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COURT OF JUSTICE OF THE EUROPEAN UNION

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

(2014/C 351/01)

Last publication

OJ C 339, 29.9.2014

Past publications

OJ C 329, 22.9.2014

OJ C 315, 15.9.2014

OJ C 303, 8.9.2014

OJ C 292, 1.9.2014

OJ C 282, 25.8.2014

OJ C 261, 11.8.2014

These texts are available on:

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

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Request for a preliminary ruling from the Nejvyšší správní soud (Czech Republic) lodged on 3 July 2014 — Slovenská autobusová doprava Trnava, a.s. v Krajský úřad Olomouckého kraje

(Case C-318/14)

(2014/C 351/02)

Language of the case: Czech

Referring court

Nejvyšší správní soud

Parties to the main proceedings

Applicant: Slovenská autobusová doprava Trnava, a.s.

Defendant: Krajský úřad Olomouckého kraje

Questions referred

1. Must Article 49 in conjunction with Article 52 of the Treaty on the Functioning of the European Union be interpreted as precluding the application of national provisions which require a carrier whose seat is in another Member State and is established in the Czech Republic by means of an organisational unit to obtain, in addition to the licences and concessions authorising a carrier with its seat in the Czech Republic to operate domestic scheduled services (urban public transport), in order to pursue the same activity, also a special authorisation, the issue of which is at the discretion of the administrative authorities?
2. Is it relevant for the answer to Question 1 that this is a case of urban public transport operated under the public service obligation system on the basis of a public service contract for consideration paid from public funds within the meaning of Regulation (EC) No 1370/2007 ⁽¹⁾ on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70?
3. May Article 3(3) of Council Regulation (EC) No 12/98 ⁽²⁾ of 11 December 1997 laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State, in conjunction with Article 91 of the Treaty on the Functioning of the European Union, be interpreted as allowing a Member State to restrict the operation of urban public transport services by a carrier whose seat is in another Member State in the manner described in Question 1?

⁽¹⁾ OJ 2007 L 315, p. 1.

⁽²⁾ OJ 1998 L 4, p. 10.

**Request for a preliminary ruling from the Krajský súd v Prešove (Slovakia) lodged on 4 July 2014 —
CD Consulting s.r.o. v Anna Pančurová and Others**

(Case C-328/14)

(2014/C 351/03)

Language of the case: Slovak

Referring court

Krajský súd v Prešove

Parties to the main proceedings

Applicant: CD Consulting s.r.o.

Defendants: Anna Pančurová and Others

Question referred

Must Article 6(1) of Council Directive 93/13/EEC⁽¹⁾ of 5 April 1993 on unfair terms in consumer contracts and Article 4 of Council Directive 87/102/EEC⁽²⁾ of 22 December 1986 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit be interpreted as precluding legislation of a Member State, such as the legislation at issue in the main proceedings, which in principle does not allow the national court deciding on rights under an endorsed bill of exchange at any stage of the proceedings to examine of its own motion the agreement and the basis of the legal relationship and the possible unfair nature of a contractual term and any breach of the law regulating the consequences of the failure to state the APR in the consumer credit agreement from which the bill of exchange arose?

⁽¹⁾ OJ 1993 L 95, p. 29.

⁽²⁾ OJ 1993 L 42, p. 48.

**Appeal brought on 15 July 2014 by Adler Modemärkte AG against the judgment of the General Court
(Ninth Chamber) delivered on 14 May 2014 in Case T-160/12 Adler Modemärkte AG v Office for
Harmonisation in the Internal Market (Trade Marks and Designs)**

(Case C-343/14 P)

(2014/C 351/04)

Language of the case: German

Parties

Appellant: Adler Modemärkte AG (represented by: J.-C. Plate, Rechtsanwalt)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), Blufin SpA

Form of order sought

The appellant claims that the Court should:

- set aside the judgment under appeal,
- refer the case back to the General Court,
- order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to pay the costs.

Pleas in law and main arguments

The appeal is against the judgment of the General Court of 14 May 2014 in Case T-160/12, in which the General Court dismissed the action brought by Adler Modemärkte AG against the decision of the Second Board of Appeal of OHIM of 3 February 2012 (Case R 1955/2010-2) relating to opposition proceedings between Blufin SpA and Adler Modemärkte AG.

The appellant raises the following grounds of appeal:

1. First, an infringement of Article 8(1)(b) of the Community Trade Mark Regulation (40/94) is alleged. By deducing the similarity between the signs and the likelihood of confusion between the marks at issue from the similarity of elements of the signs — which correspond to a plainly descriptive indication for the condition of the goods (namely 'navy blue' as the colour indication for the goods utilised by the marks at issue) and, due to lack of inherent distinctive character, are not considered by the relevant public to be an indication of the commercial origin of the goods from a particular undertaking as distinguished from goods of other undertakings — the General Court misinterpreted that rule and the settled case-law on the determination of the similarity between the signs and the likelihood of confusion. In the present dispute, the General Court also misunderstood the legal concept of descriptive indication because it did not consider 'navy blue' to be descriptive for the description of the utilised goods — namely items of clothing — or an essential characteristic of the goods.
2. Secondly, in the judgment under appeal the General Court proceeded on the basis of a distortion of the facts. The General Court denied the descriptive meaning of the indication 'navy blue' (in the respective national languages, in particular in Italian and French) for the goods in classes 18 and 25 in question although the signs at issue between the parties indisputably incorporate a term which plainly describes the goods — namely 'navy blue' in the respective languages of the European Union — and the opposition mark from the Italian 'blu marino' and the mark applied for from the French 'bleu marine' are in each case slightly modified by those terms. Furthermore, even the Opposition Division and the Board of Appeal of OHIM have positively established in previous administrative proceedings that 'navy blue' (in the respective European national languages) is a term which is descriptive of goods. The General Court is bound by that finding.
3. Thirdly, the decision in the grounds of the judgment of the General Court with regard to the allegedly non-descriptive meaning of 'navy blue' is contradictory and shows a failure to state reasons. In paragraph 54, the General Court itself states that the elements of the signs at issue mean the shade in question. In paragraph 55, the General Court also states that that meaning is 'obvious'.
4. Fourthly, the contested decision was issued on the basis of inapplicable statutory regulations, namely the provisions of Regulation (EC) No 207/2009 ⁽¹⁾. The applicable law is Regulation (EC) No 40/94 ⁽²⁾.

⁽¹⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark; OJ 2009 L 078, p. 1.

⁽²⁾ Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark; OJ 1994 L 011, p. 1.

**Request for a preliminary ruling from the Tribunale civile di Trieste (Italy) lodged on 21 July 2014 —
Florin Lazar, represented in the proceedings by Luigi Erculeo v Allianz SpA**

(Case C-350/14)

(2014/C 351/05)

Language of the case: Italian

Referring court

Tribunale civile di Trieste

Parties to the main proceedings

Applicant: Florin Lazar, represented in the proceedings by Luigi Erculeo

Defendant: Allianz SpA

Questions referred

How is Article 4(1) of Regulation (EC) No 864/2007⁽¹⁾ on the law applicable to non-contractual obligations ('Rome II') to be interpreted in so far as it provides that 'the law applicable to a non-contractual obligation arising out of a tort/delict shall be the law of the country in which the damage occurs'? In particular:

1. How is the term 'the [place] in which the damage occurs' within the meaning of Article 4(1) of Regulation No 864/2007 to be interpreted in the context of a claim for compensation for material and non-material damage brought by the family members of a person who has died as a result of a road traffic accident which occurred in the State of the court seised, where those family members are resident in another EU Member State and have suffered the damage itself in that other Member State?
2. For the purposes of the application of Article 4(1) of Regulation No 864/2007, do the material and non material damage suffered, in their State of residence, by the close relatives of a person who has died as a result of a road traffic accident which occurred in the State of the court seised constitute 'damage' within the meaning of the first part of Article 4(1) of that regulation, or 'indirect consequences' within the meaning of the second part of that provision?

⁽¹⁾ Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II) OJ 2007 L 199, p. 40.

Reference for a preliminary ruling from High Court of Ireland (Ireland) made on 25 July 2014 — Maximillian Schrems v Data Protection Commissioner

(Case C-362/14)

(2014/C 351/06)

Language of the case: English

Referring court

High Court of Ireland

Parties to the main proceedings

Applicant: Maximillian Schrems

Defendant: Data Protection Commissioner

Questions referred

1. Whether in the course of determining a complaint which has been made to an independent office holder who has been vested by statute with the functions of administering and enforcing data protection legislation that personal data is being transferred to another third country (in this case, the United States of America) the laws and practices of which, it is claimed, do not contain adequate protections for the data subject, that office holder is absolutely bound by the Community finding to the contrary contained in Commission Decision of 26 July 2000 (2000/520/EC⁽¹⁾) having regard to Article 7, Article 8 and Article 47 of the Charter of Fundamental Rights of the European Union (2000/C 364/01⁽²⁾), the provisions of Article 25(6) of Directive 95/46/EC⁽³⁾ notwithstanding?
2. Or, alternatively, may and/or must the office holder conduct his or her own investigation of the matter in the light of factual developments in the meantime since that Commission Decision was first published?

⁽¹⁾ Commission Decision of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequacy of the protection provided by the safe harbour privacy principles and related frequently asked questions issued by the US Department of Commerce (notified under document number C(2000) 2441) OJ L 215, p. 7

⁽²⁾ Charter of fundamental rights of the European Union OJ C 364, p. 1

⁽³⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data OJ L 281, p. 31

**Request for a preliminary ruling from the Budapesti XX., XXI. És XXIII. Kerületi Bíróság (Hungary)
lodged on 28 July 2014 — Herrenknecht AG v Hév-Sugár Kft.**

(Case C-366/14)

(2014/C 351/07)

Language of the case: Hungarian

Referring court

Budapesti XX., XXI. És XXIII. Kerületi Bíróság

Parties to the main proceedings

Applicant: Herrenknecht AG

Defendant: Hév-Sugár Kft.

Questions referred

1. How should Article 23(1) of Council Regulation (EC) No 44/2001⁽¹⁾, relating to the court which is to have exclusive jurisdiction, be interpreted where, in the terms and conditions of the contract, the contracting parties which are in dispute have attributed jurisdiction to hear disputes relating to the contract to various courts? Furthermore, is the applicant free to choose from among the courts selected the forum which has exclusive jurisdiction and those which have alternative jurisdiction and can the exclusive jurisdiction of the court which is hearing the case be inferred accordingly?
2. How should Article 3(1) of the Rome Convention⁽²⁾, relating to the substantive law which is applicable in the event the contract is to be enforced, be interpreted where, in the terms and conditions of the contract, the parties have designated the laws of several Member States as relevant to the contract and, in those circumstances, which of those is the applicable law?

⁽¹⁾ 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).

⁽²⁾ Convention on the law applicable to contractual obligations opened for signature in Rome on 19 June 1980 (OJ 1980 L 266, p. 1).

**Appeal brought on 4 August 2014 by Walcher Meßtechnik GmbH against the judgment of the
General Court (Sixth Chamber) delivered on 22 May 2014 in Case T-95/13 Walcher Meßtechnik
GmbH v Office for Harmonisation in the Internal Market (Trade Marks and Designs)**

(Case C-374/14 P)

(2014/C 351/08)

Language of the case: German

Parties

Appellant: Walcher Meßtechnik GmbH (represented by: S. Walter, Rechtsanwalt)

Other party to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

Form of order sought

The appellant claims that the Court should:

- set aside the judgment of the Sixth Chamber of the General Court of the European Union of 22 May 2014 in Case T-95/13 and annul the contested decision of the First Board of Appeal of OHIM of 13 December 2012 in Case R 1779/2012-1;

- in the alternative, set aside the judgment of the Sixth Chamber of the General Court of 22 May 2014 in Case T-95/13 and refer the case back to the General Court;
- order OHIM to pay the costs.

Pleas in law and main arguments

The appellant puts forward two grounds of appeal, the first of which is divided into three parts:

1. First ground of appeal

The judgment under appeal infringes Article 7(1)(c) of Regulation No 207/2009 ⁽¹⁾ for three reasons:

- When assessing whether a sign is registrable, account should be taken of the wording of the goods and/or services applied for. That did not happen in the proceedings before the General Court. Instead, the General Court took account of websites belonging to the appellant and the list of goods covered by a US trade mark, which were not the subject of the dispute.
- Even with the meaning assigned by the General Court to the word HIPERDRIVE, only one characteristic of a drive is described by the sign HIPERDRIVE. However, in the present case, no essential characteristics of the applied-for goods themselves were described by the alleged description of the part of the drive integrated into the goods applied for. The General Court therefore erred in law in the application of the criteria set out in the recent European case-law in that regard (see judgment of 15 January 2013 in Case T-625/11 *BSH v OHIM (ecoDoor)* ⁽²⁾ and judgment of 10 July 2014 in Case C-126/13 P *BSH v OHIM* ⁽³⁾, paragraph 27).
- The General Court's allegedly incorrect assumption that 'HIPER' must be equated with 'hyper', although those terms are never used interchangeably, is based on the inaccurate assertion that both 'HIPER' and 'hyper' are pronounced identically in English. Despite the appellant's numerous examples to the contrary, that allegedly incorrect assertion is neither verified nor substantiated by the General Court. According to the case-law, the question whether the grounds of a judgment of the General Court are contradictory or inadequate is a question of law.

2. Second ground of appeal:

- The judgment under appeal infringes the general principles of Union law, namely, the principle of equal treatment and the prohibition of arbitrary decisions. It is the clear practice of OHIM not to equate the element HIPER with 'hyper' in the case of registrations. That practice existed before the registration of the sign at issue and exists afterwards as well. The present case is different from cases in which applicants rely merely on previous registrations. The fact that, following the objection to the registrations at issue, 'HIPER' trade marks were no longer objected to by OHIM shows that the objection to the trade mark application at issue clearly infringes the principle of equal treatment and the prohibition of arbitrary decisions.

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

⁽²⁾ ECLI:EU:T:2013:14.

⁽³⁾ ECLI:EU:C:2014:2065.

Reference for a preliminary ruling from Supreme Court (Ireland) made on 7 August 2014 — C v M

(Case C-376/14)

(2014/C 351/09)

Language of the case: English

Referring court

Supreme Court

Parties to the main proceedings

Applicant: C

Defendant: M

Questions referred

1. Does the existence of the French proceedings relating to the custody of the child preclude, in the circumstances of this case, the establishment of habitual residence of the child in Ireland?
 2. Does either the father or the French courts continue to maintain custody rights in relation to the child so as to render wrongful the retention of the child in Ireland?
 3. Are the Irish courts entitled to consider the question of habitual residence of the child in the circumstances where she has resided in Ireland since July, 2012 at which time her removal to Ireland was not in breach of French law?
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GENERAL COURT

Action brought on 16 July 2014 — CW v Council

(Case T-516/13)

(2014/C 351/10)

Language of the case: French

Parties

Applicant: CW (Paris, France) (represented by: A. Tekari, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

- annul Council Implementing Decision 2013/409/CFSP of 30 July 2013 applying Decision 2011/72/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia in so far as it concerns the applicant;
- order the Council of the European Union to pay damages in the amount of EUR 100 000 as compensation for the non-pecuniary and material harm suffered by the applicant;
- order the Council of the European Union to bear, in addition to its own costs, those incurred by the applicant.

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 an absence of legal basis for Decision 2013/409/CFSP⁽¹⁾, inasmuch as that decision is based on a ground other than that set out in Article 1 of Decision 2011/72/CFSP⁽²⁾, which constitutes the legal basis for the former decision.
2. Second plea in law, alleging infringement of the right to property, in so far as the restrictive measures imposed on the applicant amount to an unjustified restriction of his right to property.

⁽¹⁾ Council Implementing Decision 2013/409/CFSP of 30 July 2013 implementing Decision 2011/72/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia (OJ 2013 L 204, p. 52).

⁽²⁾ Council Decision 2011/72/CFSP of 31 January 2011 concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia (OJ 2011 L 28, p. 62).

Action brought on 23 July 2014 — CW v Council

(Case T-224/14)

(2014/C 351/11)

Language of the case: French

Parties

Applicant: CW (Paris, France) (represented by: A. Tekari, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

- annul Council Implementing Decision 2014/49/CFSP of 30 January 2014 applying Decision 2011/72/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia in so far as it concerns the applicant;

- order that as a result of the annulment of the contested decision, the applicant shall be deemed never to have been entered in the list of persons covered by the asset freeze and that no measure or decision of the Council may mention his name as being subject to an asset freeze;
- order the Council of the European Union to pay damages in the amount of EUR 100 000 as compensation for the non-pecuniary and material harm suffered by the applicant;
- order the Council of the European Union to bear, in addition to its own costs, those incurred by the applicant which must be equitably determined by having regard to the parties' circumstances and to the workload resulting from the management of such a case.

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 an absence of legal basis for Decision 2014/49/CFSP⁽¹⁾, inasmuch as it is based on a consideration extraneous to that set out in Article 1 of Decision 2011/72/CFSP⁽²⁾ and inasmuch as, in any event, Decision 2011/72/CFSP, which constitutes the legal basis for the former decision, is not consistent with EU law governing targeted sanctions.
2. Second plea in law, alleging infringement of the right to property, in so far as the restrictive measures imposed on the applicant amount to an unjustified restriction of his right to property.

⁽¹⁾ Council Decision 2014/49/CFSP of 30 January 2014 amending Decision 2011/72/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia (OJ 2014 L 28, p. 38).

⁽²⁾ Council Decision 2011/72/CFSP of 31 January 2011 concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia (OJ 2011 L 28, p. 62).

Action brought on 20 June 2014 — European Dynamics Luxembourg and Evropaïki Dynamiki v EIT

(Case T-481/14)

(2014/C 351/12)

Language of the case: English

Parties

Applicants: European Dynamics Luxembourg SA (Ettelbrück, Luxembourg); and Evropaïki Dynamiki — Proigmena Systemata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece) (represented by: E. Siouti and M. Sfyri, lawyers)

Defendant: European Institute of Innovation and Technology (EIT)

Form of order sought

The applicants claim that the Court should:

- annul the defendant's award decision regarding the call for tender communicated to the applicant in its letter of 11 April 2014 and all further related decisions of the defendant, including the decision to award the contract to the winning tenderer (which has not been communicated to the applicants);
- annul the decision of the Director of the EIT of 25 April 2014, refusing to disclose the composition of the Evaluation Committee;
- order the defendant to provide the applicants with the compensation of damages for the loss of opportunity to be awarded a contract in the context of the call for tender, reaching the amount of 158 430,40 euros;
- order the defendant to pay the applicants' legal and other costs and expenses incurred in connection with this application.

Pleas in law and main arguments

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

1. First plea in law, alleging that the defendant mixed the selection and award criteria whereby it infringed Article 110 of the Financial Regulation ⁽¹⁾ and Article 149 of the Delegated Regulation ⁽²⁾.
2. Second plea in law, alleging infringement of Articles 105 and 113 of the Financial Regulation and Article 138 of the Delegated Regulation as the defendant used unknown criteria, which were not included in the Tender Specifications, when evaluating the tenders and infringed its obligation to specify the award criteria and their relative weighting or, where appropriate, the decreasing order of importance. The applicants further submit that the defendant relied on a discrete, discontinuous marking system, causing distortions and errors in the evaluation.
3. Third plea in law, alleging that the defendant committed several manifest errors of assessment.
4. Fourth plea in law, alleging infringement of Articles 2(3) and 8 of Regulation 1049/2001 ⁽³⁾ by refusing to disclose the composition of the Evaluation Committee, which would have allowed for the applicants to verify the absence of conflict of interests.

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

⁽²⁾ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ 2012 L 362, p. 1).

⁽³⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

Action brought on 15 July 2014 — Sotiropoulou and Others v Council

(Case T-531/14)

(2014/C 351/13)

Language of the case: Greek

Parties

Applicants: Limonia Sotiropoulou (Patras, Greece) and 63 others (represented by: K. Khrisogonos, lawyer)

Defendant: Council of the European Union

Form of order sought

- order the defendant to compensate the applicants in full for the financial loss suffered by them from 1 January 2013 until 31 May 2014 as a result of the unlawful reduction of their main pensions by the decisions of the Council of the European Union referred to, totalling EUR 870 504,11;
- order the defendant to pay in full to each of the applicants the sum of EUR 3 000 as compensation for the non-material harm which they suffered as a result of the unlawful reduction of their main pensions by the decisions of the Council of the European Union referred to;
- order the defendant to pay in full the applicants' legal costs.

Pleas in law and main arguments

The action concerns an application, under Article 268 TFEU, for compensation in respect of the loss and harm which the applicants have sustained as a result of the drastic reduction of their main pensions pursuant to the measures and the interventions in Greece's pension system provided for in the following unlawful decisions of the Council of the European Union: Decisions 2010/320/EU of 8 June 2010 ⁽¹⁾, 2010/486/EU of 7 September 2010 ⁽²⁾, 2011/57/EU of 20 December 2010 ⁽³⁾, 2011/257/EU of 7 March 2011 ⁽⁴⁾, 2011/734/EU of 12 July 2011 ⁽⁵⁾, 2011/791/EU of 8 November 2011 ⁽⁶⁾, 2012/211/EU of 13 March 2012 ⁽⁷⁾ and 2013/6/EU of 4 December 2012 ⁽⁸⁾. In support of the action, the applicants rely on two pleas in law.

1. First plea in law, concerning infringement of the principles of conferral and subsidiarity

— The applicants submit that, in adopting the contested decisions, which concern inter alia the laying down of detailed measures, polices and interventions in the social security and pension system, the Council exceeded the powers accorded to it by the Treaty and infringed the principles of conferral and subsidiarity as laid down in Articles 4 and 5 of the Treaty on European Union in conjunction with Articles 2 to 6 of the Treaty on the Functioning of the European Union. When adopting decisions under Articles 126(9) and 136 TFEU that are addressed to Greece, the Council cannot lay down in detail the policy that Greece must follow in the abovementioned fields, which fall within Greece's exclusive competence as a Member State of the European Union, and for that reason the abovementioned decisions with that content are unlawful and give rise to non-contractual liability of the European Union to compensate the applicants for the loss and harm resulting from the reduction of their pensions by those unlawful decisions.

2. Second plea in law, concerning infringement of fundamental rights laid down in Articles 1, 25 and 34 of the Charter of Fundamental Rights of the European Union

— The applicants contend that the abovementioned decisions of the Council required measures relating to the pension system to be adopted that fundamentally disturbed the applicants' financial situation and resulted in the reversal of situations which they had sought in good faith. The drastic pension cuts and reductions that were imposed in implementation of the measures specified in the abovementioned decisions of the Council resulted in a radical downward equalisation of social security protection and in a rapid deterioration in the standard of living of pensioners, including the applicants, who because of the reductions in their pensions were deprived of the greater part of their previous disposable income. The enactment and implementation of the reductions at issue resulted in direct infringement of the applicants' right to human dignity, of their right as elderly persons to lead a life of dignity and independence and of their right to social security benefits and social services providing protection in cases such as old age, rights which are directly enshrined in Articles 1, 25 and 34 of the Charter of Fundamental Rights of the European Union; that renders the decisions at issue unlawful per se and gives rise to non-contractual liability of the European Union to compensate the applicants for the loss and harm resulting from the reduction of their pensions by those unlawful decisions.

⁽¹⁾ Council Decision 2010/320/EU of 8 June 2010 addressed to Greece with a view to reinforcing and deepening fiscal surveillance and giving notice to Greece to take measures for the deficit reduction judged necessary to remedy the situation of excessive deficit (OJ 2010 L 145, p. 6).

⁽²⁾ Council Decision 2010/486/EU of 7 September 2010 amending Decision 2010/320/EU addressed to Greece with a view to reinforcing and deepening fiscal surveillance and giving notice to Greece to take measures for the deficit reduction judged necessary to remedy the situation of excessive deficit (OJ 2010 L 241, p. 12).

⁽³⁾ Council Decision 2011/57/EU of 20 December 2010 amending Decision 2010/320/EU addressed to Greece with a view to reinforcing and deepening fiscal surveillance and giving notice to Greece to take measures for the deficit reduction judged necessary to remedy the situation of excessive deficit (OJ 2011 L 26, p. 15).

⁽⁴⁾ Council Decision 2011/257/EU of 7 March 2011 amending Decision 2010/320/EU addressed to Greece with a view to reinforcing and deepening the fiscal surveillance and giving notice to Greece to take measures for the deficit reduction judged necessary to remedy the situation of excessive deficit (OJ 2011 L 110, p. 26).

⁽⁵⁾ Council Decision 2011/734/EU of 12 July 2011 addressed to Greece with a view to reinforcing and deepening fiscal surveillance and giving notice to Greece to take measures for the deficit reduction judged necessary to remedy the situation of excessive deficit (OJ 2011 L 296, p. 38).

⁽⁶⁾ Council Decision 2011/791/EU of 8 November 2011 amending Decision 2011/734/EU addressed to Greece with a view to reinforcing and deepening fiscal surveillance and giving notice to Greece to take measures for the deficit reduction judged necessary to remedy the situation of excessive deficit (OJ 2011 L 320, p. 28).

⁽⁷⁾ Council Decision 2012/211/EU of 13 March 2012 amending Decision 2011/734/EU addressed to Greece with a view to reinforcing and deepening fiscal surveillance and giving notice to Greece to take measures for the deficit reduction judged necessary to remedy the situation of excessive deficit (OJ 2012 L 113, p. 8).

⁽⁸⁾ Council Decision 2013/6/EU of 4 December 2012 amending Decision 2011/734/EU addressed to Greece with a view to reinforcing and deepening fiscal surveillance and giving notice to Greece to take measures for the deficit reduction judged necessary to remedy the situation of excessive deficit (OJ 2013 L 4, p. 40).

Appeal brought on 16 July 2014 by Desislava Kolarova against the order of the Civil Service Tribunal of 30 April 2014 in Case F-88/13, Kolarova v REA

(Case T-533/14 P)

(2014/C 351/14)

Language of the case: French

Parties

Appellant: Desislava Kolarova (Brussels, Belgium) (represented by F. Frabetti, lawyer)

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

Form of order sought by the appellant

- Set aside the order of the Civil Service Tribunal (Third Chamber) of 30 April 2014 in Case F-88/13 Ms *Desislava Kolarova v Research Executive Agency*, seeking the annulment of the decision of PMO.1, served on 28 November 2012, by which the appellants application of 20 July 2012 concerning the treatment of her mother, Ms Anna Borisova Petrova, as a person to be treated as a dependent child under Article 2(4) of Annex VII to the Staff Regulations for the period from 1 November 2012 to 31 October 2013;
- Declare the action of 17 September 2013 admissible and uphold the claims of the appellant made at first instance;
- Consequently, refer the case back to the Civil Service Tribunal;
- Rule on costs and order REA and/or the Commission to pay the costs.

Pleas in law and main arguments

In support of the appeal, the appellant relies on three pleas in law.

1. First plea in law, alleging breach of the law and a restriction of the rights of the defence of the appellant, since the Civil Service Tribunal (CST) wrongly considered that it had insufficient information from the documents produced by the parties and, in consequence, took the view that the oral procedure should not be opened.
2. Second plea in law, alleging an error of law, since the CST wrongly considered that the appellant's argument that an agreement such as the service agreement 'does not remove the responsibility from the proxy holder', manifestly failing to taking account of the wording of Article 2(2) and Article 91a of the Staff Regulations.
3. Third plea in law, alleging infringement of the appellant's right to effective access to the courts.

Action brought on 16 July 2014 — Murnauer Markenvertrieb v OHIM — Bach Flower Remedies (MURNAUERS Bachblüten)

(Case T-534/14)

(2014/C 351/15)

Language in which the application was lodged: German

Parties

Applicant: Murnauer Markenvertrieb GmbH (Egelsbach, Germany) (represented by: F. Traub and H. Daniel, lawyers)

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

Other party to the proceedings before the Board of Appeal: Bach Flower Remedies Ltd (London, United Kingdom)

Form of order sought

The applicant claims that the Court should:

- annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 5 May 2014 in Case R 2041/2012-2;
- order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: Murnauer Markenvertrieb GmbH

Community trade mark concerned: Figurative mark including the word elements 'MURNAUERS Bachblüten' for goods in Classes 3, 5 and 30 — Community trade mark registration No 9 749 847

Proprietor of the mark or sign cited in the opposition proceedings: Bach Flower Remedies Ltd

Mark or sign cited in opposition: National and Community figurative marks including the word element 'Bach', national word mark 'Bach' and the unregistered mark used in the course of business 'BACH' for goods and services in Classes 3, 5, 29, 30, 31, 32, 33, 35, 42 and 44

Decision of the Opposition Division: Upheld the opposition

Decision of the Board of Appeal: Dismissed the appeal

Plea in law: Infringement of Article 8(1)(b) of Regulation No 207/2009.

Action brought on 18 July 2014 — The Cookware Company v OHIM — Fissler (VITA+VERDE)

(Case T-535/14)

(2014/C 351/16)

Language in which the application was lodged: English

Parties

Applicant: The Cookware Company Ltd (Hong Kong, China) (represented by: K. Manhaeve, lawyer)

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

Other party to the proceedings before the Board of Appeal: Fissler GmbH (Idar-Oberstein, Germany)

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 15 April 2014 given in Case R 1082/2013-2.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The figurative mark in colour containing the verbal elements 'VITA+VERDE' for goods in Class 21 — Community trade mark application No 10 073 054

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

Mark or sign cited in opposition: The earlier CTM No 1 013 787 for the word 'vitavit'

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

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

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

Action brought on 25 July 2014 — Lidl Stiftung v OHIM — Horno del Espinar (Castello)

(Case T-549/14)

(2014/C 351/17)

Language in which the application was lodged: English

Parties

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

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

Other party to the proceedings before the Board of Appeal: Horno del Espinar, SL (El Espinar, Spain)

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 22 April 2014 given in joined Cases R 1233/2013-2 and R 1258/2013-2;
- Order the defendant to pay the costs of proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'Castello' for goods in Classes 29, 30 and 31 — Community trade mark application No 6 819 973

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

Mark or sign cited in opposition: Numerous earlier Community and national trade marks containing, *inter alia*, the verbal element 'Castelló'

Decision of the Opposition Division: Partially upheld the opposition

Decision of the Board of Appeal: Partially upheld the appeal

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

Action brought on 22 July 2014 — Wm. Wrigley Jr. v OHIM (Extra)

(Case T-552/14)

(2014/C 351/18)

Language of the case: English

Parties

Applicant: Wm. Wrigley Jr. Company (Wilmington, United States) (represented by: M. Kinkeldey, S. Brandstätter and C. Schmitt, lawyers)

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

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 19 May 2014 given in Case R 199/2014-5.

Pleas in law and main arguments

Community trade mark concerned: The figurative mark containing the verbal element 'Extra' for goods in Classes 3, 21 and 30 — Community trade mark application No 11 737 582

Decision of the Examiner: Rejected the CTM application

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 7(1)(b) CTMR.

Action brought on 22 July 2014 — Wm. Wrigley Jr. v OHIM (Extra)

(Case T-553/14)

(2014/C 351/19)

Language of the case: English

Parties

Applicant: Wm. Wrigley Jr. Company (Wilmington, United States) (represented by: M. Kinkeldey, S. Brandstätter and C. Schmitt, lawyers)

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

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 19 May 2014 given in Case R 218/2014-5.

Pleas in law and main arguments

Community trade mark concerned: The figurative mark in black and white containing the verbal element 'Extra' for goods in Classes 3, 21 and 30 — Community trade mark application No 11 737 657

Decision of the Examiner: Rejected the CTM application

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 7(1)(b) CTMR.

Appeal brought on 28 July 2014 by Victor Navarro against the judgment of the Civil Service Tribunal of 21 May 2014 in Case F-46/13 Navarro v Commission

(Case T-556/14 P)

(2014/C 351/20)

Language of the case: French

Parties

Appellant: Victor Navarro (Sterrebeek, Belgium) (represented by S. Rodrigues and A. Blot, lawyers)

Other party to the proceedings: European Commission

Form of order sought by the appellant

- Set aside the judgment of the Civil Service Tribunal of 21 May 2014 in Case F-46/13;
- Consequently, grant the appellant the relief sought at first instance and, accordingly:
 - Annul the decision of the European Commission, as the authority empowered to conclude contracts, of 4 October 2012, not to recruit the appellant as an auxiliary member of the contractual staff in function group II;
 - In so far as necessary, annul the decision of the authority empowered to conclude contracts of 7 February 2013 rejecting the claim brought by the appellant on 19 October 2012;
 - Compensate his material losses;
 - Award him the sum fixed *ex aequo et bono* and provisionally at EUR 50 000 in respect of the non-material harm suffered;
 - Order the defendant to pay all the costs, including those of the present appeal.

Pleas in law and main arguments

In support of the appeal, the appellant relies on three pleas in law.

1. First plea in law, alleging infringement of the limits of the judicial review of the Civil Service Tribunal (CST) since it substituted its own assessment for that of the administration.
2. Second plea in law, alleging an error of law, since the CST considered wrongly that, under Article 3(2) of Annex IV to the General Implementing Provisions of 2 March 2011 ⁽¹⁾, professional experience must be properly circumstantiated and be related to one of the Commission's areas of activity.
3. Third plea in law, alleging a distortion of the facts of the case, since the CST stated, in the judgment under appeal, that the appellant had not supplied a description of the tasks carried out for Continental Airlines Inc. and, accordingly, had not proved that his experience was 'appropriate' to the carrying out of secretarial duties.

⁽¹⁾ General Provisions of 2 March 2011 for implementing Article 79(2) of the CEOS, governing the conditions of employment of contract staff employed by the Commission under the terms of Articles 3a and 3b of the said Conditions, published in Administrative Notices No 33-2011.

Action brought on 24 July 2014 — Research Engineering & Manufacturing v OHIM — Nedschroef Holding (TRILOBULAR)

(Case T-558/14)

(2014/C 351/21)

Language in which the application was lodged: English

Parties

Applicant: Research Engineering & Manufacturing, Inc. (Middletown, United States) (represented by: S. Małynicz, Barrister, K. Gilbert and M. Gilbert, Solicitors)

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

Other party to the proceedings before the Board of Appeal: Nedschroef Holding BV (Helmond, Netherlands)

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 12 May 2014 given in Case R 442/2013-4;
- Order the defendant to pay the costs of proceedings.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: Community trade mark registration No 668 566

Proprietor of the Community trade mark: The applicant

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

Grounds for the application for a declaration of invalidity: Absolute grounds for invalidity pursuant to Article 52(1)(a) CTMR in conjunction with Article 7(1)(b) and (c)

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

Decision of the Board of Appeal: Annulled the contested decision and declared the Community trade mark invalid

Pleas in law: Infringement of Articles 7(1)(b) and 7(1)(c) CTMR.

Action brought on 28 July 2014 — Yoo Holdings v OHIM — Eckes-Granini Group (YOO)

(Case T-562/14)

(2014/C 351/22)

Language in which the application was lodged: English

Parties

Applicant: Yoo Holdings Ltd (London, United Kingdom) (represented by: D. Farnsworth, Solicitor)

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

Other party to the proceedings before the Board of Appeal: Eckes-Granini Group GmbH (Nieder-Olm, Germany)

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 29 April 2014 given in Case R 762/2013-2.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'YOO' for the services in Classes 35, 41 and 43 — Community trade mark application No 10 487 924

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

Mark or sign cited in opposition: National and International trade mark registration for the word mark 'YO' for goods in Classes 29, 30 and 32

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

Decision of the Board of Appeal: Partially annulled the contested decision and upheld the opposition in part

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

**Action brought on 29 July 2014 — Hewlett Packard Development Company v OHIM
(ELITEDISPLAY)**

(Case T-563/14)

(2014/C 351/23)

Language of the case: English

Parties

Applicant: Hewlett Packard Development Company LP (Dallas, United States) (represented by: T. Raab and H. Lauf, lawyers)

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

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 19 May 2014 given in Case R 1539/2013-2;
- Order the defendant to bear the costs of proceedings.

Pleas in law and main arguments

Community trade mark concerned: The word mark 'ELITEDISPLAY' for goods and services in Class 9 — Community trade mark application No 11 541 901

Decision of the Examiner: Rejected the CTM application

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Articles 7(1)(b), 7(1)(c) and 7(2) CTMR.

Action brought on 4 August 2014 — Gascogne Sack Deutschland and Gascogne v Court of Justice

(Case T-577/14)

(2014/C 351/24)

Language of the case: French

Parties

Applicants: Gascogne Sack Deutschland GmbH (Wieda, Germany) and Gascogne (Saint-Paul-lès-Dax, France) (represented by: F. Puel and E. Durand, lawyers)

Defendant: Court of Justice of the European Union

Form of order sought

The applicants claim that the Court should:

- declare that the European Union is non-contractually liable for the proceedings before the General Court which failed to have regard to the requirement that the case be dealt with within a reasonable time;

Consequently, it should:

- order the European Union to pay full and sufficient compensation for the material and non-material damage which the applicants have suffered as a result of the European Union's unlawful conduct, corresponding to the following amounts, together with compensatory and default interest at the rate applied by the European Central Bank to its main refinancing operations, increased by two percentage points, starting from the date when the application was submitted:
 - EUR 1 193 467 for losses suffered as a result of paying the additional legal interest applied to the nominal amount of the fine beyond a reasonable period;
 - EUR 187 571 for losses suffered as a result of making additional bank guarantee payments beyond a reasonable period;
 - EUR 2 000 000 for profits lost and/or losses suffered as a result of 'uncertainty', and
 - EUR 500 000 for the non-material damage suffered;
- In the alternative, if the Court finds that the amount of damage suffered needs to be re-assessed, it should order the commissioning of an expert's report in accordance with Article 65(d), Article 66(1) and Article 70 of the Rules of Procedure of the General Court;
- In any event, the Court should order the European Union to pay the costs of the present proceedings.

Pleas in law and main arguments

In support of the action, the applicants rely on a single plea in law, alleging infringement of the second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union owing to the excessive duration of the proceedings before the General Court, that is, infringement of their fundamental right to a hearing within a reasonable time.

Action brought on 1 August 2014 — Birkenstock Sales v OHIM (representation of a surface pattern)

(Case T-579/14)

(2014/C 351/25)

Language of the case: German

Parties

Applicant: Birkenstock Sales GmbH (Vettelschoß, Germany) (represented by C. Menebröcker and V. Töbelmann, lawyers)

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

Form of order sought

The applicant claims that the Court should:

- annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 15 May 2014 in Case R 1952/2013-1;
- order the defendant to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: the international registration of the figurative mark representing a surface patten for goods in Classes 10, 18 and 25 — International registration No 1 1 32742

Decision of the Examiner: Rejection of the application for registration

Decision of the Board of Appeal: Dismissal of the appeal

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

Action brought on 30 July 2014 — Vierling v OHMI — IP Leanware (BRAINCUBE)

(Case T-581/14)

(2014/C 351/26)

Language in which the application was lodged: English

Parties

Applicant: Yvonne Vierling (Cologne, Germany) (represented by: G. Hasselblatt and D. Kipping, lawyers)

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

Other party to the proceedings before the Board of Appeal: IP Leanware (Issoire, France)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 30 April 2014 given in Case R 1486/2013-2.

Pleas in law and main arguments

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

Community trade mark concerned: The word mark 'BRAINCUBE' for goods and services in Classes 9 and 38 — Community trade mark application No 10 461 713

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

Mark or sign cited in opposition: The earlier German trade mark of the word mark 'Braincube'

Decision of the Opposition Division: Partially upheld the opposition

Decision of the Board of Appeal: Dismissed the appeal

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

Action brought on 4 August 2014 — Giand v OHIM — Flamagas (FLAMINAIRE)

(Case T-583/14)

(2014/C 351/27)

Language in which the application was lodged: Italian

Parties

Applicant: Giand Srl (Rimini, Italy) (represented by: F. Caricato, lawyer)

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

Other party to the proceedings before the Board of Appeal: Flamagas, SA (Barcelona, Spain)

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 11 June 2014 in Case R 2117/2011-4, finding that there is no likelihood of confusion between the marks referred to below;
- Refer the case back to OHIM so it can amend the decision on the substance of the case and register Community Trade Mark No 8 680 746 in respect of all the goods covered, without prejudice to those which are uncontested;
- Order OHIM to pay the costs of proceedings before the Opposition Division, Board of Appeal and General Court.

Pleas in law and main arguments

Applicant for a Community trade mark: Giand Srl

Community trade mark concerned: the word mark 'FLAMINAIRE' for goods in Classes 16 and 34 — Community Trade Mark application No 8 680 746

Proprietor of the mark or sign cited in the opposition proceedings: Flamagas, SA

Mark or sign cited in opposition: national and international word marks for goods in Classes 16 and 34

Decision of the Opposition Division: opposition rejected in part

Decision of the Board of Appeal: appeal dismissed

Pleas in law:

- Breach of the principle of *ne bis in idem*;
- Incorrect assessment of the likelihood of confusion;
- Incorrect assessment of the evidence.

Action brought on 8 August 2014 — Musso v Parliament

(Case T-589/14)

(2014/C 351/28)

Language of the case: French

Parties

Applicant: François Musso (Ajaccio, France) (represented by: A. Gross, lawyer)

Defendant: European Parliament

Form of order sought

- Admit the present action and declare it well founded;
- Annul the decision of 26 June 2014:
 - Principally, on the basis of the formal irregularity involving the lack of the President's signature;
 - In the alternative, on the basis of infringement of the rights of the defence in that the decision of 17 July 1996 serving as the basis of the decision of 26 June 2014 was not published;

- In the further alternative, on the basis of infringement of the adversarial principle;
- In the further alternative, on the basis of the insufficient statement of reasons of the decision of 26 June 2014;
- In the further alternative, on the basis of infringement of the reasonable time principle affecting the exercise of the rights of the defence;
- In the further alternative, on the basis of infringement of the principle of acquired right;
- Reserve to the applicant all other rights, entitlements, pleas and actions to be claimed;
- Order the defendant to pay all the costs of the instance.

Pleas in law and main arguments

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

1. First plea in law, alleging a formal irregularity in the contested decision of 26 June 2014, since it was not signed by the President of the Parliament in accordance with the internal rules of the European Parliament.
2. Second plea in law, alleging infringement of the rights of the defence of the applicant, since the decision of 17 July 1996 which served as the basis for the contested decision of 26 June 2014 was not published, in breach of Article 28 of the Rules of Procedure.
3. Third plea in law, alleging infringement of the adversarial principle.
4. Fourth plea in law, alleging an insufficient statement of reasons of the contested decision.
5. Fifth plea in law, alleging infringement of the reasonable time principle, since the Parliament waited eight years before beginning the recovery proceedings against the applicant.
6. Sixth plea in law, alleging infringement of the principle of acquired right, since the contested decision calls into question the pension rights which the applicant acquired on 3 August 1994.

Action brought on 7 August 2014 — Zuffa v OHIM (ULTIMATE FIGHTING CHAMPIONSHIP)

(Case T-590/14)

(2014/C 351/29)

Language of the case: English

Parties

Applicant: Zuffa, LLC (Las Vegas, United States) (represented by: S. Malynicz, Barrister, K. Gilbert and C. Balme, Solicitors)

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

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 19 May 2014 given in Case R 1425/2013-2.

Pleas in law and main arguments

Community trade mark concerned: The word mark 'ULTIMATE FIGHTING CHAMPIONSHIP' for goods and services in Classes 9, 16, 28 and 41

Decision of the Examiner: Partially rejected the CTM application

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Articles 7(1)(b),(c) and 7(2) CTMR.

Action brought on 8 August 2014 — BSH v OHIM (PerfectRoast)

(Case T-591/14)

(2014/C 351/30)

Language of the case: German

Parties

Applicant: BSH Bosch und Siemens Hausgeräte GmbH (Munich, Germany) (represented by S. Biagosch, lawyer)

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

Form of order sought

The applicant claims that the Court should:

- annul the decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 16 June 2014 in Case R 359/2014-5;
- order OHIM to bear its own costs and pay the costs incurred by the applicant.

Pleas in law and main arguments

Community trade mark concerned: the word mark 'PerfectRoast' for goods in Classes 7 and 11 — Community trade mark registration No 12 173 902

Decision of the Examiner: Rejection of the application for registration

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law:

- Infringement of Article 7(1)(c) of Regulation No 207/2009;
- Infringement of Article 7(1)(c) of Regulation No 207/2009;
- Infringement of Article 75 of Regulation No 207/2009.

Action brought on 14 August 2014 — Fútbol Club Barcelona v OHIM — Kule (KULE)

(Case T-614/14)

(2014/C 351/31)

Language in which the application was lodged: English

Parties

Applicant: Fútbol Club Barcelona (Barcelona, Spain) (represented by: J. Carbonell Callicó, lawyer)

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

Other party to the proceedings before the Board of Appeal: Kule LLC (New York, United States)

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 18 June 2014 given in Case R 2375/2013-4.

Pleas in law and main arguments

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

Community trade mark concerned: The word mark 'KULE' for goods in Classes 14, 18 and 25 — Community trade mark application No 9 917 097

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

Mark or sign cited in opposition: Spanish trademarks and well-known trade mark for the word 'CULE'

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

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 42(2) and (3) CTMR.

Action brought on 18 August 2014 — Grupo Bimbo v OHIM (Shape of a Mexican taco)
(Case T-618/14)
(2014/C 351/32)

Language of the case: Spanish

Parties

Applicants: Grupo Bimbo, SAB de CV (Mexico City, Mexico) (represented by N. Fernández Fernández-Pacheco, lawyer)

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

Form of order sought

The applicant claims that the Court should:

- annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 3 June 2010 in Case R 2449/2013-2 on the grounds of illegality and failure to observe the applicable legislative provisions relating to the Community trade mark, give judgment in accordance with the form of order sought set out in this application to the effect that the three-dimensional mark applied for is sufficiently inherently distinctive, grant this application and order that the three-dimensional Community trade mark application No 11 748 051 be entered into the register of trade marks in Class 30 of the International Classification as it is consistent with the requirements of Community trade mark law;
- once this action has been allowed and the aforementioned mark entered into the register, order the person opposing the claim to pay the costs of these proceedings and to order OHIM to repay the appeal fee.

Pleas in law and main arguments

Community trade mark concerned: Three-dimensional mark in the shape of a Mexican taco for goods in Class 30 — Community trade mark application No 11 748 051

Decision of the Examiner: Refusal of the application

Decision of the Board of Appeal: Dismissal of the appeal

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

Action brought on 14 August 2014 — Infocit v OHIM — DIN (DINKOOL)

(Case T-621/14)

(2014/C 351/33)

Language in which the application was lodged: English

Parties

Applicant: Infocit — Prestação de Serviços, Comércio Geral e Indústria, Lda (Luanda, Angola) (represented by: A. Oliveira, lawyer)

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

Other party to the proceedings before the Board of Appeal: DIN — Deutsches Institut für Normung eV (Berlin, Germany)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 4 June 2014 given in Case R 1312/2013-2.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'DINKOOL' for goods in Classes 1-3, 5-7, 12, 16, 20 and 21 — Community trade mark application No 1 0465 946

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

Mark or sign cited in opposition: International trade mark registration No 229 048 and earlier non-registered sign in Germany 'DIN'

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

Decision of the Board of Appeal: Annulled the contested decision and rejected the contested CTM application in its entirety

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

Action brought on 15 August 2014 — Lauritzen Holding v OHIM — IC Companys (IWEAR)

(Case T-622/14)

(2014/C 351/34)

Language in which the application was lodged: English

Parties

Applicant: Lauritzen Holding AS (Drøbak, Norway) (represented by: P. Walsh and S. Dunstan, Solicitors)

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

Other party to the proceedings before the Board of Appeal: IC Companys A/S (København, Denmark)

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 2 June 2014 given in Case R 1935/2013-2.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'IWEAR' for goods in Classes 18, 25 and 28 — Community trade mark application No 10 629 806

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

Mark or sign cited in opposition: The earlier mark 'INWEAR' registered as CTM No 2 168 284

Decision of the Opposition Division: Partially upheld the opposition

Decision of the Board of Appeal: Dismissed the appeal

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

Action brought on 14 August 2014 — Loewe Technologies v OHIM — DNS International (SoundVision)

(Case T-623/14)

(2014/C 351/35)

Language in which the application was lodged: English

Parties

Applicant: Loewe Technologies GmbH (Kronach, Germany) (represented by: J. Pröll, lawyer)

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

Other party to the proceedings before the Board of Appeal: DNS International Ltd (Tortola, British Virgin Islands)

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 12 June 2014 given in Case R 1625/2013-2.

Pleas in law and main arguments

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

Community trade mark concerned: The figurative mark in black and white containing the verbal elements 'SoundVision' for goods in Classes 9, 15 and 20 — Community trade mark application No 10 505 519

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

Mark or sign cited in opposition: The word mark 'LOEWE SOUNDVISION' — CTM No 5 798 228

Decision of the Opposition Division: Partially upheld the opposition

Decision of the Board of Appeal: Upheld the appeal and allowed for registration of the contested CTM

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

Action brought on 12 August 2014 — Bice International v OHIM — Bice (bice)

(Case T-624/14)

(2014/C 351/36)

Language in which the application was lodged: English

Parties

Applicant: Bice International Ltd (Dubai, United Arabs Emirates) (represented by: N. Gibb, Solicitor)

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

Other party to the proceedings before the Board of Appeal: Bice AG (Baar, Switzerland)

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 23 May 2014 given in Case R 1249/2013-1.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: The word mark 'bice' for goods and services in Classes 29, 30 and 43 — Community trade mark registration No 5 126 693

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

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

Grounds for the application for a declaration of invalidity: It was alleged that the CTM application was filed in bad faith, within the meaning of Article 52(1)(b) CTMR and registered in breach of Article 53(1)(a) in conjunction with Article 8(1)(a) and 8(1)(b) CTMR

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

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Articles 52(1)(b), 53(1)(a) in conjunction with 8(1)(a) and 8(1)(b) CTMR.

Action brought on 18 August 2014 — Wm. Wrigley Jr. v OHIM (Device of a sphere)

(Case T-625/14)

(2014/C 351/37)

Language of the case: English

Parties

Applicant: Wm. Wrigley Jr. Company (Wilmington, United States) (represented by: M. Kinkeldey, S. Brandstätter and C. Schmitt, lawyers)

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

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 17 June 2014 given in Case R 168/2014-5.

Pleas in law and main arguments

Community trade mark concerned: The figurative mark representing a device of a sphere for goods in classes 3, 21 and 30 — Community trade mark application No 11 737 541

Decision of the Examiner: Partially rejected the CTM application

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 7(1)(b) CTMR.

Action brought on 18 August 2014 — Wm. Wrigley Jr. v OHIM (Device of a blue sphere)

(Case T-626/14)

(2014/C 351/38)

Language of the case: English

Parties

Applicant: Wm. Wrigley Jr. Company (Wilmington, United States) (represented by: M. Kinkeldey, S. Brandstätter and C. Schmitt, lawyers)

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

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 17 June 2014 given in Case R 169/2014-5.

Pleas in law and main arguments

Community trade mark concerned: The figurative mark representing a device of a blue sphere for goods in classes 3, 21 and 30 — Community trade mark application No 11 737 483

Decision of the Examiner: Partially rejected the CTM application

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 7(1)(b) CTMR.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Judgment of the Civil Service Tribunal (1st Chamber) of 2 July 2014 — Psarras v ENISA

(Case F-63/13) ⁽¹⁾

(Civil service — Member of the temporary staff — Termination of contract — Article 41(2)(a), of the Charter of Fundamental Rights of the European Union — Right to be heard — Non-pecuniary harm — Resulting unlawful decision — Excessive breach of the rights of a third party — Automatic compensation order — Non-compliance with an annulment judgment)

(2014/C 351/39)

Language of the case: Greek

Parties

Applicant: Aristidis Psarras (Heraklion, Greece) (represented by: V. Christianos, lawyer)

Defendant: European Union Agency for Network and Information Security (represented initially by P. Empadinhas, acting as Agent and subsequently by S. Purser, acting as Agent, and C. Meidanis, lawyer)

Re:

Action for annulment, firstly, of the decision to dismiss the applicant and, secondly, of the decision, adopted after the judgment of the CST in Case F-118/10, to appoint another member of staff to the post of accountant and, finally, compensation for the non-pecuniary harm suffered.

Operative part of the judgment

The Tribunal:

1. Annuls the decision of 4 September 2012 of the Executive Director of the European Union Agency for Network and Information Security terminating Mr Psarras's temporary staff contract;
2. Orders the European Union Agency for Network and Information Security to pay Mr Psarras the sum of EUR 40 000 euros;
3. Dismisses the action as to the remainder;
4. Declares that the European Union Agency for Network and Information Security is to bear its own costs and orders it to pay the costs incurred by Mr Psarras.

⁽¹⁾ OJ C 336, 16.11.2013, p. 31.

Order of the Civil Service Tribunal (1st Chamber) of 26 June 2014 — DL v Commission

(Case F-13/14) ⁽¹⁾

(Removal from the register — Withdrawal by the applicant — Article 89(7) of the Rules of Procedure — Agreement of the parties on costs)

(2014/C 351/40)

Language of the case: French

Parties

Applicant: DL (Orp-Jauché, Belgium) (represented by: S. Orlandi, lawyer)

Defendant: European Commission (represented by: J. Currall and V. Joris, Agents)

Re:

Application for annulment of the decision rejecting the request for extension, for the year 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.

Operative part of the order

1. *Case F-13/14 is removed from the register of the Tribunal.*
2. *DL and the European Commission are to pay the costs in accordance with their agreement.*

⁽¹⁾ OJ C 102, 7.4.2014, p. 46.

Order of the Civil Service Tribunal of 14 July 2014 — DJ v EASA

(Case F-3/14) ⁽¹⁾

(2014/C 351/41)

Language of the case: English

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

⁽¹⁾ OJ C 85, 22.3.2014, p. 27.

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