an amount for supplying environmental information which does '… not exceed an amount which *the public authority is satisfied* is a reasonable amount' if the decision of the public authority as to what is a 'reasonable amount' is subject to administrative and judicial review as provided under English law?

([1]) Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC
OJ L 41/26, p. 1

Action brought on 12 February 2014 — European Commission v Hellenic Republic

(Case C-77/14)

(2014/C 102/35)

Language of the case: Greek

Parties

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

Defendant: Hellenic Republic

Form of order sought

The applicant claims that the Court should:

— declare that the Hellenic Republic, by not taking within the prescribed time-limit all the measures necessary for the recovery of the aid which was held to be unlawful and incompatible with the common market, in accordance with Article 1 of the Commission Decision ([1]) of 13 July 2011, E (2011) 4916 final, concerning Aluminium of Greece SA (No SA.26117 — C 2/10, ex NN 62/09) or in any event by not fully informing the Commission of the measures taken, in accordance with Article 4 thereof, has failed to fulfil its obligations under Articles 2, 3 and 4 of that decision and the Treaty on the Functioning of the European Union;

— order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

The subject-matter of the Commission's action is the failure of the Hellenic Republic to comply with the Commission's decision in relation to the unlawful State aid granted to the company Aluminium SA, which has to be recovered by the Public Power Corporation (PPC).

The Commission points out that Greece was obliged to ensure compliance with the decision within four months following the date of its notification. The decision was notified on 14 July 2011 and the Commission has not granted any extension for compliance with the decision. Consequently, the period for compliance formally expired on 14 November 2011.

The Commission emphasises that in accordance with the Court's settled case-law, the only justification that may be put forward by a Member State in an action for failure to fulfil obligations brought by the Commission pursuant to Article 108 (2) of the Treaty on the Functioning of the European Union is that it is absolutely impossible for it properly to implement the decision.

However, in this case, the Greek authorities have not put forward the argument that implementation is absolutely impossible. On the contrary, from the outset they expressed their willingness to implement the decision as quickly as possible. Nevertheless, the Commission notes that as of the date on which this action was lodged, they have not taken any steps that would constitute even partial implementation of the decision.

Further, the Commission observes that by virtue of a decision of the First-Instance Court of Athens, the order for payment of the amount of the aid which PPC obtained against Aluminium SA was suspended. In the opinion of the Commission, the national court in question, when suspending enforcement of the payment order, did not take into account the conditions laid down in the Court's settled case-law governing suspension of enforcement of a national measure adopted in implementation of European Union law. ([2])

The Commission considers that Greece has not undertaken the required action to secure compliance with the decision either in accordance with the solution which was discussed by the Commission's staff and the competent Greek authorities or by any other appropriate means.

([1]) OJ L 166 of 27 June 2012, pp. 83-89.

([2]) Joined Cases C-143/88 and C-92/89 of 21 February 1991 *Zuckerfabrik Süderdithmarschen* and Case C-465/93 of 9 November 1995 *Atlanta Fruchthandelsgesellschaft mbH and Others.*

Appeal brought on 13 February 2014 by the European Commission against the judgment of the General Court (Fifth Chamber) delivered on 12 December 2013 in Case T-117/12 ANKO v Commission

(Case C-78/14 P)

(2014/C 102/36)

Language of the case: Greek

Parties

Appellant: European Commission (represented by: D. Triantafyllou and B. Conte)

Other party to the proceedings: ANKO AE Antiprosopeion, Emporiou kai Viomichanias

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court;

— order the respondent to pay the costs.

Grounds of appeal and main arguments

The Commission concluded, with two separate consortiums of which the respondent ANKO was a member, agreements for the granting of funding for the 'OASIS' and 'PERFORM' projects within the framework of the European Community's Seventh Framework Programme for research, technological development and demonstration activities.

In the context of the agreement at issue, the Commission claims that the General Court misinterpreted the general terms of the agreement and in particular paragraph (3)(d) of Section II.5 (and incidentally Section II.14, second subparagraph of paragraph (1)).

The misinterpretation of the general terms of the agreement can be broken down into the following particular grounds of appeal:

1. An erroneous assessment of the serious and systematic nature of the irregularities as a ground for suspension;

2. An erroneous assessment of the possibility/risk of repetition of the irregularities;

3. An erroneous inference from the ad hoc adjustment;

4. Misinterpretation of the option to use average costs and erroneous extension to use of fictitious costs — distortion of the evidence;

5. Confusion of the criteria for suspension (suspicion) and the criteria for eligibility (certainty).

Action brought on 18February 2014 — European Commission v Ireland

(Case C-87/14)

(2014/C 102/37)

Language of the case: English

Parties

Applicant: European Commission (represented by: J. Enegren, M. van Beek, Agents)

Defendant: Ireland

The applicant claims that the Court should:

— declare that:by failing to apply the provisions of Directive 2003/88/EC [1] of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of working time to the organisation of the working time of junior doctors (non-consultant hospital doctors), Ireland has failed to fulfil its obligations under Article 3, 5, 6, 17(2) and 17(5) of the Directive.

— order Ireland to pay the costs.

Pleas in law and main arguments

Article 3

Ireland has failed to ensure, with regard to junior doctors, that they are provided with the minimum daily rest period per 24 hours.

Article 5

Ireland has failed to ensure that junior doctors are provided with the minimum uninterrupted rest period per each seven day period.

Article 6

Ireland has failed to ensure that that the average working time for each seven day period does not exceed 48 hours.

Article 17(2)

Ireland has failed to ensure that junior doctors are afforded equivalent periods of compensatory rest when required to work without having recourse to the rest periods indicated in Articles 3 and 5.

Article 17(5)

Ireland has not ensured that doctors in training do not exceed the weekly working time after the end of the transitional period laid down in Article 17(5).

(1) OJ L 299, p. 9

Order of the President of the Court of 22 November 2013 — European Commission v Hungary

(Case C-462/12) (1)

(2014/C 102/38)

Language of the case: Hungarian

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

(1) OJ C 379, 8.12.2012.

Order of the President of the Court of 22 November 2013 — European Commission v Republic of Poland, interveners: Kingdom of the Netherlands, Federal Republic of Germany, Czech Republic, Republic of Finland, United Kingdom of Great Britain and Northern Ireland, Republic of Estonia

(Case C-598/12) (1)

(2014/C 102/39)

Language of the case: Polish

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

(1) OJ C 79, 16.3.2013.

Order of the President of the Court of 18 December 2013 — European Commission v Republic of Poland, interveners: Kingdom of the Netherlands, Czech Republic, Federal Republic of Germany, Republic of Finland, United Kingdom of Great Britain and Northern Ireland, Republic of Estonia

(Case C-55/13) (1)

(2014/C 102/40)

Language of the case: Polish

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

(1) OJ C 101, 6.4.2013.

Order of the President of the Court of 18 December 2013 — European Commission v Republic of Finland, intervention: Kingdom of Sweden, Czech Republic, Federal Republic of Germany, Republic of Poland, Kingdom of the Netherlands, French Republic, United Kingdom of Great Britain and Northern Ireland, Republic of Estonia

(Case C-109/13) ([1])

(2014/C 102/41)

Language of the case: Finnish

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

([1]) OJ C 123, 27.4.2013.

Order of the President of the Court of 18 December 2013 — European Commission v Republic of Finland, intervention: Kingdom of Sweden, Czech Republic, Federal Republic of Germany, Republic of Poland, Kingdom of the Netherlands, French Republic, United Kingdom of Great Britain and Northern Ireland, Republic of Estonia

(Case C-111/13) ([1])

(2014/C 102/42)

Language of the case: Finnish

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

([1]) OJ C 123, 27.4.2013.

Order of the President of the Court of 22 November 2013 — European Commission v Republic of Poland

(Case C-169/13) ([1])

(2014/C 102/43)

Language of the case: Polish

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

([1]) OJ C 171, 15.6.2013.

Order of the President of the Court of 22 November 2013 — European Commission v Republic of Finland

(Case C-178/13) ([1])

(2014/C 102/44)

Language of the case: Finnish

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

([1]) OJ C 156, 1.6.2013.

Order of the President of the Court of 22 November 2013 — European Commission v Republic of Slovenia

(Case C-188/13) ([1])

(2014/C 102/45)

Language of the case: Slovene

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

([1]) OJ C 156, 1.6.2013.

Order of the President of the Court of 21 October 2013 — European Commission v Republic of Bulgaria

(Case C-253/13) ([1])

(2014/C 102/46)

Language of the case: Bulgarian

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

([1]) OJ C 189, 29.6.2013.

Order of the President of the Court of 11 September 2013 (request for a preliminary ruling from the Juzgado de lo Mercantil de Pontevedra — Spain) — Pablo Acosta Padín v Hijos de J. Barreras SA

(Case C-276/13) ([1])

(2014/C 102/47)

Language of the case: Spanish

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

([1]) OJ C 207, 20.7.2013.

Order of the President of the Court of 21 October 2013 — European Commission v Kingdom of Belgium

(Case C-321/13) ([1])

(2014/C 102/48)

Language of the case: French

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

([1]) OJ C 226, 3.8.2013.

Order of the President of the Court of 22 November 2013 (request for a preliminary ruling from the High Court of Ireland — Ireland) — Lisa Kelly v Minister for Social Protection

(Case C-403/13) ([1])

(2014/C 102/49)

Language of the case: English

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

([1]) OJ C 274, 21.9.2013.

GENERAL COURT

Judgment of the General Court of 27 February 2014 — LG Display and LG Display Taiwan v Commission

(Case T-128/11) ([1])

(Competition — Agreements, decisions and concerted practices — Worldwide market for liquid crystal display (LCD) panels — Agreements and concerted practices concerning prices and production capacity — Internal sales — Rights of the defence — Fines — Partial immunity from fines — Single and continuous infringement — Ne bis in idem principle)

(2014/C 102/50)

Language of the case: English

Parties

Applicants: LG Display Co. Ltd (Seoul, South Korea); and LG Display Taiwan Co. Ltd, (Taipei, Taiwan) (represented by: A. Winckler and F.-C. Laprévote, lawyers),

Defendant: European Commission (represented by: P. Van Nuffel and F. Ronkes Agerbeek, Agents, and by S. Kingston BL)

Re:

Application for partial annulment of Commission Decision C(2010) 8761 final of 8 December 2010 relating to a proceeding under Article 101 [TFEU] and Article 53 of the Agreement on the European Economic Area (Case COMP/39.309 — LCD — Liquid Crystal Displays), and for reduction of the fine imposed on the applicants by that decision.

Operative part of the judgment

The Court:

1. *Sets at EUR 210 000 000 the fine imposed jointly and severally on LG Display Co. Ltd and LG Display Taiwan Co. Ltd in Article 2 of Commission Decision C(2010) 8761 final of 8 December 2010 relating to a proceeding under Article 101 [TFEU] and Article 53 of the Agreement on the European Economic Area (Case COMP/39.309 — LCD — Liquid Crystal Displays);*

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

3. *Orders LG Display and LG Display Taiwan to bear their own costs and to pay three-quarters of the costs incurred by the European Commission;*

4. *Orders the Commission to bear one-quarter of its own costs.*

([1]) OJ C 130, 30.4.2011.

Judgment of the General Court of 27 February 2014 — Ezz and Others v Council

(Case T-256/11) ([1])

(Common foreign and security policy — Restrictive measures directed against certain persons and entities in view of the situation in Egypt — Freezing of funds — Legal basis — Obligation to state reasons — Error of fact — Rights of the defence — Right to effective judicial protection — Right to property — Freedom to conduct a business)

(2014/C 102/51)

Language of the case: English

Parties

Applicants: Ahmed Abdelaziz Ezz (Giza, Egypt); Abla Mohammed Fawzi Ali Ahmed (London, United Kingdom); Khadiga Ahmed Ahmed Kamel Yassin (London); and Shahinaz Abdel Azizabdel Wahab Al Naggar (Giza) (represented: initially by M. Lester, Barrister, and J. Binns, Solicitor, and subsequently by J. Binns, J. Lewis QC, B. Kennelly, Barrister, and I. Burton, Solicitor)

Defendant: Council of the European Union (represented by: M. Bishop and I. Gurov, Agents)

Intervener in support of the defendant: European Commission (represented by: F. Erlbacher, M. Konstantinidis and A. Bordes, Agents)

Re:

Application for annulment, first, of Council Decision 2011/172/CFSP of 21 March 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt (OJ 2011 L 76, p. 63) and, secondly, of Council Regulation (EU) No 270/2011 of 21 March 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt (OJ 2011 L 76, p. 4), in so far as those acts concern the applicants.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Mr Ahmed Abdelaziz Ezz, Ms Abla Mohammed Fawzi Ali Ahmed, Ms Khadiga Ahmed Ahmed Kamel Yassin and Ms Shahinaz Abdel Azizabdel Wahab Al Naggar to bear their own costs and, in addition, to pay the costs incurred by the Council of the European Union;*

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

([1]) OJ C 89, 19.3.2011.

Judgment of the General Court of 27 February 2014 — Advance Magazine Publishers v OHIM — López Cabré (TEEN VOGUE)

(Case T-37/12) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark TEEN VOGUE — Earlier national word mark VOGUE — Relative ground for refusal — Likelihood of confusion — Identical nature of the goods — Similarity of the signs — Article 8(1)(b) of Regulation (EC) No 207/2009 — Proof of genuine use of the earlier mark — Article 42(2) and (3) of Regulation No 207/2009 — Rule 22(3) of Regulation (EC) No 2868/95 — Partial refusal to register)

(2014/C 102/52)

Language of the case: English

Parties

Applicant: Advance Magazine Publishers, Inc. (New York, New York, United States of America) (represented by T. Alkin, Barrister)

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

Other party to the proceedings before the Board of Appeal of OHIM: Eduardo López Cabré (Barcelona, Spain)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 22 November 2011 (case R 1763/2010-4), concerning opposition proceedings between Mr Eduardo López Cabré and Advance Magazine Publishers, Inc.

Operative part of the judgment

The Court:

1. *Dismisses the action.*

2. *Orders Advance Magazine Publishers, Inc., to pay the costs.*

([1]) OJ C 73, 10.3.2012.

Judgment of the General Court of 27 February 2014 — Lidl Stiftung v OHIM — Lídl Music (LIDL express)

(Case T-225/12) ([1])

(Community trade mark — Opposition proceedings — Application for the Community figurative mark LIDL express — Earlier national figurative mark LÍDL MUSIC — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — Genuine use of the earlier mark — Article 15(1) and Article 42(2) and (3) of Regulation No 207/2009)

(2014/C 102/53)

Language of the case: English

Parties

Applicant: Lidl Stiftung & Co. KG (Neckarsulm, Germany) (represented by: initially by M. Schaeffer, M. Wolter and A. Marx, and subsequently by M. Wolter, A. Marx and M. Kefferpütz, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: Lídl Music spol. s r.o. (Brno, Czech Republic)

Re:

Action for annulment of the decision of the First Board of Appeal of OHIM of 21 March 2012 (Case R 2379/2010-1) relating to opposition proceedings between Lídl Music spol. s r.o. and Lidl Stiftung & Co. KG.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Lidl Stiftung & Co. KG to pay the costs.*

([1]) OJ C 227, 28.7.2012.

Order of the General Court of 27 February 2014 — Lidl Stiftung v OHIM — Lídl Music (LIDL)

(Case T-226/12) ([1])

(Community trade mark — Opposition proceedings — Application for the Community figurative mark LIDL — Earlier national figurative mark LÍDL MUSIC — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — Genuine use of the earlier mark — Article 15(1) and Article 42(2) and (3) of Regulation No 207/2009)

(2014/C 102/54)

Language of the case: English

Parties

Applicant: Lidl Stiftung & Co. KG (Neckarsulm, Germany) (represented by: initially by M. Schaeffer, M. Wolter and A. Marx, and subsequently by M. Wolter, A. Marx and M. Kefferpütz, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM intervening before the General Court: Lídl Music spol. s r.o. (Brno, Czech Republic)

Re:

Action for annulment of the decision of the First Board of Appeal of OHIM of 21 March 2012 (Case R 2380/2010-1) relating to opposition proceedings between Lídl Music spol. s r.o. and Lidl Stiftung & Co. KG.

Operative part of the order

The Court:

1. *Dismisses the action.*

2. *Orders Lidl Stiftung & Co. KG to pay the costs.*

([1]) OJ C 227, 28.7.2017.

Judgment of the General Court of 26 February 2014 — Sartorius Lab Instruments v OHIM (Representation of a yellow curve)

(Case T-331/12) ([1])

(Community trade mark — Application for a Community trade mark consisting of a representation of a yellow curve at the bottom edge of an electronic display unit — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation No 207/2009)

(2014/C 102/55)

Language of the case: German

Parties

Applicant: Sartorius Lab Instruments GmbH & CO. KG (Göttingen, Germany), given leave to replace Sartorius Weighing Technology GmbH (represented by: K. Welkerling, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, lawyer)

Re:

ACTION brought against the decision of the First Board of Appeal of OHIM of 3 May 2012 (Case R 1783/2011-1), concerning an application for registration of a sign composed of a yellow curve at the bottom edge of an electronic display unit as a Community trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the application;*

2. *Orders Sartorius Lab Instruments GmbH & Co. KG to pay the costs.*

([1]) OJ C 287, of 22.9.2012.

Judgment of the General Court of 27 February 2014 — Advance Magazine Publishers v OHIM — Nanso Group (TEEN VOGUE)

(Case T-509/12) ([1])

(Community trade mark — Opposition proceedings — Application for Community word mark TEEN VOGUE — Earlier national word mark VOGUE — Admissibility — Formulation of the form of order sought — Relative ground for refusal — Likelihood of confusion — Identity or similarity of the goods — Similarity of the signs — Article 8(1)(b) of Regulation (EC) No 207/2009 — Partial refusal to register)

(2014/C 102/56)

Language of the case: English

Parties

Applicant: Advance Magazine Publishers, Inc. (New York, New York, United States of America) (represented by C. Aikens, Barrister)

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, intervener before the General Court: Nanso Group Oy (Nokia, Finland) (represented by M. Tuominen, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 17 September 2012 (case R 147/2011-4), concerning opposition proceedings between Nanso Group Oy and Advance Magazine Publishers, Inc.

Operative part of the judgment

The Court:

1. *Dismisses the action.*

2. *Orders Advance Magazine Publishers, Inc., to pay the costs.*

([1]) OJ C 26, 26.1.2013.

Action brought on 3 January 2014 — Banco de Santander and Others v Commission

(Case T-6/14)

(2014/C 102/57)

Language of the case: Spanish

Parties

Applicants: Banco de Santander, SA (Santander, Spain); Santander Investment, SA (Santander, Spain); and Naviera Séneca, AIE (Las Palmas de Gran Canaria, Spain) (represented by: J.L. Buendía Sierra, E. Abad Valdenebro, R. Calvo Salinero, A. Lamadrid de Pablo and A. Biondi, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the General Court should:

— annul the contested decision in so far as it categorises the measures which, according to the decision, together constitute the 'Spanish Tax Lease System' as new State aid that is incompatible with the internal market;

— in the alternative, annul Articles 1 and 4 of the contested decision, which identify the investors in the Economic Interest Groupings (EIGs) as beneficiaries of the alleged aid and as the sole addressees of the order for recovery;

— in the alternative, annul Article 4 of the contested decision, in so far as it orders recovery of the alleged aid;

— annul Article 4 of the contested decision, in so far as it makes a determination as to the lawfulness of the private contracts between the investors and other entities; and

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

Pleas in law and main arguments

The pleas in law and main arguments are those put forward in Case T-700/13 *Bankia* v *Commission*.

Action brought on 30 January 2014 — Bateaux mouches v OHIM (BATEAUX MOUCHES)

(Case T-72/14)

(2014/C 102/58)

Language of the case: French

Parties

Applicant: Compagnie des bateaux mouches SA (Paris, France) (represented by G. Barbaut, lawyer)

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

Form of order sought

— Declare the action admissible;

— Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 15 November 2013 in Case R 284/2013-2;

— Vary the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 15 November 2013 in Case R 284/2013-2;

— Order the Court of First Instance of the European Communities to pay all the costs.

Pleas in law and main arguments

Community trade mark concerned: International registration designating the European Union of word mark 'BATEAUX MOUCHES' for services in Class 37 (No 1 092 478)

Decision of the Examiner: Rejection of the application

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law:

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

— Incorrect finding that the disputed mark had not acquired by usage a distinctive character for the services covered

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Action brought on 4 February 2014 — Red Bull v OHIM — Automobili Lamborghini (Representation of two bulls)

(Case T-73/14)

(2014/C 102/59)

Language of the case: German

Parties

Applicant: Red Bull GmbH (Fuschl am See, Austria) (represented by: V. von Bomhard, J. Fuhrmann and A. Renck, lawyers, and I. Fowler, solicitor)

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

Other party to the proceedings before the Board of Appeal: Automobili Lamborghini SpA (Sant' Agata Bolognese, 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 14 November 2013 in Case R 1263/2012-1;

— order the defendant and, in the event of the formal intervention, also the other party before the Board of Appeal to pay the costs of the proceedings, including those incurred by the applicant.

Pleas in law and main arguments

Registered Community trade mark in respect of which an application for revocation has been made: Figurative mark representing two bulls for goods in Class 12 (Community trade mark No 3 629 342)

Proprietor of the Community trade mark: Applicant

Party applying for revocation of the Community trade mark: Automobili Lamborghini SpA

Decision of the Cancellation Division: The application for revocation was granted

Decision of the Board of Appeal: Appeal dismissed

Pleas in law: Infringement of Article 51(1)(a) of Regulation No 207/2009

Action brought on 4 February 2014 — PT Musim Mas v Council

(Case T-80/14)

(2014/C 102/60)

Language of the case: English

Parties

Applicant: PT Perindustrian dan Perdagangan Musim Semi Mas (PT Musim Mas) (Medan, Indonesia) (represented by: J. García-Gallardo Gil-Fournier, lawyer, C. Humpe, Solicitor and A. Verdegay Mena, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— Annul Articles 1 and 2 of Council Implementing Regulation (EU) No 1194/2013 of 19 November 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of biodiesel originating in Argentina and Indonesia (OJ 2013 L 315, p. 2), in so far as it relates to the applicant; and

— Order the defendant to pay the applicant's costs for this action.

Pleas in law and main arguments

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

1. First plea in law, alleging breaches of (i) Articles 1(1), 7(2) and 9(3) of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against imports from countries not members of the European Community (OJ 2009 L 343, p. 51) by the Council of the European Union, as well as, a breach of (ii) the principles of good administration, of proportionality and of non-discrimination by the Council of the European Union when ordering the definitive collection of the provisional anti-dumping measures imposed on the applicant, as:

   — On the basis of Article 1(1) of Council Regulation (EC) No 1225/2009, no anti-dumping measures can be imposed on exporters, such as the applicant, whose products are found not to be dumped. There is therefore no legal basis for imposing provisional anti-dumping duties on the applicant let alone for ordering the collection of such duties;

   — The Council breached Article 7(2) of Council Regulation (EC) No 1225/2009 by imposing and definitively collecting a provisional dumping duty of 2,8% on the applicant in excess of its correct provisional margin of dumping;

   — Article 9(3) of Council Regulation (EC) No 1225/2009 prohibits the imposition of provisional duties by the Commission where the provisional dumping of margin is less than 2%. The Council breached Article 9(3) of Council Regulation (EC) No 1225/2009 by ordering the definitive collection of provisional duties imposed on the applicant;

   — In light of the errors made by the European Commission when calculating the applicant's provisional margin of dumping, the Council should have concluded that the Commission failed to examine carefully and impartially all the relevant aspects of the case. Such failure amounts to a breach of the principle of good administration;

   — The Council's actions in definitively collecting the wrongly imposed provisional duties from the applicant must be considered as disproportionate to the objective of Council Regulation (EC) No 1225/2009 and, consequently, a breach of the principle of proportionality;

   — By requiring the applicant's wrongly calculated provisional dumping duties to be definitely collected and not requiring P.T. Cilandra Perkasa to pay provisional dumping duties, the Council has discriminated between two undertakings whose situations are comparable. Accordingly, the applicant submits that the Council is in breach of the principle of non-discrimination.

2. Second plea in law, alleging breaches of Articles 20(2), 2(5), 2(8) and 2(l0)(i) of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against imports from countries not members of the European Community, as the Council of the European Union:

   — Failed to disclose the essential facts in connection with the alleged existence of a 'particular market situation' against Article 20(2) of Council Regulation (EC) No 1225/2009;

   — Adjusted the applicant's costs of production due to the alleged existence of a 'particular market situation' within the framework of Article 2(5) of Council Regulation (EC) No 1225/2009;

   — Failed to consider the applicant's use of Palm Fatty Distillates as a raw material;

   — Failed to consider the double counting premium as part of the applicant's export price and breaching Article 2(8) of Council Regulation (EC) No 1225/2009; and

   — Failed to consider the applicant and its related companies as a single economic entity violating Article 2(10)(i) of Council Regulation (EC) No 1225/2009.

Action brought on 7 February 2014 — Iranian Offshore Engineering & Construction v Council

(Case T-95/14)

(2014/C 102/61)

Language of the case: Spanish

Parties

Applicant: Iranian Offshore Engineering & Construction (Tehran, Iran) (represented by J. Viñals Camallonga, L. Barriola Urruticoechea and J. Iriarte Ángel, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the General Court should:

— annul Article 1 of Council Decision 2013/6661/CFSP in so far as it concerns the applicant and remove its name from the annex thereto;

— annul Article 1 of Council Implementing Regulation (EU) No 1154/2013 in so far as it concerns the applicant and remove its name from the annex thereto, and

— order the Council to pay the costs.

Pleas in law and main arguments

The present action is brought against Article 1 of Council Implementing Regulation (EU) No 1154/2013 of 15 November 2013 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2013 L 306, p. 3), and Article 1 of Council Decision 2013/661/CFSP of 15 November 2013 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2013 L 306, p. 18), in so far as they envisage the inclusion of the applicant in the list of persons and entities subject to those restrictive measures.

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

1. First plea in law, alleging a manifest error in the assessment of the facts on which the contested provisions are based, since they lack any genuine factual or evidential basis.

2. Second plea in law, alleging infringement of the obligation to state reasons, since, as regards the applicant, the contested provisions are not only unfounded, but are imprecise, unspecific and generic, preventing the applicant from formulating its defence properly.

3. Third plea in law, based on the infringement of the right to effective judicial protection in relation to the statement of reasons for the provisions, the lack of evidence for the reasons stated and the rights of the defence and property, since the requirement to state reasons and the need to produce genuine evidence were not observed, which affects the other rights.

4. Fourth plea in law, alleging misuse of power, since there is objective, specific and corroborating evidence that, in adopting the restrictive measures, the Council, fraudulently misusing its position, pursued objectives different from those it claimed to pursue.

5. Fifth plea in law, alleging an erroneous interpretation of the legal rules applied, since the Council interpreted and applied those provisions broadly and incorrectly, which is impermissible in relation to provisions regarding penalties.

6. Sixth plea in law, alleging the infringement of the right to property, in that it was restricted without any valid justification.

7. Seventh plea in law, alleging infringement of the principle of equal treatment, for the relative position of the applicant was prejudiced for no reason.

Action brought on 17 February 2014 — Alesa v Commission

(Case T-99/14)

(2014/C 102/62)

Language of the case: Italian

Parties

Applicant: Alesa Srl (Chieti, Italy) (represented by: N. Giampaolo, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— As an interim precautionary measure, order the suspension of the award by the European Commission on behalf of the People's Republic of China (the beneficiary) of Contract No DCI-ASIE/2013/329-453, published on 3 December 2013, with a value of EUR 9 304 400, to the consortium led by GIZ GmbH;

— As regards the substance, allow the action on the grounds set out in the application and, as a result, annul the award by the European Commission on behalf of the People's Republic of China of Contract No DCI-ASIE/2013/329-453, published in the TED (Tenders Electronic Daily web portal) on 3 December 2013, with a value of EUR 9 304 400, to the consortium led by GIZ GmbH;

— As regards the substance, on the basis of the various pleas raised in the application, order the European Commission to pay compensation in the amount of EUR 900 000, or whatever sum the Court considers to be fair and equitable relief, for the damage suffered by the applicant on its own account and on account of the members of the SHAREWICH Consortium;

— Order the European Commission to pay the costs;

— Within the meaning and for the purposes of Article 277 TFEU, assess the lawfulness/unlawfulness and applicability/inapplicability of Article 266.1 of the Implementing Rules for the Financial Regulation and Article 2.4.13 of the 2013 PRAG (Practical Guide to Contract Procedures for EU External Actions) by reference to the other rules on the management and award of public contracts, in so far as those provisions — regardless of the value of the contract and whether it is above the threshold established by the law in force — allow the contracting authority, after it has cancelled the tendering procedure, to enter into negotiations with one or more tenderers directly, without giving prior notification to the other tenderers which are not party to such negotiations.

Pleas in law and main arguments

This action has been brought against the Contract Award by which the European Commission has awarded Contract No DCI-ASIE/2013/329-453 to the GIZ GmbH Consortium in the context of Public Notice of Invitation to Tender No 2012/S 223-366462 regarding the technical assistance to be provided to the Ministry of Housing and Urban-Rural Development (MOHURD) of the People's Republic of China in transferring European best practice with regard to urbanisation policies and reducing greenhouse gas emissions ('Sustainable urbanisation — Europe-China eco-cities link').

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

1. First plea in law, alleging infringement, misinterpretation and misapplication of Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012, and *ultra vires* exercise of the discretion granted to the European Commission — including all its bodies and delegated authorities — in its role as Contracting Authority;

2. Second plea in law, alleging infringement, misinterpretation and misapplication of Article 2.4.13 of the 2013 Practical Guide to Contract Procedures for EU External Actions, and *ultra vires* exercise of the discretion granted to the European Commission — including all its bodies and delegated authorities — in its role as Contracting Authority;

3. Third plea in law, alleging infringement, misinterpretation and misapplication of the principles of transparency referred to in Article 15 TFEU, Article 298 TFEU and Articles 102(1) (Principles applicable to public contracts) to 112(1) (Principles of equal treatment and transparency) of Regulation (EU, Euratom) No 966/2012, and *ultra vires* exercise of the discretion granted to the European Commission — including all its bodies and delegated authorities — in its role as Contracting Authority;

4. Fourth plea in law, alleging infringement, misinterpretation and misapplication of the fundamental principles laid down by Article 2 of Directive 18/2004/EC and by the other specific references made in that directive to legislation relating to the management and award of public service contracts, and *ultra vires* exercise of the discretion granted to the European Commission — including all its bodies and delegated authorities — in its role as Contracting Authority.

Action brought on 19 February 2014 — Italy v Commission

(Case T-122/14)

(2014/C 102/63)

Language of the case: Italian

Parties

Applicant: Italian Republic (represented by: S. Fiorentino, avvocato dello Stato, and G. Palmieri, Agent)

Defendant: European Commission

Form of order sought

The Italian Republic claims that the General Court should:

— annul the contested decision;

— order the Commission to pay the costs.

Pleas in law and main arguments

The present action is brought against Commission decision No C(2013) 8681 final of 9 December 2013, by which, in compliance with the judgment of the Court of Justice of 17 November 2011 in Case C-496/09, the Commission asked the Italian Republic to make a penalty payment in the amount of EUR 6 252 000.

The contested decision refers to the second six-month period of delay, namely the period from 17 May to 17 November 2012.

The Italian Government puts forward the following pleas in law:

1. First plea: infringement of Article 260(1) TFEU and the second subparagraph of Article 260(3) TFEU, and failure to comply with the above judgment with respect to the debt owed by undertakings which have 'have entered into an arrangement with creditors' or are in 'supervised administration'.

   The Italian Republic argues in that regard that the decision does not deduct from the aid remaining due at the end of the six-month reference period the debt, owed by the debtor undertakings which are bankrupt or subject to bankruptcy proceedings, which has come about as a result of related proceedings, even though, according to that Government, the Italian Republic had sought recovery of that debt with due diligence and that debt should therefore be excluded from the amount of aid owed under that judgment.

2. Second plea: infringement of Article 14 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ 1999 L 83, p. 1), and also the misapplication of Article 11 of Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ 2004 L 140, p. 1).

The Italian Republic argues in that regard that the decision requires the Italian authorities to add, to the sums owed by the undertakings in repayment of the State aid, interest at a compound rate, as provided for in Article 11 of Regulation No 794/2004. The Italian Government contests that requirement, arguing that, in the light of the case-law of the Court of Justice of the European Union (and, in particular, the judgment in Case C-295/07 *Commission* v *Département du Loiret and Scott SA*), interest calculated in such a manner cannot be applied in relation to recovery decisions notified prior to the entry into force of Regulation No 794/2004, still less in relation to decisions notified prior to the publication of the Commission Communication on the interest rates to be applied when aid granted unlawfully is recovered (OJ 2003 C 110, p. 21).

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Judgment of the Civil Service Tribunal (Third Chamber) of 26 February 2014 — Diamantopoulos v EEAS

(Case F-53/13) ([1])

(Civil service — Officials — Promotion — Decision not to promote the applicant to grade AD 12 — Implied decision rejecting the complaint — Express decision rejecting the complaint subsequent to the action — Statement of reasons)

(2014/C 102/64)

Language of the case: French

Parties

Applicant: Alkis Diamantopoulos (Brussels, Belgium) (represented by: S. Orlandi, J.-N. Louis and D. Abreu Caldas, lawyers)

Defendant: European External Action Service (EEAS) (represented by: S. Marquardt and E. Chaboureau, acting as Agents)

Re:

Application for annulment of the decision not to promote the applicant to grade AD 12 in the 2012 promotion year.

Operative part of the judgment

The Tribunal:

1. *Annuls the decision of the European External Action Service not to promote Mr Diamantopoulos to grade AD 12 in the 2012 promotion exercise;*

2. *Declares that the European External Action Service is to bear its own costs and orders it to pay the costs incurred by Mr Diamantopoulos.*

([1]) OJ C 215, 27.7.2013, p. 20.

Order of the Civil Service Tribunal (Third Chamber) of 25 February 2014 — Marcuccio v Commission

(Case F-118/11) ([1])

(Civil service — Officials — Decision by the appointing authority to retire an official and to grant an invalidity allowance — Decision not addressing the occupational origin of the disease which justified retirement — Obligation on the appointing authority to recognise the occupational origin of the disease — Article 78, fifth paragraph, of the Staff Regulations — Need to convene a new invalidity committee — Relevance of an earlier decision adopted under Article 73 of the Staff Regulations — Article 76 of the Rules of Procedure — Action in part manifestly inadmissible and in part manifestly unfounded)

(2014/C 102/65)

Language of the case: Italian

Parties

Applicant: Luigi Marcuccio (Tricase, Italy) (represented by: G. Cipressa, lawyer)

Defendant: European Commission (represented by: C. Berardis-Kayser and J. Banquero Cruz, Agents, and A. Dal Ferro, lawyer)

Re:

Application for annulment of the Commission's implied decision refusing to adopt a decision concerning the occupational origin of the disease suffered by the applicant.

Operative part of the order

1. *The action is dismissed as being in part manifestly inadmissible and in part manifestly unfounded.*

2. *Each party is ordered to bear its own costs.*

([1]) OJ C 25, 28.1.2012. p. 70.

Order of the Civil Service Tribunal (First Chamber) of 25 February 2014 — García Dominguez v Commission

(Case F-155/12) ([1])

(Civil Service — Competition — Competition notice EPSO/AD/215/11 — Not included in the reserve list — Reasons for decision rejecting an application — Principle of equal treatment — Conflict of interests)

(2014/C 102/66)

Language of the case: English

Parties

Applicant: Luis García Dominguez (Brussels, Belgium) (represented by: S. Rodrigues and A. Tymen, lawyers)

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

Re:

Application for annulment of the decision not to include the applicant in the reserve list for competition EPSO/AD/215/11.

Operative part of the order

1. *The action is dismissed as manifestly lacking any foundation in law.*

2. *Mr García Dominguez shall bear his own costs and shall pay the costs incurred by the European Commission.*

([1]) OJ C 63, 2.3.2013, p. 26.

Action brought on 7 February 2014 — ZZ v EEAS

(Case F-11/14)

(2014/C 102/67)

Language of the case: French

Parties

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

Defendant: European External Action Service (EEAS)

Subject-matter and description of the proceedings

Annulment of the applicant's contract in so far as he is placed in grade AD5 and for compensation for the damage allegedly suffered.

Form of order sought

— Annul the decision of 1 April 2013 in so far as it places the applicant in grade AD5;

— If necessary, annul the decision of 28 October 2013 rejecting the applicant's claim;

— Order the regrading of the applicant's post to a grade corresponding to the level of his responsibilities;

— Order the defendant to bear all the consequences, in particular financial, of that regrading, retroactively since his entry into the service;

— Compensate the applicant for the non-pecuniary damage suffered, assessed *ex aequo et bono* at EUR 5 000;

— Order the EEAS to pay all the costs.

Action brought on 17 February 2014 — ZZ v Commission

(Case F-13/14)

(2014/C 102/68)

Language of the case: French

Parties

Applicant: ZZ (represented by: S. Orlandi, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Annulment of the decision rejecting the request for extension, for 2012/2013, of the prior authorisation granted for the reimbursement of the costs of speech therapy for the applicant's son as part of the treatment of his serious illness.

Form of order sought

— Annul the decision of 26 April 2013 rejecting the request for extension, for 2012/2013, of the reimbursement of the costs of speech therapy for the applicant's son as part of the treatment of his serious illness;

— Order the Commission to pay the costs.

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