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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Request for a preliminary ruling from the Krajský súd v Prešove (Slovakia) lodged on 1 August 2014 — Provident Financial s.r.o. v Zdeněk Sobotka

(Case C-372/14)

(2014/C 380/02)

Language of the case: Slovak

Referring court

Krajský súd v Prešove

Parties to the main proceedings

Applicant: Provident Financial s.r.o.

Defendant: Zdeněk Sobotka

Questions referred

1. Must Directive 2005/29/EC ([1]) of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ 2005 L 149, p. 22) be interpreted as meaning that conduct of the provider of the consumer credit consisting in presenting contractual terms to the consumer so as to create the formal impression that it is possible to choose an additional service of ensuring repayment instalments of the credit, and in reality exerting unreasonable influence on the consumer to accept the additional service, is to be regarded as an unfair commercial practice?

2. Must the Unfair Commercial Practices Directive be interpreted as meaning that conduct of the creditor consisting in presenting contractual terms to the consumer in such a way as to provide the consumer with a statement of the annual percentage rate of charge (APR) which does not include the costs of an additional service is to be regarded as an unfair commercial practice?

3. Must the Unfair Commercial Practices Directive be interpreted as meaning that conduct of the creditor consisting, in the consumer credit market, in requiring from consumers a substantially higher price for an ancillary service than the actual costs of such an ancillary service is to be regarded as an unfair commercial practice, and is the requirement of transparency of the total cost of a consumer credit thus circumvented if the costs of the ancillary service are not part of the APR?

4. Must Council Directive 93/13/EEC ([2]) of 5 April 1993 on unfair terms in consumer contracts ('Directive 93/13/EEC') be interpreted as meaning that a service of ensuring the repayment of a consumer credit, the object of which is the cash acceptance of repayment instalments of the credit by the consumer, constitutes the main object of performance in the case of a consumer credit?

5. Must Council Directive 87/102/EEC ([3]) of 22 December 1986 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit, as amended and supplemented by Directive 98/7/EC ([4]) of the European Parliament and of the Council of 16 February 1998, be interpreted as meaning that the APR includes also a payment for cash acceptance of repayment instalments of the credit, or part of it, if the payment substantially exceeds the unavoidable costs of that ancillary service, and must Article 14 of that directive be interpreted as meaning that it is a circumvention of the concept of APR if the payment for an ancillary service substantially exceeds the costs of the ancillary service and the payment is not included in the APR?

6. Must Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts be interpreted as meaning that it suffices, to satisfy the requirement of transparency of an ancillary service for which an administrative charge is paid, that the price of that administrative service (the administrative charge) is clear and comprehensible, even if the object of performance of that administrative service is not defined?

7. Must Article 4(1) and (2) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts be interpreted as meaning that the mere fact that an administrative charge is included in the calculation of the APR precludes the court from exercising a power of review of such an administrative charge for the purposes of that directive?

8. Must Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts be interpreted as meaning that the mere amount of the administrative charge precludes review by the court for the purposes of that directive?

9. If the answer to Question 6 is that the object of the administrative service for which the administrative charge is to be paid is sufficiently transparent, in such a case does the administration, with all possible administrative work and functions coming into consideration, constitute the principal object of the consumer credit?

10. Must Article 4(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts be interpreted as meaning that, for the purpose of that directive, it is relevant inter alia that in return for the charge for the ancillary service the consumer receives performance which is predominantly not in his interest but in the interest of the creditor of the consumer credit?

([1]) OJ 2005 L 149, p. 22.
([2]) OJ 1993 L 95, p. 29.
([3]) OJ 1987 L 42, p. 48.
([4]) OJ 1998 L 101, p. 17.

Action brought on 20 August 2014 — European Commission v Portuguese Republic

(Case C-398/14)

(2014/C 380/03)

Language of the case: Portuguese

Parties

Applicant: European Commission (represented by: P. Guerra e Andrade and E. Manhaeve, acting as Agents)

Defendant: Portuguese Republic

Form of order sought

— Declare that, by not ensuring an adequate level of treatment of urban waste water in the 52 listed agglomerations regarding which there is infringement, the Portuguese Republic did not comply with its duties under Article 4 of Directive 91/271/EEC ([1]) concerning urban waste water treatment.

— Order the Portuguese Republic to pay the costs.

Pleas in law and main arguments

Article 4 of Directive 91/271/EEC establishes in particular that, at the latest by 31 December 2005, discharges of urban waste water to fresh-water and estuaries from agglomerations with a population equivalent of between 2 000 and 10 000 must, before discharge, be subject to secondary treatment or an equivalent treatment.

The Commission considers that there is a systemic problem in Portugal, as the Portuguese State has not taken planning measures, either at national or regional level, to ensure orderly compliance with the provisions of Directive 91/271/EEC.

([1]) Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment OJ 1991 L 135, p. 40.

Request for a preliminary ruling from the Diikitiko Efetio Athinon (Greece) lodged on 22 August 2014 — VIAMAR — Elliniki Aftokiniton kai Genikon Epikhiriseon A.E. v Elliniko Dimosio

(Case C-402/14)

(2014/C 380/04)

Language of the case: Greek

Referring court

Diikitiko Efetio Athinon

Parties to the main proceedings

Applicant: VIAMAR — Elliniki Aftokiniton kai Genikon Epikhiriseon A.E.

Defendant: Elliniko Dimosio

Questions referred

1. Is Article 1(3) of Directive 2008/118/EC ([1]) of 16 December 2008 legally sufficient in itself and complete/unconditional and sufficiently clear so that, although that particular provision of the directive has not been transposed into the national law of the Member State/the Greek State, it has direct effect and can be relied on by an individual who derives rights from it before the national courts, and the latter are required to take that provision into account?
2. In any event, is Article 130(5) of the National Customs Code, in conjunction with Article 128(1) thereof — which provide that the customs clearance certificate for Community vehicles imported into the country is issued after collection of the registration tax, the obligation to pay which arises upon their entry into the country — compatible with Article 3(c) of the EEC Treaty, providing for the abolition of obstacles to the free movement of goods between Member States?

([1]) Council Directive 2008/118/EC concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (OJ 2009 L 9, p. 12).

GENERAL COURT

Judgment of the General Court of 11 September 2014 — Commission v ID FOS Research

(Case T-170/08) ([1])

(Arbitration clause — Contracts for financial assistance concerning projects in the field of industrial and materials technologies — Reimbursement of a part of the sums paid — Default interest)

(2014/C 380/05)

Language of the case: Dutch

Parties

Applicant: European Commission (represented by: R. Lyal and W. Roels, acting as Agents)

Defendant: ID Fiber Obtic Sensing Research (ID FOS Research) (represented initially by P. Walravens and J. De Wachter, subsequently by P. Walravens and C. Lebon, lawyers)

Re:

Action brought pursuant to Article 272 TFEU seeking the reimbursement of a part of the sums paid by the Commission, together with default interest, under contract BRPR-CT-95-0099 concluded in the framework of the specific programme for research and technological development, including demonstration, in the field of industrial and materials technologies (Brite-Euram III).

Operative part of the judgment

1. *ID Fiber Optic Sensing Research (ID FOS Research) is ordered to reimburse the European Commission the sum of EUR 21 599,26, together with default interest:*

   — *at the rate of 4,75 % per annum from 1 July 2002 until 31 December 2002;*

   — *at the rate of 6,75 % per annum from 1 January 2003 until the date of the present judgment;*

   — *at the annual rate applied under the law of England and Wales, currently section 17 of the Judgment Courts Act, 1838, as amended, up to a maximum of 6,75 % per annum, from the date of the present judgment until the debt is fully settled.*

2. *ID FOS Research is ordered to pay the costs.*

([1]) OJ C 171, 5.7.2008.

Judgment of the General Court of 11 September 2014 — Greece v Commission

(Case T-425/11) ([1])

(State aid — Greek casinos — System providing for a levy of 80 % of the admissions of different amounts — Decision declaring the aid incompatible with the common market — Concept of State aid — Advantage)

(2014/C 380/06)

Language of the case: Greek

Parties

Applicant: Hellenic Republic (represented by: P. Mylonopoulos and K. Boskovits, Agents)

Defendant: European Commission (represented by: D. Triantafyllou, H. van Vliet and M. Konstantinidis, Agents)

Re:

Application for annulment of Commission Decision 2011/716/EU of 24 May 2011, on State aid to certain Greek casinos C–16/10 (ex NN 22/10, ex CP 318/09) implemented by the Hellenic Republic (OJ 2011 L 285, p. 25).

Operative part of the judgment

The Court:

1. *annuls Commission Decision 2011/716/EU of 24 May 2011, on State aid to certain Greek casinos C–16/10 (ex NN 22/10, ex CP 318/09) implemented by the Hellenic Republic;*

2. *orders the European Commission to bear its own costs and those incurred by the Hellenic Republic.*

([1]) OJ C 282, 24.9.2011.

Judgment of the General Court of 11 September 2014 — Gold East Paper and Gold Huasheng Paper v Council

(Case T-443/11) ([1])

(Dumping — Imports of coated fine paper originating in China — Market economy treatment — Time-limit for adopting the MET decision — Diligent and impartial examination — Rights of the defence — Manifest error of assessment — Principle of sound administration — Burden of proof — Injury — Determination of the profit margin — Definition of the product concerned — Community industry — Causal link)

(2014/C 380/07)

Language of the case: English

Parties

Applicants: Gold East Paper (Jiangsu) Co. Ltd (Jiangsu, China), and Gold Huasheng Paper (Suzhou Industrial Park) Co. Ltd (Jiangsu) (represented by: V. Akritidis, Y. Melin and F. Crespo, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix, acting as Agent, assisted initially by G. Berrisch, A. Polcyn, lawyers, and by N. Chesaites, Barrister, and subsequently by B. O'Connor, Solicitor, and by S. Gubel, lawyer)

Interveners in support of the defendant: European Commission (represented by M. França and A. Stobiecka-Kuik, acting as Agents), Cepifine AISBL (Brussels, Belgium), Sappi Europe SA (Brussels), Burgo Group SpA (Altavilla Vicentina, Italy), and Lecta SA (Luxembourg, Luxembourg) (represented by: L. Ruessmann and W. Berg, lawyers)

Re:

Action for annulment of Council Implementing Regulation (EU) No 451/2011 of 6 May 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of coated fine paper originating in the People's Republic of China (OJ 2011 L 128, p. 1), in so far as it concerns the applicants.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Gold East Paper (Jiangsu) Co. Ltd and Gold Huasheng Paper (Suzhou Industrial Park) Co. Ltd to bear their own costs and to pay those of the Council of the European Union, Cepifine AISBL, Sappi Europe SA, Burgo Group SpA and Lecta SA;*

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

(1) OJ C 298, 8.10.2011.

Judgment of the General Court of 11 September 2014 — Gold East Paper and Gold Huasheng Paper v Council

(Case T-444/11) (1)

(Subsidies — Imports of coated fine paper originating in China — Methodology — Calculation of the advantage — Manifest error of assessment — Specificity — Depreciation period — Preferential tax treatments — Compensatory measures — Injury — Determination of the profit margin — Definition of the product concerned — Community industry — Causal link)

(2014/C 380/08)

Language of the case: English

Parties

Applicants: Gold East Paper (Jiangsu) Co. Ltd (Jiangsu, China), and Gold Huasheng Paper (Suzhou Industrial Park) Co. Ltd (Jiangsu) (represented by: V. Akritidis, Y. Melin and F. Crespo, lawyers)

Defendant: Council of the European Union (represented by: J.-P. Hix, acting as Agent, assisted initially by G. Berrisch, A. Polcyn, lawyers, and by N. Chesaites, Barrister, and subsequently by B. O'Connor, Solicitor, and by S. Gubel, lawyer)

Interveners in support of the defendant: European Commission (represented by: J.-F. Brakeland, M. França and A. Stobiecka-Kuik, acting as Agents); Cepifine AISBL (Brussels, Belgium), Sappi Europe SA (Brussels), Burgo Group SpA (Altavilla Vicentina, Italy), and Lecta SA (Luxembourg, Luxembourg) (represented by: L. Ruessmann and W. Berg, lawyers)

Re:

Application for annulment of Council Implementing Regulation (EU) No 452/2011 of 6 May 2011 imposing a definitive anti-subsidy duty on imports of coated fine paper originating in the People's Republic of China (OJ 2011 L 128, p. 18) in so far as it concerns the applicants.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Gold East Paper (Jiangsu) Co. Ltd and Gold Huasheng Paper (Suzhou Industrial Park) Co. Ltd to bear their own costs and to pay those of the Council of the European Union, Cepifine AISBL, Sappi Europe SA, Burgo Group SpA and Lecta SA;*

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

(1) OJ C 298, 8.10.2011.

Judgment of the General Court of 11 September 2014 — Galileo International Technology v OHIM — ESA and Commission (GALILEO)

(Case T-450/11) ([1])

(Community trade mark — Opposition proceedings — Application for the Community figurative mark GALILEO — Earlier Community word marks GALILEO — Relative ground for refusal — No likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — No similarity between the goods and services at issue)

(2014/C 380/09)

Language of the case: English

Parties

Applicant: Galileo International Technology LLC (Bridgetown, Barbados) (represented by: S. Malynicz, Barrister, M. Blair and K. Gilbert, Solicitors)

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

Other parties to the proceedings before the Board of Appeal of OHIM, interveners before the General Court: European Commission (represented by: J. Samnada and F. Wilman, acting as Agents); European Space Agency (ESA) (Paris, France) (represented by: M. Buydens, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 14 April 2011 (Case R 1423/2005-1), relating to opposition proceedings between Galileo International Technology LLC and the European Union.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Galileo International Technology LLC to bear its own costs and to pay those incurred by OHIM;*

3. *Orders the European Commission and the European Space Agency to bear their own respective costs.*

([1]) OJ C 298, 8.10.2011.

Judgment of the General Court of 11 September 2014 — Aroa Bodegas v OHIM — Bodegas Muga (aroa)

(Case T-536/12) ([1])

(Community trade mark — Opposition procedure — Application for Community figurative mark aroa — Earlier national figurative mark Aro — Relative ground for refusal — Likelihood of confusion — Article 8 (1)(b) of Regulation (EC) No 207/2009 — Likelihood of confusion)

(2014/C 380/10)

Language of the case: Spanish

Parties

Applicant: Aroa Bodegas, SL (Zurukoain, Spain) (represented by: S. Alonso Maruri, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Bodegas Muga, SL (Haro, Spain) (represented by: L. Broschat García, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 11 October 2012 (Case R 1845/2010-4), relating to opposition proceedings between Bodegas Muga, SL and Aroa Bodegas, SL.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Aroa Bodegas, SL to bear its own costs and to pay those incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM).*

3. *Orders Bodegas Muga, SL to bear its own costs.*

([1]) OJ C 38, 9.2.2013.

Judgment of the General Court of 11 September 2014 — El Corte Inglés v OHIM — Baumarkt Praktiker Deutschland (PRO OUTDOOR)

(Case T-127/13) ([1])

(Community trade mark — Opposition proceedings — Application for the Community word mark PRO OUTDOOR — Earlier Community figurative mark OUTDOOR garden barbecue camping — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — Subject-matter of the proceedings before the Board of Appeal — Articles 60 and 64(1) of Regulation No 207/2009)

(2014/C 380/11)

Language of the case: Spanish

Parties

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

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

Other party to the proceedings before the Board of Appeal of OHIM: Baumarkt Praktiker Deutschland GmbH (Hamburg, Germany)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 11 December 2012 (Case R 1900/2011-2), relating to opposition proceedings between Baumarkt Praktiker Deutschland GmbH and El Corte Inglés, SA.

Operative part of the judgment

The Court:

1. *annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 11 December 2012 (Case R 1900/2011-2), relating to opposition proceedings between Baumarkt Praktiker Deutschland GmbH and El Corte Inglés, SA, in so far as the Board of Appeal did not rule on the claims of El Corte Inglés, SA regarding the likelihood of confusion between the marks at issue in relation to the goods at issue other than 'data processing equipment and computers' in Class 9;*

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

3. *orders OHIM and El Corte Inglés, SA to bear their own costs.*

([1]) OJ C 129, 4.5.2013.

Judgment of the General Court of 11 September 2014 — Continental Wind Partners v OHIM Continental Reifen Deutschland (CONTINENTAL WIND PARTNERS)

(Case T-185/13) ([1])

(Community trade mark — Opposition proceedings — Application for Community figurative mark CONTINENTAL WIND PARTNERS — Earlier international figurative mark Continental — Relative ground for refusal — Likelihood of confusion — Similarity of the signs — Article 8(1)(b) of Regulation (EC) No 207/2009 — Partial refusal of registration)

(2014/C 380/12)

Language of the case: German

Parties

Applicant: Continental Wind Partners LLC (Wilmington, Delaware, United States) (represented by: O. Bischof, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM: Continental Reifen Deutschland GmbH (Hannover, Germany) (represented by: S. Gillert, K. Vanden Bossche, B. Köhn-Gerdes and J. Schumacher, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 10 January 2013 (Case R 2204/2011-2), relating to opposition proceedings between Continental Reifen Deutschland GmbH and Continental Wind Partners LLC.

Operative part of the judgment

The Court:

1. *dismisses the action;*

2. *orders Continental Wind Partners LLC to pay the costs.*

([1]) OJ C 156, 1.6.2013.

Order of the General Court of 3 September 2014 — Schutzgemeinschaft Milch und Milcherzeugnisse eV v Commission

(Case T-112/11) ([1])

(Action for annulment — Registration of a protected geographical indication — 'Edam Holland' — No interest in bringing proceedings — Lack of direct concern — Inadmissibility)

(2014/C 380/13)

Language of the case: German

Parties

Applicant: Schutzgemeinschaft Milch und Milcherzeugnisse eV (Berlin, Germany) (represented by: M. Loschelder and V. Schoene, lawyers)

Defendant: The European Commission (represented by: initially, G. von Rintelen and M. Vollkommer, then G. von Rintelen and F. Jimeno Fernández, acting as Agents)

Interveners in support of the defendant: The Kingdom of the Netherlands (represented by: C. Wissels, J. Langer, M. Noort, B. Koopman and M. Bulterman, acting as Agents); and Nederlandse Zuivelorganisatie (Zoetermeer, the Netherlands) (represented by: P. van Ginneken, F. Gerritzen and C. van Veen, lawyers)

Re:

Application for annulment of Commission Regulation (EU) No 1121/2010 of 2 December 2010 entering a designation in the register of protected designations of origin and protected geographical indications [Edam Holland (PGI)] (OJ 2010 L 317, p. 14).

Operative part of the order

1. *The application is dismissed as inadmissible.*

2. *Schutzgemeinschaft Milch und Milcherzeugnisse eV shall bear their own costs and shall pay the costs incurred by the European Commission.*

3. *The Kingdom of the Netherlands and Nederlandse Zuivelorganisatie shall bear their own costs.*

([1]) OJ C 145, 14.5.2011.

Order of the General Court of 3 September 2014 — Schutzgemeinschaft Milch und Milcherzeugnisee v Commission

(Case T-113/11) ([1])

(Action for annulment — Registration of a protected geographical indication — 'Gouda Holland' — No interest in bringing proceedings — Lack of direct concern — Inadmissibility)

(2014/C 380/14)

Language of the case: German

Parties

Applicant: Schutzgemeinschaft Milch und Milcherzeugnisee eV (Berlin, Germany) (represented by: M. Loschelder and V. Schoene, lawyers)

Defendant: The Commission (represented by: initially, G. von Rintelen and M. Vollkommer, then G. von Rintelen and F. Jimeno Fernández, acting as Agents)

Interveners in support of the defendant: The Kingdom of the Netherlands (represented by: C. Wissels, J. Langer, M. Noort, B. Koopman and M. Bulterman, acting as Agents); and Nederlandse Zuivelorganisatie (Zoetermeer, the Netherlands) (represented by: P. van Ginneken, F. Gerritzen and C. van Veen, lawyers)

Re:

Application for the annulment of Commission Regulation (EU) No 1122/2010 of 2 December 2010 entering a designation in the register of protected designations of origin and protected geographical indications [Gouda Holland (PGI)] (OJ 2010 L 317, p. 22).

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Schutzgemeinschaft Milch und Milcherzeugnisee eV shall bear their own costs and shall pay the costs incurred by the European Commission.*

3. *The Kingdom of the Netherlands and the Nederlandse Zuivelorganisatie shall bear their own costs.*

([1]) OJ C 145, 14.5.2011.

Order of the General Court of 3 September 2014 — Diadikasia Symvouloi Epicheiriseon v Commission

(Case T-261/12) ([1])

(Actions for damages — Public service contract — Tender procedure — Strengthening the institutional capacity of the Commission for protection of competition in Serbia — Rejection of a tender — Action manifestly lacking any foundation in law)

(2014/C 380/15)

Language of the case: English

Parties

Applicant: Diadikasia Symvouloi Epicheiriseon AE (Chalandri, Greece) (represented by: A. Krystallidis, lawyer)

Defendant: European Commission (represented by: F. Erlbacher and P. van Nuffel, acting as Agents)

Re:

Action for damages seeking compensation for the harm allegedly suffered by the applicant as a result of the decision of the Delegation of the European Union in the Republic of Serbia to annul the decision to award the contract to the applicant in tender procedure EuropeAid/131427/C/SER/RS, concerning the strengthening of the institutional capacity of the Commission for protection of competition in Serbia (OJ 2011/S 147-243259).

Operative part of the order

1. *The action is dismissed.*

2. *Diadikasia Symvouloi Epicheiriseon AE shall pay the costs.*

([1]) OJ C 243, 11.8.2012.

Order of the Court of 2 September 2014 — Borghezio v Parliament

(Case T-336/13) ([1])

(Action for annulment — Declaration of the President of the European Parliament, in plenary session, informing the assembly of the exclusion of an MEP from the political group to which he was attached — Act not amenable to review — Action manifestly inadmissible)

(2014/C 380/16)

Language of the case: French

Parties

Applicant: Mario Borghezio (Turin, Italy) (represented by: H. Laquay, lawyer)

Defendant: European Parliament (represented by: N. Lorenz, N. Görlitz and M. Windisch, acting as Agents)

Re:

Action for annulment of the decision of the Parliament, in the form of a declaration of its President on 10 July 2013, in plenary session, according to which the applicant was, since 3 June 2013, sitting as a non-attached MEP, as a result of his exclusion from the political group 'Europe of Freedom & Democracy' as from that date.

Operative part

1) *The action is dismissed.*

2) *Mr Mario Borghezio shall bear his own costs, and pay those of the European Parliament, including those incurred in the interim relief proceedings.*

(1) OJ C 252, 31.8.2013.

Order of the General Court of 3 September 2014 — Kėdainių rajono Okainių and Others v Council and Commission

(Case T-386/13) (1)

(Action for annulment — Common Agricultural Policy — Direct support schemes for farmers — Authorisation for granting complementary national direct payments in Lithuania for 2012 — Time limit for bringing an action — Point from which time runs — Inadmissibility — Plea of illegality)

(2014/C 380/17)

Language of the case: Lithuanian

Parties

Applicant: Kėdainių rajono Okainių ŽŪB (Okainiai, Lithuania) and the 134 other applicants whose names appear in the annex to the order (represented by: I. Vėgėlė, lawyer)

Defendants: Council of the European Union (represented by: J. Vaičiukaitė and E. Karlsson, acting as Agents); and European Commission (represented by: H. Kranenborg and A. Steiblytė, acting as Agents)

Intervener in support of the applicants: Republic of Lithuania (represented by: D. Kriaučiūnas, K. Vainienė, A. Karbauskas, R. Makelis and K. Anužis, acting as Agents)

Re:

Application seeking, first, the annulment of Commission Implementing Decision C(2012) 4391 final of 2 July 2012 authorising the making of complementary national direct payments in Lithuania for 2012 and, secondly, a declaration of the partial illegality of Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ 2009 L 30, p. 16).

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *Kėdainių rajono Okainių ŽŪB and the 134 other applicants appearing in the annex shall, in addition to bearing their own costs, pay those incurred by the Council of the European Union and the European Commission.*

3. *The Republic of Lithuania shall bear its own costs.*

(1) OJ C 313, 26.10.2013.

Order of the General Court of 2 September 2014 — Verein Natura Havel and Vierhaus v Commission

(Case T-538/13) ([1])

(Access to documents — Regulation (EC) No 1049/2001 — Letter of formal notice sent in the context of ongoing infringement proceedings concerning the compliance with EU law of German aviation law — Refusal of access — Exception relating to the protection of the purpose of inspections, investigations and audits — Action in part manifestly inadmissible and in part manifestly lacking any foundation in law)

(2014/C 380/18)

Language of the case: German

Parties

Applicants: Verein Natura Havel eV (Berlin, Germany), and Hans-Peter Vierhaus (Berlin, Germany) (represented by: O. Austilat, lawyer)

Defendant: European Commission (represented by: initially by B. Martenczuk and C. Zadra, and subsequently by B. Martenczuk and J. Baquero Cruz, acting as Agents)

Re:

Action for annulment of the Commission's decision of 24 June 2013 rejecting the initial request for access to a letter of formal notice sent to the Federal Republic of Germany under Article 258 TFEU and of the Commission's decision of 3 September 2013 rejecting the confirmatory application for access to that letter.

Operative part of the order

1. *The action is dismissed.*

2. *Verein Natura Havel eV and Hans-Peter Vierhaus are ordered to pay the costs.*

([1]) OJ C 344, 23.11.2013.

Action brought on 23 June 2014 — Ertico — Its Europe v Commission

(Case T-499/14)

(2014/C 380/19)

Language of the case: English

Parties

Applicant: European Road Transport Telematics Implementation Coordination Organisation — Intelligent Transport Systems & Services Europe (Ertico — Its Europe) (Brussels, Belgium) (represented by: M. Wellinger and K. T'Syen, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Validation panel of the European Commission of 15 April 2014 holding that the applicant does not qualify as a micro, small and medium-sized enterprise within the meaning of Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (L 124, p. 36); and

— Order the defendant to bear the costs of the proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Validation Panel's conclusion that the applicant would not qualify as a micro, small and medium-sized enterprise is based on a manifestly wrong reading of Article 3(4) of the Annex to Commission Recommendation 2003/361/EC.

2. Second plea in law, alleging that by concluding that the applicant would not qualify as a micro, small and medium-sized enterprise and by leaving the door open for the Commission to re-claim the FP7 grants that were awarded to the applicant in the past, the Validation Panel breached the fundamental principles of European law of: (i) sound administration; (ii) legal certainty; and (iii) the protection of the applicant's legitimate expectations.

3. Third plea in law, alleging that the Validation Panel infringed the applicant's rights of defence and breached the principle of sound administration in that it failed to give the applicant the opportunity to effectively make its views known.

4. Fourth plea in law, alleging that the Validation Panel failed to comply with its duty to duly motivate its decision.

Action brought on 28 July 2014 — Ahmed Mohamed Saleh Baeshen v OHIM

(Case T-564/14)

(2014/C 380/20)

Language of the case: English

Parties

Applicant: Ahmed Mohamed Saleh Baeshen & Co. (Jeddah, Saudi Arabia) (represented by: M. Vanhegan, Barrister)

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 687/2014-2;

— Order the defendant to bear the costs of proceedings.

Pleas in law and main arguments

Registered Community trade mark in respect of which an application for revocation has been made: The word mark 'TEAVANA' for services in Class 35 — Community trade mark No 4 098 588

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

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

Decision of the Cancellation Division: Revoked the CTM proprietor's right in respect of Community trade mark No 4 098 588 in its entirety

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

Pleas in law: Infringement of Articles 51(1)(a), 59 and 75 CTMR.

Action brought on 22 August 2014 — Roland v OHIM (Nuance of the colour red for shoe soles)

(Case T-631/14)

(2014/C 380/21)

Language in which the application was lodged: German

Parties

Applicant: Roland SE (Essen, Germany) (represented by: C. Onken and O. Rauscher)

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

Other party to the proceedings before the Board of Appeal: Christian Louboutin (Paris, France)

Form of order sought

The applicant claims that the Court should:

— alter the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 28 May 2014 in Case R 1591/2013-1 to the extent that opposition No B 1 922 890 is fully upheld and Community trade mark application No 008845539 is rejected;

— in the alternative: annul the contested decision;

— order the defendant to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: Christian Louboutin

Community trade mark concerned: Other marks, which consist of a nuance of the colour red, which is applied to the sole of a shoe, for goods in Class 25 — Community trade mark application No 8845539

Proprietor of the mark or sign cited in the opposition proceedings: Roland SE

Mark or sign cited in opposition: International registration of the figurative mark containing the word element 'my SHOES', for goods in Class 25

Decision of the Opposition Division: Rejected the opposition

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law:

— Infringement of Article 75(2) of Regulation No 207/2009;

— Infringement of Article 8(1)(b) of Regulation No 207/2009.

Action brought on 25 August 2014 — Intercon v Commission

(Case T-632/14)

(2014/C 380/22)

Language of the case: Polish

Parties

Applicant: Intercon Sp. z o.o. (Łódź, Poland) (represented by: B. Eger, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— hold that, by issuing an order for repayment of the amount of EUR 258 479,21, the Commission has breached the provisions of Grant Agreement No ARTreat — 224297 under the Seventh Research Framework Programme (FP7);

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

Pleas in law and main arguments

In support of its action, the applicant raises three pleas in law.

1. First plea in law:

   — exceeding of the limits of the scope of examination by reason of the audit which was carried out and the consequent impermissible evaluation of the results of that audit.

2. Second plea in law:

   — failure to take into account the Form C signed by the beneficiary, although the Commission had requested that this be submitted, and failure to take account of evidence in the form of a declaration of an employee that it was not possible to obtain the documents from the coordinator of the consortium.

3. Third plea in law:

   — Failure to take into account new comments and clarifications by reference to Article II.22.5 of the annex to the agreement, even though the Commission had requested the beneficiary to submit these and had imposed a time-limit for that purpose.

Action brought on 26 August 2014 — Frinsa del Noroeste v OHIM — Frisa Frigorífico Rio Doce (FRISA)

(Case T-638/14)

(2014/C 380/23)

Language in which the application was lodged: Spanish

Parties

Applicant: Frinsa del Noroeste, SA (Santa Eugenia de Riviera, Spain) (represented by: J. Botella Reyna, lawyer)

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

Other party to the proceedings before the Board of Appeal: Frisa Frigorífico Rio Doce, SA (Espirito Santo, Brazil)

Form of order sought

The applicant claims that the General Court should:

— refuse registration of Community trade mark No 10 329 721 FRISA to distinguish goods in Class 29 and services in Classes 35 and 39.

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: Figurative mark with word element 'FRISA' for goods and services in Classes 29, 35 and 39 — Application for Community trade mark No 10 329 721

Proprietor of the mark or sign cited in the opposition proceedings: Applicant

Mark or sign cited in opposition: Figurative mark with word element 'Frinsa' for goods in Class 29

Decision of the Opposition Division: Opposition upheld in part

Decision of the Board of Appeal: Decision of the Opposition Division annulled and opposition rejected in its entirety

Pleas in law: In its decision of 1 July 2014 in Joined Cases R 1547/2013-4 and R 1851/2013-4, the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) did not proceed to examine the applicant's arguments since it confined itself to deciding the cases in an identical manner, examining only the proof of use submitted during the proceedings.

Action brought on 28 August 2014 — Dellmeier/OHMI — Dell (LEXDELL)

(Case T-641/14)

(2014/C 380/24)

Language in which the application was lodged: English

Parties

Applicant: Alexandra Dellmeier (München, Germany) (represented by: J. Khöber, lawyer)

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

Other party to the proceedings before the Board of Appeal: Dell, Inc. (Round Rock, US)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Second Board of Appeal No R 0966/2013-2 of the Office for Harmonisation in the Internal Market dated 4 June 2014 regarding the opposition proceedings No B 1 698 2892 against Community Trademark Application No 008114779 'LEXDELL' and reject the opposition in its entirety.

— Order the defendant to pay the costs incurred in the proceedings before the Court.

— Set a date for an Oral Hearing for the case that findings of the Court are not possible without an Oral Hearing.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant.

Community trade mark concerned: The community word mark 'LEXDELL' for goods and services in classes 16, 25, 41 and 45 — Community trade mark application No 8 114 779.

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: Community figurative trade mark containing the verbal element 'DELL' registered under the No 6 420 641.

Decision of the Opposition Division: Partially upheld the opposition.

Decision of the Board of Appeal: Rejected the appeal.

Pleas in law: Infringement of Articles 8(1)(b) and 8(5) of Regulation No 207/2009.

Action brought on 1 September 2014 — Red Lemon Incorporation v OHIM — Lidl Stiftung (ABTRONIC)

(Case T-643/14)

(2014/C 380/25)

Language in which the application was lodged: German

Parties

Applicant: Red Lemon Incorporation (Hong Kong, People's Republic of China) (represented by: T. Wieland and S. Müller, lawyers)

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

Other party to the proceedings before the Board of Appeal: Lidl Stiftung & Co. KG (Neckarsulm, Germany)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 15 May 2014 in Case R 1899/2013-1 and reject the opposition;

— Order the defendant to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: the applicant

Community trade mark concerned: the word mark 'ABTRONIC' for goods in Class 9 — Community trade mark application No 8 184 632

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 international registration of the word mark 'TRONIC' for goods in Class 9

Decision of the Opposition Division: the opposition was upheld

Decision of the Board of Appeal: the appeal was dismissed

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

Action brought on 2 September 2014 — Infusion Brands v OHMI (DUALSAW)

(Case T-647/14)

(2014/C 380/26)

Language of the case: English

Parties

Applicant: Infusion Brands, Inc. (Myer Lake Circle Clearwater, United States) (represented by: K. Piepenbrink, 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 Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 1 July 2014 given in Case R 397/2014-4;

— Order the defendant to pay the costs of proceedings.

Pleas in law and main arguments

Community trade mark concerned: The figurative mark in white, black and green containing the verbal element 'DUALSAW' for goods and services in Classes 7, 8 and 35 — Community trade mark application No 12 027 561

Decision of the Examiner: Partially rejected the application

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Articles 7(1)(b), (c) and 7(2) of Regulation No 207/2009.

Action brought on 2 September 2014 — Infusion Brands v OHIM (DUALTOOLS)

(Case T-648/14)

(2014/C 380/27)

Language of the case: English

Parties

Applicant: Infusion Brands, Inc. (Myer Lake Circle Clearwater, United States) (represented by: K. Piepenbrink, 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 Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 1 July 2014 given in Case R 398/2014-4;

— Order the defendant to pay the costs of proceedings.

Pleas in law and main arguments

Community trade mark concerned: The figurative mark in white, black and green containing the verbal element 'DUALTOOLS' for goods and services in Classes 7, 8 and 35 — Community trade mark application No 12 027 496

Decision of the Examiner: Partially rejected the application

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Articles 7(1)(b), (c) and 7(2) of Regulation No 207/2009.

Action brought on 8 September 2014 — AF Steelcase v OHIM

(Case T-652/14)

(2014/C 380/28)

Language of the case: Spanish

Parties

Applicant: AF Steelcase, SA (Madrid, Spain) (represented by: S. Rodríguez Bajón, lawyer)

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

Form of order sought

The applicant claims that the General Court should:

— annul the decision of 08.07.2014 of OHIM concerning the exclusion of AF Steelcase from the tender procedure in question;

— annul all other related decisions of OHIM in relation to the tender procedure in question, including, where appropriate, those awarding the contract forming the subject-matter of the procedure in question, directing that the tender procedure be brought back to a stage prior to the exclusion of AF Steelcase in order that its tender be assessed;

— in the alternative, should retroaction not be possible, order OHIM to pay the applicant EUR 20 380 by way of compensation for material damage caused to AF Steelcase by the exclusion decision. In addition, order OHIM to pay the applicant EUR 24 000 by way of compensation for non-material damage caused to AF Steelcase by the exclusion decision, and

— order OHIM to pay the costs.

Pleas in law and main arguments

The present action is directed against the exclusion of the tender submitted by the applicant in the public tender for the supply and installation of furniture and accessories (lot 1) and signage (lot 2) at OHIM's head offices (OJEU 2014 S 023-035020, 1.2.2014).

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

1. First plea in law, alleging failure to state reasons and change of criteria in the decision excluding AF Steelcase from the public tender in question.

   — It is claimed in this regard that, apart from the insufficient reasoning in the exclusion decision, the administration changed the criteria which resulted in serious unfairness to the applicant, inasmuch as even though initially it was indicated that the ground for exclusion of the tender was that the amendment to box 20 rendered the tender incomplete, the arguments for the additional examination were different, being based on that reasoning.

2. Second plea in law, alleging breach of the principles of sound administration and proportionality that govern the actions of the European administration.

   — It is claimed in this regard that, in the present case, it was for OHIM, having found that Annex 20 was different in format, to have contacted AF Steelcase in order to clarify to what it corresponded, since OHIM was required to act diligently and prudently when examining and assessing the tender in question.

3. Third plea in law, alleging infringement of 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.

   — It is claimed in this regard that OHIM failed to request the necessary clarifications from AF Steelcase pursuant to Article 158(3) of that Regulation, which clarifications would not, in this case, have affected the substantial terms of the tender.

Action brought on 12 September 2014 — Spain v Commission

(Case T-657/14)

(2014/C 380/29)

Language of the case: Spanish

Parties

Applicant: Kingdom of Spain (represented by: A. Gavela Llopis, Abogado del Estado)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul the decision of 27 June 2014 interrupting the payment deadline in respect of the statement of expenditure and applications for payment No 21 in relation to the operational programme for research, development and innovation, Technology Fund-ERDF, sent by Spain on 26 December 2013, and initiating the suspension procedure, and

— order the defendant institution to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the decision interrupting [the payment deadline] and initiating the suspension procedure infringed Article 87(2), in conjunction with Articles 91 and 92 of Council Regulation 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 (OJ 2006 L 210, p. 25).

   — It is claimed in this regard, that the period referred to in Article 87(2) is a limitation period that prevents the Commission from adopting a decision interrupting the payment deadline once the two month period has expired and, therefore, does not permit a suspension of payments procedure to be initiated either.

2. Second plea in law, alleging that the decision interrupting [the payment deadline] and initiating the suspension procedure was adopted outside the period set by EU law and was in breach of the principles of legal certainty, the protection of legitimate expectations and sound administration. It had a detrimental budgetary and financial impact on the Kingdom of Spain, which trusted in good faith that it would obtain payment within the prescribed period.

3. Third plea in law, alleging infringement of Article 91(1)(a) of Regulation 1083/2006 through non-compliance with the rules laid down in that regulation for that decision to be validly adopted.

   — It is claimed in this regard, that the decision interrupting [the payment deadline] was not based on an audit report, as required by the provision in question, but on a mere draft, which cannot be regarded as a definitive document capable of substantiating a decision interrupting [the payment deadline]. Furthermore, the draft in question does not contain evidence, still less proof, of serious deficiencies in the management and control system.

Action brought on 12 September 2014 — Jurašinović v Council

(Case T-658/14)

(2014/C 380/30)

Language of the case: French

Parties

Applicant: Ivan Jurašinović (Angers, France) (represented by: O. Pfligersdorffer, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul the decision of 8 July 2014 insofar as it limited the applicant's access to the documents referred to in Annex 3 to that decision by invoking the protection of international relations and the protection of court proceedings and by redacting the requested documents on that ground;

— order the Council to pay the applicant EUR 5 000 exclusive of tax, that is to say EUR 6 000 in total including all taxes, to cover procedural costs, with interest at the European Central Bank rate as at the date of registration of the application;

— order the Council to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging a manifest error of assessment in relation to the exception concerning the protection of court proceedings laid down in the second indent of Article 4(2) of Regulation No 1049/2001 ([1]), in so far as the Court had already held, in *Jurašinović* v *Council* (T-63/10, EU:T:2012:516) — in implementation of which the contested decision was adopted — that although that exception was applicable, it could not operate in the present case.

2. Second plea in law, alleging a manifest error of assessment in relation to the exception concerning the protection of the public interest as regards international relations laid down in the third indent of Article 4(1)(a) of Regulation No 1049/2001, in that the measure or the documents at issue concerned information issued by the European Union and not from the United Nations system, with the result that the flow of information from that organisation would not be affected.

3. Third plea in law, alleging a manifest error of assessment in relation to the exception concerning the overriding public interest, which allows, under Article 4(2) of Regulation No 1049/2001, derogation from the protection of court proceedings and legal advice, in that, first, the proceedings to which the documents relate are now definitively completed and, secondly, the Republic of Croatia is now a Member State of the European Union.

(1) 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 September 2014 — Belgium v Commission

(Case T-664/14)

(2014/C 380/31)

Language of the case: French

Parties

Applicant: Kingdom of Belgium (represented by: C. Pochet and J.-C. Halleux, acting as Agents, and by J. Meyers, avocat)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul Article 2(4) of European Commission Decision C(2014) 1021 of 3 July 2014 concerning the guarantee scheme protecting the shares of individual members of financial cooperatives in Case SA.33927;

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant puts forward a single plea in law, alleging an infringement by the Commission of Articles 107 and 108 TFEU and of the principle of proportionality, in that the contested decision would impose on Belgium, in addition to the obligation to recover the aid from the recipient cooperative undertakings, a prohibition on making any payment to natural persons protected by the guarantee.

Appeal brought on 17 September 2014 by Robert Klar and Francisco Fernandez Fernandez against the order of the Civil Service Tribunal of 16 July 2014 in Case F-114/13, Klar and Fernandez Fernandez v Commission

(Case T-665/14 P)

(2014/C 380/32)

Language of the case: French

Parties

Appellants: Robert Klar (Grevenmacher, Luxembourg) and Francisco Fernandez Fernandez (Steinsel, Luxembourg) (represented by A. Salerno, lawyer)

Other party to the proceedings: European Commission

Form of order sought by the appellant

The appellants claim that the Court should:

— set aside the order of the Civil Service Tribunal of 16 July 2014;

— refer the case to the Civil Service Tribunal for a determination on the merits;

— order the European Commission to bear all of the costs of the case.

Pleas in law and main arguments

In support of the action, the appellants rely on a single plea in law alleging that the Civil Service Tribunal incorrectly held that the action was clearly inadmissible, for lack of a properly conducted pre-litigation procedure, in so far as the note of the Appointing Authority for October 2012 is not in view of its wording, or its context, or its form, an act adversely affecting an official, the notification of which set the time-limit running for lodging a complaint.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Action brought on 14 July 2014 — ZZ v EEAS

(Case F-65/14)

(2014/C 380/33)

Language of the case: French

Parties

Applicant: ZZ (represented by: L. Levi and N. Flandin, lawyers)

Defendant: EEAS

Subject-matter and description of the proceedings

Annulment of the decisions to refuse to promote the applicant to grade AD 13 in the 2013 promotion exercise even though he was included in the list of officials eligible for promotion.

Form of order sought

— Annul the decisions of 9 October and of 14 October 2013 refusing to promote the applicant to grade AD 13 in the 2013 promotion exercise;

— If necessary, annul the decision of 16 April 2014, rejecting the applicant's complaint;

— Order the EEAS to pay all the costs.

Action brought on 17 July 2014 — ZZ v Council

(Case F-67/14)

(2014/C 380/34)

Language of the case: French

Parties

Applicant: ZZ (represented by: M. Velardo, lawyer)

Defendant: Council

Subject-matter and description of the proceedings

Annulment of the decision to terminate the applicant's employment at the end of his probationary period and compensation for the non-material harm allegedly suffered.

Form of order sought

The applicant claims that the Tribunal should:

— annul the decision of 25 June 2013 of the Secretariat of the Council and the decision of 8 April 2014 of the appointing authority of the Council, by which the applicant's employment was terminated;

— order the defendant to pay, by way of damages, a sum calculated on the basis of the applicant's monthly remuneration as a member of staff employed at Grade AST 3 (EUR 3 500) multiplied by the number of months expired between 1 July 2013 and the date of delivery of the judgment in the present case;

— order the defendant to pay EUR 40 000 in respect of the non-material harm suffered;

— order the defendant to pay the costs incurred by the applicant in the proceedings.

Action brought on 19 July 2014 — ZZ v European Securities and Markets Authority

(Case F-69/14)

(2014/C 380/35)

Language of the case: French

Parties

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

Defendant: European Securities and Markets Authority

Subject-matter and description of the proceedings

The annulment of the appraisal report drawn up in respect of 2013.

Form of order sought

The applicant claims that the Tribunal should:

— annul the challenged appraisal report;

— order the European Securities and Markets Authority to pay the costs.

Action brought on 24 July 2014 — ZZ v Europol

(Case F-73/14)

(2014/C 380/36)

Language of the case: French

Parties

Applicant: ZZ (represented by: M. Velardo, lawyer)

Defendant: Europol

Subject-matter and description of the proceedings

The annulment of the decision not to renew the applicant's contract and compensation for the material and non-material harm allegedly suffered.

Form of order sought

The applicant claims that the Tribunal should:

— annul the implied decision rejecting the request under Article 90(1) of the Staff Regulations, seeking to obtain the extension of the applicant's contract as a member of the temporary staff at Grade A7, brought on 6 December 2013, and the Director of Europol's response to the complaint, dated 14 April 2014;

— order the defendant to pay EUR 1 545 124 by way of damages for the material harm suffered;

— order the defendant to pay EUR 40 000 by way of damages for the non-material harm suffered;

— order Europol to pay the costs of the proceedings.

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